

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

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

HELD IN DUBLIN CASTLE
ON TUESDAY, 22ND OCTOBER 2019 - DAY 105

105

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

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1 THE HEARING RESUMED, AS FOLLOWS, ON TUESDAY, 22ND
2 OCTOBER 2019:

3
4 CHAIRMAN: Now, Mr. McGuinness, cross-examination will
5 begin. Where is Garda Keogh? Thanks very much. 10:30

6 MR. MCGUINNESS: Garda Keogh, please. Thank you.

7 CHAIRMAN: Who is first?

8 MS. GLEESON: I think I might be first.

9 CHAIRMAN: Ms. Gleeson, are you first? Thank you.

10 Just clarify for everybody's benefit, Ms. Gleeson, who 10:31
11 you're appearing for?

12 MS. GLEESON: Yes, Chairman. I appear on behalf of
13 Sergeant Andrew Haran, Sergeant Aidan Lyons, Detective
14 Sergeant Yvonne Martin, Sergeant Sandra Keane,
15 Inspector Nicholas Farrell, Inspector Michelle Baker, 10:31
16 Sergeant Dermot Monaghan and Sergeant Cormac Moylan.

17 CHAIRMAN: Thanks very much. Does that help you?

18 WITNESS: Yes.

19 CHAIRMAN: At least you know who Ms. Gleeson is
20 appearing for. Thank you very much. 10:31

21
22 GARDA NICHOLAS KEOGH WAS CROSS-EXAMINED BY MS. GLEESON,
23 AS FOLLOWS:

24
25 1 Q. MS. GLEESON: Garda Keogh, you have heard who I appear 10:31
26 for there. I am just going to be asking you some
27 questions on their behalf. So, you have dealt with a
28 number of the issues, you have dealt with them with
29 Mr. McGuinness. Obviously I am conscious that the

1 Chairman has heard a lot of information already and I
2 am conscious not to rehash things or go over old
3 ground, as it were, so you will be relieved that I am
4 going to be really keep my questions to things that are
5 relevant to my clients. 10:32

6 A. Thank you.

7 2 Q. I think I might start with Inspector Farrell, whom you
8 know. I think you commenced working with Inspector
9 Farrell around October of 2008, isn't that correct?

10 A. I am not sure which one of us arrived in Athlone first. 10:32

11 3 Q. Yes.

12 A. I think I arrived towards the end of 2007.

13 4 Q. I believe it was yourself.

14 A. Okay.

15 5 Q. Yes. And then after that, around October 2008 - 10:32

16 A. That would be correct.

17 6 Q. - Inspector Farrell arrived. He was a colleague of
18 yours obviously in Athlone Garda Station for some time,
19 is that right?

20 A. Yes. 10:32

21 7 Q. And obviously prior to your protected disclosure. You
22 obviously made your protected disclosure on 8th May
23 2014?

24 A. Yes.

25 8 Q. I believe that prior to that, essentially Inspector 10:32
26 Farrell was a colleague of yours, he was a superior
27 officer and I think apart from professional
28 interactions, there was essentially very little
29 interaction between you, apart from in the context of

1 professionalism and the day-to-day workings of Athlone
2 Garda Station, is that correct?

3 A. That would be fair to say.

4 9 Q. Your own work and that type of thing. So obviously you
5 made your protected disclosure on the 8th May. I 10:33
6 believe after that then, on the 9th May, if not, in
7 fact, the 8th May itself, Chief Superintendent Curran
8 instructed Inspector Farrell to meet with you, are you
9 aware of that?

10 A. Em, I think that is correct. I dig back into my mind, 10:33
11 but I think that is correct.

12 10 Q. Very good.

13 A. Mm.

14 11 Q. I believe he tried to make contact with you on that
15 date, the 8th May? 10:34

16 A. Yeah, that would -- I'm not sure about it, but I'm not
17 disputing that. I just can't -- a lot happened on that
18 day, so I just can't really...

19 12 Q. I understand. I believe you were working on the 9th,
20 you may not remember that? 10:34

21 A. I do remember that night very clearly.

22 13 Q. Yes. I believe Inspector Farrell did meet with you at
23 his office, I believe you attended at his office on the
24 evening of the 9th, is that correct?

25 A. Can I just check my notes ? 10:34

26 14 Q. Certainly, obviously feel very free to check your notes
27 but I believe very little turns on that.

28 A. Yeah. I don't have it there and I don't know if it was
29 that night, but I am not -- I would agree, very little

1 would turn on it even if -- yeah.

2 15 Q. Very good, on the actual date. But certainly Inspector
3 Farrell has a note of the interaction between you and
4 he's clear it was the evening of 9th May 2015.

5 A. '15? 10:35

6 16 Q. Sorry '14, apologies.

7 A. Yeah.

8 17 Q. But in any event, I believe you attended --

9 A. Just, I don't recollect it and I don't have a note
10 just -- but, anyway. 10:35

11 18 Q. You don't recollect it?

12 A. I don't recollect meeting him on the -- I don't, not on
13 9th. Now I'm not saying it didn't happen, I just don't
14 recollect it. I'm not saying it didn't happen. I
15 don't know, I don't remember, it doesn't mean it didn't 10:35
16 happen on that night.

17 19 Q. I see.

18 A. That was a -- like, it was just obviously a very
19 strange night to walk into a Garda station -

20 20 Q. I understand. 10:35

21 A. - where the day before you're just another guard and
22 you walk in that night and everyone is looking at you
23 like you're an alien, so...

24 21 Q. Yes, I understand. So, Inspector Farrell will be
25 giving evidence. He has instructed me, he is very 10:36
26 clear that, in fact, you did meet on 9th May 2014?

27 A. 9th?

28 22 Q. The 9th, yes.

29 A. I thought you said the 8th.

1 23 Q. The 8th, he tried to make contact with you on the 8th,
2 but, in fact, you didn't meet until the 9th.

3 A. Okay. I don't have a note but I am aware that
4 Inspector Farrell did try and meet me and I think the
5 9th sounds about right. 10:36

6 24 Q. Very good.

7 A. Yeah.

8 25 Q. We're agreed about that in any event. But I suppose I
9 want to just ask you about essentially the nature of
10 the conversation you had with Inspector Farrell on that 10:36
11 occasion. I believe he offered you his own personal
12 support and the support essentially of the organisation
13 insofar as he could, isn't that correct, having learned
14 that you made your protected disclosure?

15 A. I do recall -- I haven't a note but I do recall some -- 10:36
16 I think you're on the right, the right -- yeah, I think
17 you're on right line there, yes. Yeah.

18 26 Q. As you said, obviously you had done something very
19 significant the day before. You may not have been in a
20 particularly good mood or very receptive towards 10:37
21 Inspector Farrell on that occasion, but in any event,
22 he did offer support, isn't that correct?

23 A. Yeah, that is correct, but it wasn't actually to do
24 with Inspector Farrell personally.

25 27 Q. Yes. 10:37

26 A. It was to do with persons Inspector Farrell would have
27 been friendly with, that I didn't want to get too close
28 to Inspector Farrell.

29 28 Q. I see. I see. I believe, yes, you are referring to an

1 association with another garda, is that right, and you
2 had a view that Inspector Farrell was associated with
3 somebody else and for that reason was essentially
4 somebody to be treated somewhat with suspicion, is that
5 correct?

10:37

6 A. Yeah. This is not now Garda A we're talking about.

7 29 Q. No.

8 A. It's another garda.

9 30 Q. I see.

10 A. Yes.

10:38

11 31 Q. But in any event, Inspector Farrell offered you that
12 support on that occasion. If I can just move on to the
13 first issue which the Chairman is considering, that is
14 in relation to the Pulse entry. So, on the 18th May
15 you obviously created the intelligence entry referring
16 to Ms. B. Mr. McGuinness has obviously covered this
17 with you in great detail and I don't propose to go over
18 old ground, but with regard to Inspector Farrell, I do
19 have some questions in relation to it. But that has
20 been covered in great detail. You stated, you:

10:38

10:38

21
22 "...observed Ms. B in her car, on seeing her she smiled
23 and stuck out her tongue. Ms. B is seriously involved
24 in the heroin trade in Athlone, with a turnover of
25 approximately €250 per week. She has no previous
26 convictions for drugs due to the fact that she has been
27 aided and abetted for years by a senior member of the
28 drugs unit, who himself is closely associated with a
29 senior ranking garda officer."

10:39

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So, that was the Pulse entry which you created on the 18th May 2014?

A. Yes.

32 Q. Now, you met with Inspector Farrell in relation to that. Mr. McGuinness has asked you some questions about that. And again, I won't reiterate what has been said already, but obviously Inspector Farrell has a note of the interaction between you on that occasion. 10:39

A. And so do I. 10:39

33 Q. That has already been put to you. I think you accept the contents of Inspector Farrell's report, isn't that right? Bar perhaps one point, which I will refer to in a moment. But Day 99 of the transcript, page 129, line 19, you did accept the contents of Inspector Farrell's report in relation to the interaction between you about that particular Pulse entry? 10:40

MR. KELLY: Judge, it might be helpful if the witness were actually referred to the actual report.

CHAIRMAN: Yes, I think that's right. Ms. Gleeson, while we're on the subject, before we get to that, if Inspector Farrell is going to give evidence about the conversation that took place on the evening as he recalls - 10:40

MS. GLEESON: Yes. 10:40

CHAIRMAN: - on the evening of the 9th, I think you should put the substance of that conversation as Inspector Farrell is going to give it.

MS. GLEESON: Yes.

1 CHAIRMAN: Do you follow me? So that everybody knows
2 where they stand and nobody is taken by surprise when
3 Inspector Farrell in due course gives his evidence. So
4 if you want to. I will take this opportunity, while I
5 agree with Mr. Kelly's expression, it is helpful, 10:41
6 because Garda Keogh doesn't know the specific reference
7 in the transcript, just to lay it out. Don't be
8 worried about the fact that it may take a few more
9 minutes.

10 MS. GLEESON: Yes. 10:41

11 CHAIRMAN: First of all, at some point you might return
12 to the conversation of 9th May 2014 as Inspector
13 Farrell recalls it and will be giving evidence.

14 MS. GLEESON: Yes.

15 CHAIRMAN: Anyway, here we are, you're talking about 10:41
16 this occasion, the date of this occasion is the date of
17 the -- this particular one we're talking about?

18 WITNESS: The 19th.

19 MS. GLEESON: 19th.

20 CHAIRMAN: This is the day after the Pulse entry and 10:41
21 the day after the Pulse enquiry.

22 MS. GLEESON: Yes. Inspector Farrell's note is page
23 640.

24 CHAIRMAN: 640, very good. We will turn that up now.

25 34 Q. MS. GLEESON: So you will see there, Garda Keogh, this 10:42
26 is Inspector Farrell's note about his interaction with
27 you in relation to the Pulse entry.

28 CHAIRMAN: And you say, if I understand, that Garda
29 Keogh agreed that this was an accurate description when

1 being asked by Mr. McGuinness, is that correct?
2 MS. GLEESON: I do, Chairman, yes.
3 CHAIRMAN: Okay. Do you understand that?
4 WITNESS: I do. I am just reading it. I agree with
5 everything in the report but there is one thing omitted 10:42
6 from the report that I don't -- that's kind of where he
7 asked me to change part or alter, let's say, part of
8 it. And I just say, what part? I think, what I have
9 there:
10
11 "What part do you want me to change?"
12
13 35 Q. MS. GLEESON: Yes.
14 A. That is the only discrepancy in relation to that.
15 36 Q. I see. Can I just focus on that please for a moment? 10:43
16 Can I just bring your attention to the part in italics
17 on page 640 there, just at the bottom of the page.
18 This is obviously the note that Inspector Farrell has
19 about this interaction between you. What he has
20 recorded there is that you said: 10:43
21
22 "It's done now and what can I do, everyone has seen
23 it."
24
25 Do you agree that that's what you said? 10:43
26 A. I do agree with that as well as what I just said.
27 37 Q. I see. No, I have the point you say in relation to
28 changing of the Pulse entry. I am going to focus on
29 that just now. But you agree that what you said was:

1 "It's done now but what can I do, everyone has seen
2 it."
3
4 A. I would agree with that.
5 38 Q. Isn't that the point, Garda Keogh, the section "what 10:44
6 can I do", isn't the fact of the matter, at that stage
7 there was nothing you could do, it wasn't in your power
8 and it wasn't in Inspector Farrell's Farrell to
9 actually change the narrative of that Pulse entry,
10 isn't that correct? 10:44
11 A. As I've said earlier, it's one of the few things that
12 if I could go back in time, I would not change anything
13 to do with that thing.
14 39 Q. Well, what I am focusing on, Garda Keogh, is you gave 10:44
15 evidence, you were asked about this by Mr. McGuinness
16 and while you agreed with the contents of Inspector
17 Farrell's note, your evidence is that Inspector Farrell
18 asked you or requested that you change the Pulse entry,
19 isn't that correct?
20 A. Yes. Just from recollection now, he didn't kind of -- 10:45
21 it wasn't in an aggressive manner or formally or that.
22 It kind of was more said, you know -- just from
23 recollection, you know, is there any way you can change
24 it. I think was he was implying, maybe, is there any
25 way to rejig it or something. He didn't use those 10:45
26 words at all but he asked me to change it.
27 40 Q. Well, your evidence is that he asked you to change the
28 Pulse entry?
29 A. Mm.

1 41 Q. And that you replied to him:
2
3 "What part of it do you want me to change?"
4
5 A. Yes, that's correct. 10:45
6 42 Q. And that's what you have noted in your diary, is that
7 correct?
8 A. Yes.
9 43 Q. I put to you, and Inspector Farrell will be giving
10 evidence, I am instructed that Inspector Farrell will 10:45
11 be giving evidence essentially with regard to the
12 following, that he never asked you to change it, he
13 never asked you to change the Pulse entry?
14 A. Well, I dispute that.
15 44 Q. Yes. In relation to what you said, isn't the part 10:46
16 "what can I do", that's correct, isn't it? At that
17 stage you couldn't change it?
18 A. That's correct, yeah.
19 45 Q. Neither you nor Inspector Farrell could have the
20 capacity to change the Pulse entry? 10:46
21 A. That's correct. Because, Judge, it -- in order -- it
22 would have to be done by the collator in Mullingar, I
23 think. It's to do with different authorisations and
24 levels on the Pulse computer system.
25 46 Q. Yes. That's correct, essentially if this has to be 10:46
26 done, there's a limited number of people who can assist
27 in changing a Pulse entry, isn't that correct?
28 A. Yes.
29 47 Q. It would have to be done through the district criminal

1 intelligence officer, isn't that right?

2 A. That's correct, that's the person I referred to as the
3 collator in Mullingar.

4 48 Q. Yes.

5 A. Yes, that's correct. 10:47

6 49 Q. You accept that?

7 A. Mm.

8 50 Q. Inspector Farrell will obviously give evidence to that
9 effect. He will say that he never asked you to change
10 it and, in fact, neither you nor Inspector Farrell have 10:47
11 that capacity, because it must be done through the
12 collator, as you describe that person, or the district
13 criminal intelligence officer?

14 A. Yeah. So far we're agreed on everything, with the
15 exception of one issue. 10:47

16 51 Q. Right. Now, in relation to this Pulse entry, the fact
17 of the matter is, it wasn't changed, either by you or
18 anyone else, isn't that correct?

19 A. Yes.

20 52 Q. In fact, I believe Garda A wrote on 29th July 2014, at 10:47
21 8307 of the documents you can see his letter.

22 A. I've seen it already, yeah.

23 53 Q. Yes, complaining about this Pulse entry?

24 A. Mm.

25 54 Q. Saying that he was very disappointed that this was 10:48
26 still available and this was still on Pulse. I believe
27 that if you used the correct search words etcetera,
28 that that Pulse entry is there to this day, I think, is
29 that correct?

1 A. I think so. I haven't been on Pulse now for a few
2 years myself but I think it is.

3 55 Q. Yes.

4 A. Yes.

5 56 Q. Garda Keogh, in the light of the evidence that you have 10:48
6 given just now, wouldn't it be reasonable to conclude
7 that in fact Inspector Farrell would not ask you to
8 change the Pulse entry?

9 A. I dispute that.

10 57 Q. Yes. 10:48

11 58 Q. CHAIRMAN: what counsel is saying is, it appears to be
12 agreed that you couldn't change it and he couldn't
13 change it. So what was the point in him asking you to
14 change it?

15 A. That was what came out in the conversation. 10:49

16 59 Q. CHAIRMAN: Are you with me?

17 A. Oh I'm with you, I understand.

18 60 Q. CHAIRMAN: It doesn't make sense.

19 A. He couldn't -- I agree.

20 61 Q. CHAIRMAN: He was asking you to do something that you 10:49
21 knew you couldn't do and he knew you couldn't do. So
22 counsel is saying that suggests that he didn't ask you,
23 do you know what I mean, that's the logic, that's the
24 jigsaw that's actually working out here?

25 A. I understand. 10:49

26 62 Q. CHAIRMAN: what do you say to that?

27 A. I am saying that's grand in a couple of year's time
28 when we are getting ready for a Tribunal but on the 9th
29 May, the day after --

1 63 Q. CHAIRMAN: Don't mind that. You both knew that you
2 couldn't change the Pulse?
3 A. That's correct.

4 64 Q. CHAIRMAN: So why would he ask you to change it?
5 A. He did ask me. 10:49

6 65 Q. CHAIRMAN: That's all right.
7 A. I have a note of it, Judge.

8 66 Q. CHAIRMAN: No, no, no, sorry, I just wanted to lay out,
9 if you like, the path of logic that counsel is
10 pursuing? 10:49

11 A. Yes.

12 67 Q. CHAIRMAN: Okay.
13 A. And my reply was:
14
15 "What part of it do you want me to change?" 10:49
16
17 CHAIRMAN: Okay, thank you.

18 68 Q. MS. GLEESON: Well, I have to put to you, Garda Keogh,
19 that your recollection of what you say Inspector
20 Farrell said to you in relation to changing the Pulse 10:50
21 is incorrect and also your diary entry is incorrect.
22 A. I dispute both of those.

23 CHAIRMAN: Okay.

24 69 Q. MS. GLEESON: Now, would you agree with me that perhaps
25 you were in error in relation to other matters with 10:50
26 regard to Inspector Farrell?
27 A. Other matters?
28 CHAIRMAN: Well, he doesn't know unless you put
29 specifically.

1 70 Q. MS. GLEESON: Yes. For example, just in relation to, I
2 believe that you had a view that maybe Inspector
3 Farrell was "manufacturing complaints" against you, in
4 relation to, I believe, the Liam McHugh complaint and
5 the Olivia O'Neill complaint, is that right? 10:50

6 A. In relation to the Olivia O'Neill complaint, I think we
7 clarified that was just kind of Chinese whispers thing
8 that went wherever. I can't remember what Inspector
9 Farrell wrote in his report there. But the Liam McHugh
10 thing is a completely different kettle of fish for me. 10:51

11 71 Q. CHAIRMAN: You draw a big distinction between those
12 two?

13 A. Yes.

14 CHAIRMAN: I recall that.

15 72 Q. MS. GLEESON: At page 97 of the documents,, this is in 10:51
16 your own statement, you say that essentially you were
17 no longer making the accusation that Inspector Farrell
18 was manufacturing reports in relation to Ms. O'Neill,
19 isn't that right?

20 A. Yeah. I think that's -- 10:51

21 73 Q. Line 409.

22 A. I think that's is fair to say. I think that's fair to
23 say.

24 74 Q. Yes. That's in relation to Ms. O'Neill and also in 10:51
25 relation to the Liam McHugh matter, and I understand
26 that you make a distinction between those two items.
27 Because previously you had written to Superintendent
28 Mulcahy in particular terms, stating that in fact
29 Inspector Farrell had been involved in the manufacture

1 of those two complaints, isn't that correct?

2 A. I think I may have written, yes, I recollect that.

3 75 Q. Yes.

4 A. Just, I mean, there's a lot of things all along the way
5 where I have assumed things by perception and been 10:52
6 incorrect even at that stage. I think that's correct.

7 76 Q. Yes. That's on page --

8 CHAIRMAN: I'm sorry, page?

9 MS. GLEESON: Sorry that is NK3 of the statement, page
10 54 I believe. 10:52

11 CHAIRMAN: I don't think that is --

12 77 Q. MS. GLEESON: This is the handwritten note to
13 Superintendent Mulcahy. But in that particular, in
14 that particular letter, I will just get the letter for
15 you now in a moment, but in that letter you had 10:53
16 obviously referred to the alleged manufacture of
17 complaints by Inspector Farrell and it's clear in your
18 statement that you no longer hold that view and that
19 you no longer believe that Inspector Farrell was
20 involved in the manufacture of complaints, isn't that 10:53
21 right?

22 A. Yeah, he's involved as per the chain of events and
23 reports and that, but as in motive, motive for anything
24 against me, I don't hold that view.

25 78 Q. CHAIRMAN: Sorry, correct me if I am wrong, from what I 10:54
26 understood from page 97 and from your evidence.

27 A. Yes.

28 79 Q. CHAIRMAN: I got the impression that you did not have a
29 complaint against Sergeant Farrell on the ground that

1 he manufactured anything against you?

2 A. Yeah.

3 80 Q. CHAIRMAN: Statements, allegation, anything else?

4 A. Yeah.

5 81 Q. CHAIRMAN: You have this disagreement about the 10:54
6 conversation that took place in relation to the Pulse,
7 you stand by your account of that?

8 A. Mm-hmm.

9 82 Q. CHAIRMAN: And you recognise that he doesn't agree with
10 it. 10:54

11 A. Yes.

12 83 Q. CHAIRMAN: But there you stand. You make no accusation
13 against him about manufacturing anything against you?

14 A. No.

15 84 Q. CHAIRMAN: Is that a fair description? 10:54

16 A. That is correct.

17 CHAIRMAN: Okay.

18 MR. KELLY: Judge, just so I can follow, we've made
19 reference to page 54 and then there was mention of a
20 handwritten statement. 10:55

21 CHAIRMAN: Yes, I think we can forget page 54.

22 MR. KELLY: We clearly can, because it's nothing to do
23 with that.

24 CHAIRMAN: Correct.

25 MR. KELLY: But what reference are we looking at? 10:55

26 CHAIRMAN: Ms. Gleeson has said she is going to come
27 back when she finds it, she can't put her hand on it at
28 the moment. But page 97. Mr. Kelly, I hope I am
29 clarifying correctly, if I come in, it's only to get it

1 clear in my mind. But I understood that you didn't
2 have any complaint against Inspector Farrell on the
3 basis of this. You do not stand over the suggestion
4 that he manufactured any complaints against you.
5 A. I agree with you. I am trying to think. 10:55
6 85 Q. CHAIRMAN: He's in the clear, so to speak on that
7 thing?
8 A. Yes.
9 86 Q. CHAIRMAN: Although do you have a disagreement with him
10 about your conversation following the Pulse? 10:55
11 A. Yeah.
12 CHAIRMAN: Okay. Now, at some point before you stop,
13 Ms. Gleeson, or after you stop, you might find the
14 handwritten note that you are referring to.
15 MS. GLEESON: 324. 10:56
16 CHAIRMAN: which?
17 MS. GLEESON: 324.
18 CHAIRMAN: 324, thanks very much.
19 MS. GLEESON: Apologies.
20 CHAIRMAN: That's is all right. 10:56
21 MR. KELLY: Thanks.
22 CHAIRMAN: Thank you.
23 MS. GLEESON: If you scroll down a little bit please.
24 CHAIRMAN: Yes. which bit are you referring to?
25 MS. GLEESON: Just further, please. Sorry, that 10:56
26 doesn't appear to be the correct letter.
27 CHAIRMAN: Okay.
28 MS. GLEESON: I will just park that letter and come
29 back to it. It's at NK3 in any event.

1 WITNESS: Judge --

2 87 Q. MS. GLEESON: So essentially, you're agreeing with me,
3 Garda Keogh, that previously you held those views in
4 relation to Inspector Farrell, you no longer do. So
5 clearly, obviously, originally you were in error in 10:57
6 that regard, isn't that right?

7 A. Em, again, well, you see, I just read stuff on that
8 report that I had kind of forgotten about, that would
9 have been relevant. But if we could read the report,
10 maybe it will just help me see where I my mind was at 10:57
11 the time when I wrote that report.

12 88 Q. Yes.

13 A. I don't think there's any -- I don't think there's any
14 issue really major with Inspector Farrell over all, to
15 speed things up, I don't think there is. 10:58

16 89 Q. CHAIRMAN: whatever you said about him in the past, you
17 now have no complaint about Inspector Farrell, except
18 that you do have a disagreement with him about this
19 conversation?

20 A. On that conversation, yeah. 10:58

21 90 Q. CHAIRMAN: whatever you said?

22 A. One part of it.

23 91 Q. CHAIRMAN: Correct.

24 A. Just one part.

25 CHAIRMAN: One single issue, a disagreement, and that's 10:58
26 the end of it. Okay. That's fairly reassuring,
27 Ms. Gleeson.

28 92 Q. MS. GLEESON: Now, in relation to -- if I might just
29 move on to issue number 4, that is the -- and I will

1 get that letter for you in due course. Issue number 4
2 is the Liam McHugh matter. That's the investigation
3 into Liam McHugh's complaint to Garda Aidan Lyons on
4 31st May 2014. Now, as you know, I represent Garda
5 Lyons, who is now Sergeant Lyons? 10:59

6 A. Mm-hmm.

7 93 Q. Now, his report is on page 1029 of the documents.
8 Mr. McGuinness has already covered that with you, Garda
9 Keogh, but that was the report which Sergeant Lyons
10 sent to Detective Sergeant Curley on 7th June 2014? 10:59

11 A. And I dispute that in its entirety.

12 94 Q. Yes.

13 A. Judge, just a thing that came to my mind during the,
14 was it last week or this week, there's that report, I
15 understand there's no statements and after the Mick 11:00
16 Finn and onto the de Bruir report, it appears, it
17 appears from reading the findings in relation to this
18 incident that I am the one that virtually puts my hand
19 into this guy's pocket, even though the other two
20 guards, alleged guards are not there. I forgot to 11:00
21 bring that point to you when we went onto that, that
22 this report, where it starts off and where it ends up
23 in the final part of the de Bruir report, even though
24 there's no statements, it seems to have some way
25 meandered into something more serious than me just 11:00
26 trying to get someone to make complaints. It has me
27 then actually going hands on into criminality.

28 95 Q. CHAIRMAN: You yourself?

29 A. Yes. That's the way -- when I read it.

1 96 Q. CHAIRMAN: I understand. So you are saying to me,
2 irrespective of the question of Ms. Gleeson, you are
3 saying to me, please note, you're saying, the reference
4 in the de Bruir report particularly but not forgetting
5 the Finn report and look out for allegations that it 11:01
6 was Garda Keogh that was up to no good?

7 A. Yes.

8 97 Q. CHAIRMAN: Apart from the allegation of encouraging
9 complaints?

10 A. Yes. 11:01

11 98 Q. CHAIRMAN: We have two things. We have the allegations
12 of encouraging complaints, you say, okay, I have my
13 evidence about that, but here's a separate thing, where
14 they are treating it as if I were -- as if I had been
15 in some way implicated? 11:01

16 A. It appears --

17 99 Q. CHAIRMAN: Is that what you are saying?

18 A. Yes, that's what I am saying, Judge.

19 100 Q. CHAIRMAN: Thank you.

20 A. And, Judge, the de Bruir report, of course, is based on 11:01
21 the Finn investigation.

22 CHAIRMAN: Of course. No, no, I mean expressly, we
23 know it is explicitly based on it because it's a review
24 of it. Okay. I am sorry Ms. Gleeson but Garda Keogh
25 wanted to make that point. Thank you. 11:02

26 101 Q. MS. GLEESON: I understand. Now, in relation to --
27 obviously I have been listening, Garda Keogh, I know
28 your views in relation to that particular complaint,
29 but I think the Chairman essentially summarised the

1 issue with regard to this particular matter. Day 100,
2 page 86, line 13. But essentially you are saying this,
3 that Garda Lyons, as he was then, was essentially put
4 up to making this particular report and that the
5 contents of the report were, to use the Chairman's 11:02
6 words, essentially trumped up, isn't that right?
7 A. That's my view.
8 102 Q. I know you have referred to Assistant Commissioner
9 Finn's investigation and obviously then the independent
10 review thereafter, but essentially your evidence that 11:03
11 this was somehow contrived, you say as a result of two
12 gardaí, I believe one is Garda A, they were driving up
13 and down the main street of Athlone and your view is
14 that this matter was contrived then, as you say, on
15 that occasion, the night before this apparent 11:03
16 encounter, this encounter with Mr. McHugh?
17 A. Yes. That's my belief, yes.
18 103 Q. I see. And that this never happened and that Garda
19 Lyons was, as you put it, a clean pair of hands, so
20 that's why he was put up to it by other people, 11:04
21 including Garda A I believe, isn't that correct, that's
22 what you say?
23 A. I suspect Garda A and the other guard who is in the --
24 104 Q. The other guard who was also in the car?
25 A. Yes. 11:04
26 105 Q. There's big investigations about those two people,
27 according to yourself?
28 A. Yes.
29 106 Q. For that reason, Garda Lyons was singled out as the

1 person who should make this bogus, as it were, report,
2 isn't that right?

3 A. Yes. And I worked with Garda Lyons. Garda Lyons is a
4 smart, smart member, a smart member of An Garda
5 Síochána. I can't see Garda Lyons writing a report 11:04
6 like that. It's all over the shop, the whole report,
7 because there's one obviously question anybody is going
8 to ask this person and that would be: who are the
9 other two guards?

10 107 Q. Yes. Well you have made that point to the Chairman in 11:05
11 your evidence to Mr. McGuinness, that there was no
12 reference to the other two guards. I am sure he has
13 that point. But in relation to Garda Lyons -- sorry,
14 were you going to say something there?

15 A. Yeah, sorry, did you say just that the allegation was 11:05
16 made and the person just made no reference to who the
17 other two guards and just -- sorry, I may have misheard
18 you, I apologise.

19 108 Q. No, sorry, you just made a reference there to two other 11:05
20 gardaí, I believe obviously the complaint is that three
21 gardaí were at a particular search?

22 A. Yes.

23 109 Q. I know you make a complaint and you take issue with the
24 fact that nobody was apparently named except for
25 yourself, isn't that right? 11:05

26 A. Yes.

27 110 Q. Yes.

28 A. But that would go back to, if there was an initial
29 meeting -

1 111 Q. Yes.

2 A. - at Bastion Street, and someone volunteers this
3 information to any guard that there's whatever, this
4 incident happened and there's three guards and one of
5 them is me. Any guard in the country, I would assume, 11:06
6 at some point in the conversation would have to ask, by
7 the way, who are the other two?

8 112 Q. Yes.

9 A. Is my point. And as I said, I worked with Garda Aidan
10 Lyons, like he would've been -- he'd be smart, like he 11:06
11 would be an intelligent -- like, he'd be -- I'm trying
12 to think of the word. He wouldn't have -- if that
13 conversation had have happened, he would have been the
14 kind of guard that would have asked that question, is
15 my point. 11:06

16 113 Q. I see. So your evidence is that Garda Lyons was put up
17 to this by somebody else and that this complaint is
18 trumped up essentially?

19 A. That's what I believe.

20 114 Q. Yes. Now, in relation to that, so despite the fact 11:06
21 that you say that Garda Lyons is obviously a smart
22 person, you're saying that he essentially was involved
23 in manufacturing this entry?

24 A. Yes. Motive. Motive as well. Like, I don't see what
25 motive Garda Lyons would have had to -- you know, em, 11:07
26 the other two guards that I referred to, they would
27 have motive but they just couldn't put any -- commit
28 anything like that to paper. They needed another --
29 someone if they were proceed with something like this.

1 115 Q. Yes. Now in relation to the Liam McHugh, I believe he
2 is -- and Garda Lyons will say, or Sergeant Lyons will
3 say that he is a character, you could encounter him
4 around Athlone town, isn't that right?
5 A. Anywhere, yeah. 11:07
6 116 Q. He sells the Big Issue?
7 A. Mm-hmm.
8 117 Q. He is somebody that he could be seen about the place,
9 isn't that right?
10 A. As I gave evidence in last week, after telling 11:07
11 Superintendent McBrien I hadn't had any interaction was
12 this guy and then I think it's either that evening or
13 around that evening I walk out the station and --
14 118 Q. CHAIRMAN: Bump into him?
15 A. Bump into him and it's just me and him. So that's 11:08
16 correct.
17 119 Q. MS. GLEESON: I see. Now, I think obviously after
18 Garda Lyons made that report to Detective Sergeant
19 Curley, it was then sent to Superintendent McBrien, she
20 dealt with it, she wrote back to Superintendent Curly, 11:08
21 requesting a statement be taken from Mr. McHugh. I
22 already covered that and I don't propose to go into
23 that in any major detail. Essentially, isn't it the
24 case that Garda Lyons -- Sergeant Lyons's superior
25 officers essentially viewed this report as having been 11:08
26 made by him in good faith, isn't that correct?
27 A. Yes, that's all over it, that it's made in good faith.
28 And in every one of the reports that relate to that, I
29 think that line is in there, but there is no -- like,

1 it's never said, by the way, Garda Lyons is partners at
2 the time this report was written with Garda A.

3 120 Q. Yes, well I will come to that. But if we can go to
4 1191, I believe Chief Superintendent Curran actually
5 states that this report was made in good faith by Garda 11:09
6 Lyons?

7 A. I dispute anything to do with this report being made in
8 good faith.

9 CHAIRMAN: Sorry 1191, we better look at 1191, okay.
10 We better go down, Philip. This is Chief 11:09
11 Superintendent Curran, Ms. Gleeson, you're referring
12 to, where he says it's written in good faith, is that
13 right?

14 MS. GLEESON: In good faith, yes.

15 CHAIRMAN: We are having difficulty finding that in 11:10
16 1191.

17 MS. GLEESON: Yes.

18 CHAIRMAN: Which is a polite way of saying we're not
19 finding it in 1191.

20 121 Q. MS. GLEESON: I think you accept, Garda Keogh, that all 11:10
21 of Garda Lyons's superior officers did view this report
22 as being made by him in good faith.

23 A. I dispute that and I dispute even how they could put
24 in, in good faith, when all those senior officers in
25 the westmeath division would have known that Garda A 11:11
26 and Garda Lyons were partners at the time. How that
27 could have been left out of any of these reports is
28 just incredible.

29 122 Q. Yes. In any event, essentially after Garda Lyons made

1 this report on 2nd June of 2014, it was obviously dealt
2 with by his superior officers, Detective Sergeant
3 Curley --

4 A. Sorry, 2nd June?
5 123 Q. Of 2014, yes. 11:11
6 A. The report was made.
7 124 Q. Yes.
8 A. Just one moment now.
9 125 Q. We have already referred to it.
10 A. Oh, this is the original? 11:11
11 126 Q. Yes.
12 A. The original Liam McHugh report?
13 127 Q. Yes.
14 A. Just a moment. Okay.

15 CHAIRMAN: I am sorry then Garda Lyons's encounter with 11:12
16 Liam McHugh was on the 2nd June; is that correct?
17 MS. GLEESON: It was on the 31st May, the report was
18 the 2nd June.
19 CHAIRMAN: I am sorry, 31st May.
20 WITNESS: Sorry, yeah. I was thinking of the 31st. 11:12
21 CHAIRMAN: And did he report on the 3rd June?
22 MS. GLEESON: He reported on the 2nd June, Chairman.
23 CHAIRMAN: The 2nd June, sorry, yes, okay. He was
24 approached at 9pm.
25 WITNESS: Just one moment, he was approached then at 11:12
26 9pm on the 31st June, but he doesn't report until the
27 2nd --
28 CHAIRMAN: May.
29 WITNESS: June.

1 CHAIRMAN: Hold on, we are all round in circles here.
2 One second. Garda Lyons reports, his report concerns
3 an encounter that he says happened on the 31st May.
4 MS. GLEESON: Yes.
5 CHAIRMAN: As I understand, at 9pm. Okay. And he 11:12
6 reported that and Ms. Gleeson corrects me, I had a note
7 of the 3rd June, it's on the 2nd June, he reports that
8 on the 2nd June. Are you with me?
9 WITNESS: Yeah. Which is two days later.
10 CHAIRMAN: It is. 11:13
11 WITNESS: Yeah.
12 CHAIRMAN: It certainly is. It is. Okay, the 2nd
13 June. Thank you very much.
14 128 Q. MS. GLEESON: Now, obviously after that the matter was
15 dealt with by his superior officers, Detective Sergeant 11:13
16 Curley, Superintendent McBrien and Detective Sergeant
17 Curley again, and obviously it crossed the desk of
18 Superintendent Minnock as well. Superintendent McBrien
19 requested that a statement be taken from Mr. McHugh and
20 wrote to Detective Sergeant Curley to that effect. We 11:13
21 have all of that. But what I would like to put to you,
22 Garda Keogh, is that essentially this is all done over
23 Garda Lyons's head, as it were, and that nobody came
24 back to him questioning the veracity of his report or
25 anything like that. The superior officers obviously 11:14
26 received the report and dealt with it themselves. And
27 nobody went back to Garda Lyons saying, are you sure
28 this is right, did you make this up, or anything to
29 that effect; isn't that right?

1 A. Correct. They're quite -- the senior officers are
2 quite happy to run with it, Judge, because this is on
3 the back foot of the Olivia O'Neill report. It's in
4 the same week, in fact, as the Olivia O'Neill thing.

5 129 Q. Now, you've referred to Assistant Commissioner Finn's 11:14
6 investigation and Mr. de Bruir's audit thereafter,
7 isn't that right?

8 A. Yes.

9 130 Q. Now in relation to Mr. de Bruir's audit, there were 11:15
10 certain grounds of appeal, as it were, referring to
11 this particular issue. Are you aware of that?

12 A. I'm sure I read it but I just can't think of what they
13 were or I just can't recall. But I would have read it
14 at some stage.

15 131 Q. Your solicitor would have prepared those grounds of 11:15
16 appeal on your behalf, isn't that correct?

17 A. Okay.

18 132 Q. Yes. They are at Volume 47, page 13160 and 13161. 11:15
19 Yes, just paragraph 8 there. That refers to the
20 alleged complaint. Mr. de Bruir then essentially
21 prepares a chronology of that complaint. That can be
22 found, if you don't mind scrolling down, please, that
23 particular page, to page 13161, "grounds of appeal -
24 complaint 4". It's just under that, please.

25 CHAIRMAN: Keep going, Philip. 11:16
26 MS. GLEESON: Thank you. 8.9:
27
28 "The submission of Mr. Cullen in relation to complaint
29 4 reads, inter alia: Garda Keogh was never involved in

1 any such incident. He is a stranger to it. It is
2 bizarre. Where is the evidence of any disciplining of
3 the other two gardaí? It's not explained why the names
4 of the other two guards were not released to Garda
5 Keogh.

11:16

6
7 (B). The report of Garda Lyons in relation to the
8 conversation with Liam McHugh does not list the names
9 of the other two gardaí. The only names apparently
10 identified is that of Garda Nick Keogh."

11:16

11
12 They are the two grounds of appeal in relation to that
13 particular issue, Garda Keogh?

14 A. Yes.

15 133 Q. And that obviously would have been submitted by your
16 solicitor, isn't that right?

11:17

17 A. Yes.

18 134 Q. Nowhere in your grounds of appeal does it state that
19 Garda Lyons was put up to this by another garda and
20 that the entire thing was made up, isn't that right?

11:17

21 A. I accept that's probably not in the appeal. I accept.
22 I don't know how, it's an error on my behalf. But it's
23 from my notes. When I go back, when Superintendent
24 McBrien shows me the actual report and I actually get
25 to see what this allegation is about, I still don't
26 know who wrote the report, so I go back into my own
27 diary to try find out what was going on around the
28 night of the 30th and the early hours of the 31st, that
29 period of time. And, of course, I have a recollection

11:17

1 of an incident with these other two guards that night
2 and, as I stated, I was dealing with a thing on the --
3 I have a clear recollection of that. So, it's not in
4 the report, but that's perhaps an omission on my
5 behalf. 11:18

6 135 Q. Yes. Well, it's very clear from your grounds of appeal
7 there that you are aware of Garda Lyons's identity at
8 that stage, isn't that right?

9 A. Yes.

10 136 Q. Yes. But nowhere in your grounds of appeal does it 11:18
11 doubt the veracity or the authenticity of this
12 particular complaint. Essentially, your evidence to
13 the Chairman is the first we have heard of that; isn't
14 that right?

15 A. In relation to the -- that he was put up to it? 11:18

16 137 Q. That Garda Lyons was put up to it and that it's trumped
17 up.

18 A. Well, I have always stated it's trumped up. I have
19 always said this is pure set up. This is -- none of
20 this is -- I know nothing about this. I have always 11:18
21 said that.

22 138 Q. Yes. No, I accept that you have always said that.

23 A. Mm.

24 139 Q. My question to you is: Your evidence to the Chairman,
25 and he has summarised your evidence to the Chairman on 11:19
26 Day 100, page 86 of the transcript, that Garda Lyons
27 was put up to this by other gardaí and that was made
28 up. This was the first we have heard of this, isn't
29 that right?

1 A. I think you're correct. But that's my belief. I have
2 no evidence to back it up.

3 140 Q. That may very well be your belief. I believe you don't
4 have any evidence in that regard, isn't that right?

5 A. Apart from, I have the incident on Pulse in relation -- 11:19
6 and I'm aware there's an incident on Pulse in relation
7 to the traffic incident that I'm on about, which would
8 have the exact time and everything that corresponds
9 with when that drugs patrol car was going by. Other
10 than that, I have no evidence. 11:20

11 141 Q. Yes. So if we can go back to page 13161, please.
12 CHAIRMAN: Page 161.
13 MS. GLEESON: Page 13161.
14 CHAIRMAN: I'm sorry, 13161, yes.

15 142 Q. MS. GLEESON: If you don't find scrolling down to 11:20
16 paragraph 8.12, please. I think it might be the next
17 page. Yes. If you see there, paragraph 8.12, thank
18 you:
19
20 "There is no submission on the appeal that Garda Lyons 11:20
21 was incorrect or inaccurate in his recording of what
22 was said to him by Liam McHugh on 31st May 2014."
23
24 And further, at paragraph 8.13:
25
26 "There is no complaint against Garda Lyons --" 11:21
27
28 Sorry 8.13
29 CHAIRMAN: Don't worry, we are coming back to it.

1 MS. GLEESON: Thank you, just there.

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"There's no complaint against Garda Lyons and there is no suggestion that he was instructed by any superior officer to fabricate the account he reported of the conversation with Liam McHugh. Garda Lyons's integrity or the accuracy of his report has not been challenged." 11:21

That is the position with regard to the Finn investigation and the subsequent appeal, isn't that right? 11:21

A. That's what they find, Judge.

143 Q. Well, isn't that a fact, though, Garda Keogh; that you never had any issue with the veracity or the integrity of Garda Lyons until your evidence to the Chairperson, Day 100 of this inquiry? 11:22

A. Oh no. Obviously when I -- hang on. When I find out that Aidan Lyons wrote this report, I mean, like, that was during the Finn investigation, a couple of years on, I didn't -- like I never would have suspected it was Aidan Lyons that wrote that report. So that -- I'm sorry if I have wandered a bit there. 11:22

CHAIRMAN: No, you didn't, no.

144 Q. MS. GLEESON: No, there is no concern about that at all. But clearly at the time when your appeal was made you were aware of Garda Lyons's identity. 11:22

A. Hm-hmm.

145 Q. And there was no ground of appeal to say, well, that Garda Lyons was put up to this and that it was made up.

1 A. I accept what you are saying is correct.

2 146 Q. Yes.

3 A. I don't -- you see, sometimes when I am reading things,
4 even on the screens, there's things that can jump out
5 at me and can just rejig the memory that I can't 11:23
6 explain. But that is, that is the reason I put it into
7 my note originally, when I went back to find out what
8 was happening, I wasn't even suspecting Garda Lyons had
9 anything to do with this when I was -- I was actually
10 looking at, not Garda A, I was looking at the other 11:23
11 garda, a person I had suspected perhaps wrote the
12 report.

13 147 Q. Yes. I know you have obviously said that that's your
14 belief but my point is that essentially this is the
15 first we have heard of it, that this was contrived as a 11:23
16 result of the two gentlemen, the two gardaí in the car
17 on the night before and that Garda Lyons was put up to
18 it?

19 A. That's my case, that's my argument. Or that's my
20 belief. 11:24

21 148 Q. Yes. Now, Garda Lyons will obviously have an
22 opportunity to give evidence. He will be giving
23 evidence to the effect that he encountered Liam McHugh
24 on the 31st May, around 9pm.

25 CHAIRMAN: In other words, that this is a true account 11:24
26 of his encounter with --

27 149 Q. MS. GLEESON: Yes. And that he had that interaction
28 with Liam McHugh and he made his report on 2nd June
29 2014, and the contents of his report are accurate.

1 A. So, just to get this right for myself, so he meets Liam
2 McHugh on the 31st June, there's this --

3 150 Q. May?

4 CHAIRMAN: May.

5 A. May, sorry, this kind of explosive allegation and he 11:24
6 doesn't report that until two days later. I find that
7 strange. Then there's obviously the issue with the
8 conversation and the obvious questions that one would
9 ask to Mr. McHugh, if that conversation did -- if there
10 was such a conversation, there was an obvious question 11:25
11 that was to be asked there.

12 151 Q. MS. GLEESON: Garda Lyons received this information and
13 he reported it and he will be giving evidence to the
14 effect that his report of the interaction between
15 yourself and Liam McHugh is as he says in his report. 11:25

16 A. Look, I can't -- I can't speak for Garda Lyons. I
17 would use the word alleged information or alleged -- I
18 mean, I don't know what to say. Look, he will be
19 giving evidence himself.

20 152 Q. Yes. In any event, Garda Lyons, once he reported this, 11:25
21 it was dealt with by his superior officers and nobody
22 came back to him saying this is inaccurate; isn't that
23 right?

24 A. The senior officers at that time are quite happy that
25 they had something, another stick to kind of beat me 11:26
26 with. So, they didn't have to. They were quite happy
27 to -- as I said, this is the Olivia O'Neill first,
28 earlier in the week, and now they have this, this --

29 153 Q. Thank you, Garda Keogh. Now, in relation to the

1 letter, sorry, it was -- this is the letter in respect
2 of Inspector Farrell, I do have it.

3 CHAIRMAN: This is the handwritten note that you said
4 you would come back to. Okay.

5 MS. GLEESON: I said 324, in fact it was 326, 11:27
6 apologies.

7 CHAIRMAN: Say again.

8 MS. GLEESON: 326.

9 CHAIRMAN: Thanks very much. So 326.

10 MS. GLEESON: This is a handwritten letter. 11:27

11 CHAIRMAN: That's fine.

12 MS. GLEESON: This is a handwritten letter to
13 Superintendent Mulcahy written by yourself. I believe
14 it's undated but it is stamped 7th October 2015.

15 CHAIRMAN: Okay, yes. 11:27

16 154 Q. MS. GLEESON: At the second paragraph it states:

17
18 "Chief Superintendent Curran, Mullingar Garda station,
19 and Inspector Nicholas Farrell, Athlone, were both
20 involved to some degree regarding this. I understand 11:27
21 that both men are going for promotion."

22
23 That's referring to:

24
25 "As you are aware, I have spoken to GSOC in relation to 11:27
26 an attempt to manufacture complaints against me. I am
27 aware that Chief Superintendent Curran and Inspector
28 Farrell will be involved to some degree regarding this.
29 I understand that both men are going for promotion and

1 if my complaint were proven, it may jeopardise their
2 chances."

3
4 That's a letter that you wrote to Superintendent
5 Mulcahy, isn't that correct? 11:28

6 A. That's correct. The date stamp, it is dated with the
7 date stamp on the top, it would have been me that -- I
8 wouldn't have written the date, I just put the stamp on
9 it. It's the date I would have written that, yeah.

10 155 Q. I see. But you longer hold that view obviously? 11:28

11 A. No.

12 156 Q. You have covered that, I know.

13 A. Yeah.

14 157 Q. But I just wanted to get the letter for you.

15 A. Yeah. 11:28

16 158 Q. So essentially, just to summarise my own position, and
17 I am coming to the end of my questioning in relation to
18 these matters. In relation to Inspector Farrell, he
19 will be giving evidence, I am instructed, he is very
20 clear that he never asked you to change the Pulse
21 entry? 11:28

22 A. And I am also very clear that he did. And I am more --
23 also on my answer, like:

24

25 "What part of it do you want me to change?" 11:29

26

27 CHAIRMAN: Yes.

28 159 Q. MS. GLEESON: Yes. But in any event, you accept that
29 it's not possible for you or him to do it. It was

1 still there on the 29th July, when Garda A complained.
2 I think you accept that it's still there; isn't that
3 right?

4 A. Yeah. And as I said, I think everything else in
5 Inspector Farrell's thing, report, I think everything 11:29
6 else we're agreed on.

7 160 Q. Yes.

8 A. Just that one, one, one sentence from him and the one
9 sentence from me back. That's the only thing we differ
10 from on that. 11:29

11 161 Q. Yes. In relation to Garda Lyons, essentially
12 previously you haven't made a complaint about his
13 integrity or the veracity of his -- the information
14 that he received from Mr. McHugh, but obviously the
15 Chairman has your evidence in that regard at Day 100 11:29
16 and has summarised the issue. But essentially, Garda
17 Lyons will be giving evidence to the effect that he
18 received that information in good faith, passed it on
19 to his superior officers and he certainly wasn't put up
20 to it and it wasn't trumped up by him in any way, shape 11:30
21 or form?

22 A. I mean, I am quite interested in what he has to say in
23 evidence himself. Judge, one thing, in relation to
24 that we couldn't change, myself or Inspector Farrell
25 couldn't change the thing, just for clarification: 11:30
26 That could have been easily -- could have been altered
27 via the CIO in Mullingar, the collator. So if my
28 version is correct, and I said there is, yeah, okay, I
29 will change it or worded it a bit better, that would

1 have been -- could have been -- we could have --
2 something could have been changed fairly lively via the
3 collator in Mullingar. Just to take that into account.
4 CHAIRMAN: Thanks very much.

5 162 Q. MS. GLEESON: Yes. Now, the Chairman has asked me to 11:31
6 refer to your interactions, Inspector Nicholas
7 Farrell's interaction with you?
8 CHAIRMAN: Ms. Gleeson, don't misunderstand, I am not
9 suggesting have you to ask any particular question.
10 But I was thinking that if Inspector Farrell is going 11:31
11 to give particular evidence about his encounter, his
12 conversation with Garda Keogh that happened on 9th May
13 2014.
14 MS. GLEESON: Yes.
15 CHAIRMAN: Then I think it would be fair to everybody 11:31
16 for you to put what Inspector Farrell says was said on
17 that occasion, if he is going to give that evidence.
18 MS. GLEESON: Yes.
19 CHAIRMAN: Okay.
20 MS. GLEESON: well, we have already had his note, which 11:31
21 is on page 640. I will put that now.
22 CHAIRMAN: 640, thank you.

23 163 Q. MS. GLEESON: Now, you see there that essentially Garda
24 Keogh met with Inspector Farrell the evening of 9th May
25 2014. He was at Inspector Farrell's office. 11:32
26 CHAIRMAN: Sorry, this is the 19th May.
27 MS. GLEESON: 19th May.
28 CHAIRMAN: I am talking about the 9th May, the day
29 after the Pulse entry was made.

1 MS. GLEESON: Yes.

2 CHAIRMAN: Now, it doesn't matter if --

3 MR. McGUI NNESS: Page 634, Chairman.

4 CHAIRMAN: 634, I think you will find it. Thanks very
5 much. As I say, if he's is not going to give that 11:32
6 evidence, that's not a problem, but if he is, I think
7 it's only fair. 634.

8 164 Q. MS. GLEESON: Inspector Farrell's note is that he said
9 to you, Garda Keogh, this could be a very difficult
10 time in the wake of your protected disclosure and that 11:32
11 he wanted to offer his personal and organisational
12 support. That obviously you were in particular form at
13 the time and he records you as having said to him:
14

15 "Your support means nothing to me. Say what you have 11:33
16 to say. Tick all the boxes."
17

18 And that Inspector Farrell explained that there are
19 obviously service facilities available in the job to
20 support you; for example, the employee assistance and 11:33
21 peer support. That Inspector Farrell said if you had
22 any issues that he could help you with, that he was
23 available and would listen to you in that regard; isn't
24 that right?

25 A. Yes. All of that, Judge. 11:33

26 165 Q. CHAIRMAN: All of that is correct?

27 A. All of that. Judge, just again to clarify: It wasn't
28 Inspector Farrell, I see here there's "very anxious and
29 hostile", it's not Inspector Farrell himself.

1 Inspector Farrell I know is friends with -- may have
2 perhaps formed an opinion -- there would have been
3 other people whispering into his ear or whatever. But
4 I can't get too close to Inspector Farrell because he
5 is friends with other parties within the station. It's 11:34
6 not to do -- he himself is a decent guy, but just
7 there's other persons there that he was friends with.
8 CHAIRMAN: Okay. Thank you very much. All I wanted
9 was that if he was going to give that evidence, that it
10 was only fair that you should have an opportunity of 11:34
11 commenting.
12 A. I agree with everything in that.
13 CHAIRMAN: Thanks very much. Have you finished,
14 Ms. Gleeson?
15 MS. GLEESON: Yes, Chairman. 11:34
16 CHAIRMAN: Thanks very much.
17
18 END OF EXAMINATION
19
20 CHAIRMAN: who is next? Mr. McGuinness, who is next? 11:34
21 MR. MCGUINNESS: well, I think it's Mr. Carroll.
22 CHAIRMAN: Mr. Carroll, yes. Good morning,
23 Mr. Carroll.
24 MR. CARROLL: Thank you Chairman. I don't know if you
25 can see me, Garda Keogh. 11:34
26 CHAIRMAN: Can you see Mr. Carroll over there?
27 WITNESS: Yes.
28 MR. CARROLL: Thank you.
29

1 GARDA NICHOLAS KEOGH WAS CROSS-EXAMINED BY MR. CARROLL
2 AS FOLLOWS

3
4 166 Q. MR. CARROLL: I am here representing Superintendent
5 McBrien. You will be glad to hear I don't really have 11:35
6 too much questioning for you either. There's two main
7 reasons for that: One is, in the course of you being
8 examined in detailed by Mr. McGuinness, you agreed with
9 him on a couple of occasions that you had access to
10 Superintendent McBrien's notes. I think we have typed 11:35
11 versions as well that were done for Superintendent
12 Healy, and that you were happy with the accuracy of
13 those notes?

14 A. Yeah.

15 167 Q. Obviously your notes are there as well and they tallied 11:35
16 a lot in terms of dates and what not, but her notes are
17 more, far more extensive, I suppose.

18 A. Far more detailed.

19 168 Q. So, in that context, and you don't really raise -- my
20 understanding is that you don't raise an issue with 11:35
21 those notes and nor her statements to the Tribunal.
22 There may be one or two minor differences.

23 A. Mm-hmm.

24 169 Q. Or conflicts maybe. I might deal with them, but the
25 way I see it is, there's not really much by way of 11:36
26 conflict or differences as such. So, for that
27 reason -- secondly I suppose, the reason, you seem
28 to -- you've confirmed it last week a number of times
29 with Mr. McGuinness that you aren't alleging that my

1 client, Superintendent McBrien, was involved in
2 bullying or harassing you or targeting you or
3 discrediting you?

4 A. No, never ever alleged that. No, no, no.

5 170 Q. I think in fairness to you, one of the things that came 11:36
6 out in examination by Mr. McGuinness was that you
7 remember the meeting with Assistant Commissioner Ó
8 Cualáin, it was put up, we don't need to go to it, and
9 you were making the point -- or Assistant Commissioner
10 Finn, sorry, and you were being asked to name names as 11:37
11 such. I think in the course of that, as early as that
12 in the sense of before this Tribunal started its work,
13 you were making the point that you didn't have such an
14 issue with Superintendent McBrien. Is that fair?

15 A. Yeah. And I think if my memory is correct, I think she 11:37
16 may have got served papers, that I was making an
17 allegation against her. I'm not sure. I'm not sure.
18 Just there was a list of --

19 171 Q. Obviously she finds herself now as a witness in this 11:37
20 Tribunal and she is happy to be here to assist the
21 Tribunal and will be giving evidence in due course.
22 But she obviously also found herself caught up, I
23 suppose, in numerous inquiries that were dealt with.
24 So that was obviously a concern to her as well. But in
25 any event, that's just a general point at the start. I 11:37
26 just want to make a couple of general points and I may
27 touch on a few specifics that have come out in the
28 evidence, but I hope not to repeat anything and also,
29 if you feel you need to get some of the documents up,

1 we can do that. I am not trying to stop you having a
2 look at the documents, but I am trying to, I suppose,
3 summarise matters, so we don't have to go into great
4 detail, because Mr. McGuinness has done that with you
5 already.

11:38

6
7 I suppose just to put things in context, I think your
8 first -- you actually had a connection with
9 Superintendent McBrien, going back to when you were
10 stationed in Bray, is that correct?

11:38

11 A. That's correct, yeah.

12 172 Q. I think the exact dates, I think she was an inspector
13 in Bray in and around '05 to '10, 2010, and that would
14 cover some of the time you were stationed in Bray,
15 isn't that right?

11:38

16 A. Yes. I was with the drugs unit '05, I was with
17 Detective Branch Enniskerry '06, and then I transferred
18 down the country some period after that. So certainly
19 two years anyway of an overlap.

20 173 Q. Yes. I think in the context of that, you have said,
21 you said to the Tribunal investigators when they
22 interviewed you, that had you a good relationship with
23 her back then?

11:39

24 A. Yeah.

25 174 Q. And that continued then when you met up again in
26 Athlone. I think she herself in Athlone was, I
27 suppose, new and I think, without going into
28 unnecessary detail, she would have been at one point
29 not residing, I suppose, or living in accommodation

11:39

1 locally, hotels or whatever, but she would have been,
2 it would appear, around the station a lot, particularly
3 at nighttime. We can see that from your own notes and
4 her notes, that there would have been several meetings
5 between you in Athlone, where it would have been late 11:39
6 in the evening and you would have been chatting about
7 various things. Would that be fair?

8 A. Em, I'm not disputing it.

9 175 Q. Yes.

10 A. I just... 11:40

11 176 Q. So I think the point I am trying to make, I suppose, is
12 in terms of the relationship with her, it was a good
13 relationship. As she says herself, I think uses the
14 phrase, she had a sort of open door policy, she was
15 accessible, I suppose, in terms of this period of time. 11:40
16 Would that be fair?

17 A. Yeah, that'd be fair. I remember when she first
18 arrived to Athlone and came down, I recall, there's
19 actually a video or a film, it's called Hot Fuzz, it's
20 a comedy, a spoof comedy about a mad police station in 11:40
21 England. I recall, I think I may have given it her and
22 I said, you may watch this if you're coming to this
23 place, because this is mad, some of the stuff that's
24 going on here. I don't think it went beyond anything.
25 Because there was so much stuff going on in Athlone, as 11:40
26 well, at the time. But that's just from memory.

27 177 Q. I suppose in the context of how matters evolved then
28 and the subject-matter of this Tribunal, it would
29 appear she was in a difficult position at one point, I

1 suppose. what I mean by this is, she was attempting to
2 deal -- when you made your protected disclosure, she
3 was attempting, I suppose, to deal with the welfare of
4 everybody in the station?

5 A. Yes. 11:41

6 178 Q. To keep everything on the rails, I suppose, in terms of
7 the station?

8 A. Yes.

9 179 Q. But at the same time, it would appear from her notes
10 and of her meetings with you, she was conscious of your 11:41
11 welfare and how you were getting on, I suppose?

12 A. She was firm and fair.

13 180 Q. Yes. I think in those notes, and you have mentioned
14 this, that she told you from the outset about the
15 welfare officer and the availability of that? 11:41

16 A. Yes.

17 181 Q. I think initially you didn't take that up but then you
18 did?

19 A. Yes.

20 182 Q. And that worked out for you in terms of being useful, 11:41
21 as matters progressed?

22 A. Yes.

23 183 Q. I think she also said to you from early on that she
24 would keep you informed of matters as things
25 progressed. That seems to be fair enough, because we 11:42
26 see in these notes, she's telling you what's happening
27 and what's going on to the extent she can, would that
28 be fair?

29 A. Yeah. To the extent she can because --

1 184 Q. I will come to that. An example of that would be when
2 she puts Garda Lyons's report but doesn't give you the
3 name, she felt that wasn't appropriate, but she did
4 give you that or read that, let you read that report or
5 read it out to you, so you were aware of what was going 11:42
6 on in that context?

7 A. Oh yeah, and I never -- look, the reason I don't blame
8 Superintendent McBrien is because I believe there were
9 people behind the scenes at that stage even, you know,
10 that are quite happy to run with anything they can get 11:42
11 negative to do with me.

12 185 Q. I think, just again, I am really not going to go into
13 super detail at all but there are a few things that I
14 suppose I want to highlight. They come up in the
15 course of the various issues, particularly the first 11:43
16 four or five issues, which were this timeframe. And
17 also to put into context that for various reasons
18 Superintendent McBrien was herself absent, I suppose,
19 at certain points in that sequence. So I just want to
20 put that. 11:43

21
22 Really, I think the first thing I just want to talk
23 about was, there was -- and we don't need to name the
24 guard because I don't think he is represented, I don't
25 think he's relevant, from early on I think there was 11:43
26 reference to somebody had made a comment in the
27 station?

28 A. Oh yes.

29 186 Q. We will just call him Garda M?

1 A. Sure.

2 187 Q. It's not that issue. But the point about it was --

3 A. I accept it was an off the cuff comment.

4 188 Q. Yes.

5 A. It wasn't even anything, it was just an off the cuff, 11:44

6 yeah.

7 189 Q. The point is, I am just trying to get across to the

8 Tribunal, I suppose, on behalf of my client and how she

9 was trying to react with things and deal with things?

10 CHAIRMAN: Mr. Carroll, surely if there is no complaint 11:44

11 against your client, why don't you get to the point.

12 Sorry, if there is any disagreement, surely isn't that

13 the thing to focus on. I'm sorry to --

14 MR. CARROLL: I appreciate that, Chairman.

15 CHAIRMAN: Sorry, Mr. McGuinness. 11:44

16 MR. MCGUINNESS: Chairman, I think the cross-examiner,

17 Mr. Carroll was trying to get Garda Keogh's view about

18 how appropriately the superintendent had dealt with the

19 protected disclosure.

20 CHAIRMAN: I'm sorry. 11:44

21 MR. MCGUINNESS: The issue that was raised.

22 CHAIRMAN: I am sorry, my misunderstanding,

23 Mr. Carroll. Sorry. No, Mr. Carroll, forget what we

24 said before. Thank you, Mr. McGuinness, I

25 misunderstood, thank you very much. Let's forget it. 11:44

26 MR. CARROLL: There's about four or five incidents I am

27 going to deal with.

28 CHAIRMAN: Don't worry, no, you don't have to explain,

29 Mr. Carroll. Consider yourself free from my obligation

1 to explain. I misunderstood. Please carry on.

2 MR. CARROLL: Garda Keogh, I was just going to deal
3 with a couple of things and try and deal with it in
4 sequence, we don't need to get into in detail, just to
5 show, I suppose, Superintendent McBrien's -- how she 11:45
6 was reacting to certain matters?

7 CHAIRMAN: I just want you to stop for one moment.

8 MR. CARROLL: Yes.

9 CHAIRMAN: would you like a break at this point. We
10 have been doing it regularly and it's just that we are 11:45
11 pretty well exactly halfway through the session and
12 you're perfectly okay, we have been doing it every
13 other day, so I just wanted to say that this would be a
14 convenient time, because Mr. Carroll, having made his
15 introductory comments, which I'm sorry for 11:45
16 misunderstanding, and he's now about to proceed to some
17 specific things. So, I think that's probably a
18 convenient time, as I say. Sorry about that,
19 Mr. Carroll. Okay, we will break now for ten minutes.
20 Very good. 11:46

21

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

24

25 CHAIRMAN: Thank you. 12:02

26 190 Q. MR. CARROLL: Thank you, Chairman. Garda Keogh, just
27 go back to a couple of matters. I can assure you, I
28 don't intend to be so long with you. But it was just
29 in terms of Superintendent McBrien and how she was

1 trying to react and deal with matters as they arose.
2 Just before the break I was saying a particular Garda M
3 had made a comment, it would appear that was on the
4 15th May, that it came to her attention. She was
5 actually due for annual leave abroad on the 18th May 12:02
6 and before she went, she sent an e-mail to Inspector
7 Farrell. That's at 857 but we don't need to look at
8 it. She asked him to deal with that and to speak to
9 that member and say that's out of order, to make such
10 comments. You have seen some of that documentation, is 12:03
11 that right?

12 A. I have and I have seen the explanation that was given
13 by the member, that it was an off the cuff remark and
14 it wasn't -- and accept that. It was all dealt with.

15 191 Q. She also sent out an e-mail to everybody, the policy 12:03
16 document about bullying and harassment, the policy
17 document, that was sent out as well?

18 A. She may have. I wouldn't be good with my emails but
19 she may have. I don't know. I would accept that,
20 sorry. 12:03

21 192 Q. I think then as matters progressed she, as I say, was
22 away and came on the 5th June, I think, and other
23 matters had happened then in the intervening period in
24 terms of McHugh, O'Neill and such matters. I think
25 they had been dealt with by others in her absence. But 12:03
26 when she returned, she did have meetings with you.
27 There was a particular meeting on the 9th June. In the
28 course of that meeting she outlines certain things of,
29 I suppose, a welfare nature, concern about you, concern

1 about what was going on. would that be fair to say?

2 A. Yes.

3 193 Q. I think similarly then, there was the -- and again, I
4 am just touching on these, if we need to get any
5 documents up, we can, but I am just trying to get 12:04
6 across how she was trying to react to things as best
7 she could. One of the matters that the Tribunal is
8 looking at relates to Garda Lyons's report and
9 Mr. McHugh. I think, without going through the ins and
10 outs of it, I think you're aware that you discussed 12:04
11 that with her as well and ultimately she actually asked
12 Assistant Commissioner Ó Cualáin to -- she actually did
13 that in writing, it's at 1201, to consider
14 investigating that, that it wasn't appropriate within
15 the station, so to speak, and it would seem more 12:05
16 appropriate that it was investigated outside. You're
17 aware of that documentation?

18 A. I wasn't aware at the time, but obviously I have read
19 it.

20 194 Q. Yes. 12:05

21 A. At that period in time I'm writing to Detective
22 Superintendent Mulcahy, obviously pointing out the same
23 thing there.

24 195 Q. Yes. Again, I think from -- Superintendent McBrien was
25 obviously aware of your concerns about that? 12:05

26 A. Mm.

27 196 Q. And to an extent was going down the line of, well,
28 maybe this would be a good thing to not have
29 investigated within the station?

1 A. Yeah.

2 197 Q. But ultimately, of course, we know that Assistant
3 Commissioner Ó Cualáin, they wrote back saying, no, we
4 are not dealing with that, we are only going to deal
5 with the contents of the protected disclosure and not 12:06
6 the -- I am not going to trammel that again. But the
7 point is, she was making that move, so to speak. I
8 think another issue arose again in June, on 10th June
9 2014, where it would appear Garda A had made some
10 enquiries, she had received a call from, I think, it 12:06
11 was Garda Greene, and that Garda A had made some
12 enquiries about the investigation team and what they
13 were doing. She tried to, I suppose, nip that in the
14 bud. She requested that Sergeant Curley speak to Garda
15 A and not to be getting involved in that way, to tell 12:06
16 him not to do that. You accept that. You have
17 probably seen some of that documentation?

18 A. I wouldn't have known that at the time. I accept it,
19 but like, I just wouldn't have been aware of that at
20 the time. 12:07

21 198 Q. Just bear with me. I don't know if that came up in --
22 I will check that, it may have, it may have come up in
23 one of the subsequent meetings you had with her, that
24 Superintendent McBrien was trying to keep you informed
25 as to what was going on. 12:07

26
27 But in any event, the other matter then. Again, I
28 suppose, as an example of how she was attempting to
29 follow things up and keep things on train in the

1 station with two things happening at the same time
2 obviously, her duties to all members in terms of the
3 normal police activities --
4 A. Sorry, there was more than two things, there was a
5 whole lot of them. 12:07
6 199 Q. Ah yeah, I know that. I am talking about from her
7 perspective, she had -- her role, her role regardless
8 of all of this, in terms of the whole station and the
9 welfare of everybody?
10 A. Mm. 12:07
11 200 Q. Then also, particular matters that emanated from your
12 protected disclosure?
13 A. Yeah.
14 201 Q. I am trying to keep --
15 A. There was other things going on, which had nothing to 12:08
16 do with the protected disclosure.
17 202 Q. Yes.
18 A. Other investigations.
19 203 Q. As well.
20 A. Yes. 12:08
21 204 Q. Yes, yes. One of the other things I was going to
22 highlight, again without any great detail, was that you
23 raised -- at one of the meetings you raise concern, and
24 we have heard this already, about the firearms issue
25 and Garda A having access to firearms. And again, we 12:08
26 can see that she followed that up with a report,
27 seeking a report from Sergeant Curley and then that was
28 sent up the line to Chief Superintendent Curran.
29

1 Again, we can see that she, I suppose, was attempting
2 to deal with matters as they arose as best she could,
3 but acknowledging your issues, I suppose, without
4 obviously going into the content of your protected
5 disclosure. So that was the position she was in. But 12:09
6 nonetheless --

7 A. Yes.

8 205 Q. Just bear with me now, I just want to check one of the
9 notes. I'm sorry. I think in fairness to you and the
10 Tribunal, I think obviously we have gone through your 12:09
11 statement and notes and all the rest, the only
12 conflict, and there may be not much in it, appears to
13 arise -- I will just deal with it for the sake of
14 completeness. Possibly the best way is 6264, that
15 document, which is the statement of Superintendent 12:10
16 McBrien. There is just one thing. Again, I just want
17 to put it, it seems to me the only conflict in the
18 matter between you and my client was that in the course
19 of that meeting you had with her, matters were
20 discussed, I think it was the 8th July, and again, this 12:10
21 is something that the Tribunal investigators put to
22 Superintendent McBrien, is that she was -- I think you
23 can see it, yes, I think it's at line 922, and that's
24 from your statement, about her being put under pressure
25 by Chief Superintendent Curran. That was, yes, in 12:11
26 relation to -- particularly in relation to the CHIS
27 issue, that arising and what directive was complied
28 with, you understand. You can see that at line 929.
29 And that she had told the Tribunal investigators at

1 this point, Superintendent McBrien, that she didn't
2 recall saying that she was under pressure. She goes on
3 to say that she wasn't put under pressure, if you
4 follow me. So I just want to put that, because it's --
5 it would appear to be the only conflict in terms of 12:11
6 what she has in her notes and what you might have said,
7 do you understand me?
8 A. I understand. My note is a lot shorter and less
9 detailed than Superintendent McBrien's.
10 206 Q. Yes. 12:12
11 A. But what I have is:
12
13 "Tuesday, 8th July, 9pm, met with super, who informed
14 me she is sending people out again to try to get
15 statements from OON. " 12:12
16
17 which is Olivia O'Neill
18
19 "And LMH. "
20 12:12
21 Liam McHugh
22
23 And a full stop.
24
25 "She under pressure. " 12:12
26
27 It doesn't say, like, I don't know, like I don't say
28 she said that or I said it or anything. But either
29 way:

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"Told her I was meeting judge Monday re this and I knew who was behind it. She didn't reply."

That's my note.

12:12

207 Q. I suppose again, it may be that -- and look, maybe not a lot turns on it. The reason I point it out is because Superintendent McBrien will obviously be giving evidence in due course, so that, in fairness to you, she doesn't recollect that she said that. It may be that you came to that view of the situation rather than it was something she said. Do you understand what I mean?

12:13

A. Look, I can't remember now word-for-word what was said in that meeting, I am only going by my notes and that's my account of the meeting.

12:13

208 Q. Thank you, Garda Keogh,

END OF EXAMINATION

12:13

CHAIRMAN: Thank you very much, Mr. Carroll. Now, yes, Mr. McGarry, are you next?

MR. MCGARRY: I am happy to go next, Chairman.

CHAIRMAN: Is that the scheme, Mr. McGuinness, that Mr. McGarry goes next?

12:13

MR. MCGUINNESS: Yes, I think that's convenient.

CHAIRMAN: Very good, thanks very much.

1 GARDA NI CHOLAS KEOGH WAS CROSS-EXAMINED BY MR. MCGARRY,
2 AS FOLLOWS:

3
4 209 Q. MR. MCGARRY: Thank you, Chairman. Garda Keogh, I
5 don't know if you can see me, I am here. Paul McGarry 12:13
6 is my name and I am one of the lawyers representing
7 former Assistant Commissioner Fanning. I just want to
8 ask you a couple of questions about the issue that was
9 touched upon yesterday when you were answering
10 questions from Mr. McGuinness about the complaint that 12:13
11 led ultimately to the investigation established under
12 Assistant Commissioner Finn. You remember yesterday
13 there was a discussion about this?

14 A. Yes.

15 210 Q. You were looking at the chronology that was prepared by 12:14
16 Inspector McCarthy from page 10478 onwards. I think
17 you remember that document. I don't know that it's
18 necessary, Chairman, to put it up on the screen?

19 CHAIRMAN: Yes, I think you are right. Only if you
20 need it. Do you remember there was a long chronology. 12:14

21 WITNESS: Yes.

22 CHAIRMAN: Explaining the delay in setting up the Finn
23 inquiry, isn't that right? Do you remember that?

24 WITNESS: Yes.

25 CHAIRMAN: Okay, if we need to -- we have it now 12:14
26 anyway, there it is.

27 211 Q. MR. MCGARRY: Garda Keogh, this is in the context, I
28 think, of your complaint about an alleged delay in
29 establishing this particular inquiry. I apologise

1 again if I am threading on ground you were over
2 yesterday, but I have to suggest to you that at the
3 very least it seems from that document that there was a
4 very large amount of work going on from the moment that
5 Assistant Commissioner Fanning was made aware of your 12:15
6 complaint up to the point at which Assistant
7 Commissioner Finn was appointed?

8 A. Yeah, I accept that.

9 212 Q. Yes. Ultimately his evidence will be that at all times
10 he was keen to ensure that the matter was properly 12:15
11 investigated. Again, I suggest to you that that
12 document bears out the thoroughness of that work that
13 was going on?

14 A. Yeah. I have no issue with that, I accept that.

15 213 Q. I counted, just on a brief look at it, six occasions 12:15
16 between March and November of 2017 when you were
17 contacted directly in relation to the ongoing work,
18 twice I think to look for information from you and four
19 occasions on which you were informed about what was
20 going on? 12:15

21 A. Just for clarification, it's not directly Commissioner
22 Fanning.

23 CHAIRMAN: No, but somebody --

24 A. Yes, yes, absolutely.

25 214 Q. CHAIRMAN: Somebody in that section, division or 12:16
26 department?

27 A. Yes, yes.

28 215 Q. MR. MCGARRY: Yes. Well, on certain occasions it was
29 Assistant Commissioner Fanning. We don't need to look

1 at specific details of it.

2 CHAIRMAN: Assistant Commissioner Fanning or someone in
3 his unit.

4 A. Inspector Jimmy McCarthy.

5 CHAIRMAN: Okay.

12:16

6 216 Q. MR. MCGARRY: For example, on the 16th May, Assistant
7 Commissioner Fanning wrote to you and then, on the 22nd
8 May it was Inspector McCarthy. Then on the 5th June
9 again it was Assistant Commissioner Fanning himself
10 that wrote to you referring to the issue?

12:16

11 A. Yes, sorry, I accept -- sorry, I erred there, that's
12 correct, he did, he did write. Sorry I read other -- I
13 had read stuff in there in those documents about
14 Inspector Fanning calling to my house and mad stuff
15 like that, that wasn't accurate. Sorry, I apologise
16 there, yeah.

12:17

17 217 Q. I suggest to you that what ultimately occurred does
18 disclose the fact that the matter was properly
19 considered at least up until point at which Assistant
20 Commissioner Finn was appointed?

12:17

21 A. Yeah, I have read that. I have read all that, and I
22 understand Commissioner Fanning was trying his best to
23 move it, progress the matter. Yes.

24 218 Q. And ultimately we know that a person of senior rank, as
25 assistant commissioner was, appointed to carry out that
26 inquiry. I suggest to you that from that report, it
27 can't really be said that there's any specific
28 targeting or bullying on the part of Assistant
29 Commissioner Fanning of you or, indeed, of any of the

12:17

1 people who Assistant Commissioner Fanning was
2 interacting with in order to get that investigation
3 going?

4 A. Em, the first part I accept. In relation to
5 Commissioner Fanning, yes, he was trying to progress 12:18
6 it. In relation to people that he was interacting with
7 now, I can't go along with that.

8 219 Q. Thank you.

9 CHAIRMAN: Thanks very much. Very good.

10 12:18

11 END OF EXAMINATION

12

13 CHAIRMAN: Mr. Murphy, are you next in line?

14 MR. McGUI NNESS: No, Mr. Kane is here.

15 CHAIRMAN: I am sorry. 12:18

16 MR. McGUI NNESS: For a number of individual gardaí.

17 CHAIRMAN: Thanks very much, Mr. Kane. Yes, that seems
18 more sensible and then we will come to Mr. Murphy.

19 Yes, Mr. Kane.

20 12:18

21 GARDA NICHOLAS KEOGH WAS CROSS-EXAMINED BY MR. KANE, AS
22 FOLLOWS

23

24 220 Q. MR. KANE: Thank you, Chairman. Good afternoon, Garda
25 Keogh. I am one of the barristers representing Ferghal 12:18
26 Green, Stephanie Treacy and David turner. I wanted to
27 ask you, is it a fair characterisation of the evidence
28 that you have given to say that your complaints as to
29 bullying, harassment, targeting and discrediting is

1 that they emanated from management and not from rank
2 and file or ordinary members?

3 A. That's correct. And they have -- look, there's no
4 allegation or nothing to do with any of those three
5 members to do with what we are here for or what -- I 12:19
6 have no allegations against any of those three
7 whatsoever.

8 221 Q. Thank you, Garda Keogh. Thank you, Chairman.

9

10 END OF EXAMINATION 12:19

11

12 CHAIRMAN: Thanks very much. Now, Mr. Murphy.

13

14 GARDA NICHOLAS KEOGH WAS CROSS-EXAMINED BY MR. MURPHY,
15 AS FOLLOWS: 12:19

16

17 222 Q. MR. MURPHY: Good morning, Garda Keogh. My name is
18 Shane Murphy and I appear on behalf of the Commissioner
19 of An Garda Síochána and on behalf of 38 other gardaí,
20 some of whom will be featured in the course of our 12:19
21 cross-examination and whose interests I will identify
22 to you. But first of all, can I ask you, in terms of
23 the history of your involvement in An Garda Síochána,
24 to recall the evidence you gave on the first day, when
25 you spoke to Mr. McGuinness, in relation to how long 12:19
26 you have been in the force. There is no controversy.
27 You moved from the events of 2009 up to 2014. During
28 the period of 2009-2014, did you know a Sergeant Tully.

29 A. Yes.

1 223 Q. Was he a regular supervisor of yours?
2 A. Yes.
3 224 Q. In terms of his position, was he someone you got on
4 well with?
5 A. Yes. 12:20
6 225 Q. Could I ask if a document could be put up, please, on
7 the screen, which is 9268 please. Again, I think there
8 will be no controversy here, Garda Keogh. This is a
9 report prepared by Sergeant Tully in 2012. He is
10 reporting after, I think, you had returned to work, 12:20
11 because you had been absent between May 2012 and July
12 of 2012; is that correct?
13 A. Yeah.
14 226 Q. I think he indicates, perhaps I will just read this to
15 you. He says: 12:20
16
17 "His coping skills are being tested due to his alcohol
18 problems. Even though he is currently off the drink,
19 it is certainly taking its toll on him but he is making
20 a huge effort to overcome his problem. 12:21
21
22 His relationship with his peers and supervisors is
23 excellent. He is a very affable and inoffensive
24 individual, who tries to please and cooperate with
25 supervisors and colleagues alike. 12:21
26
27 This member is not the most robust individual and is
28 easily upset by the rough and tumble of life. He
29 believes he needs a transfer from Athlone, though he's

1 not sure where he wants to go. He claims he's happy
2 with his work colleagues and has no issue in that
3 regard. Over all, he's a bit mixed up but hopefully
4 will make a recovery and become more self reliant and
5 settled." 12:21

6
7 So, can I just suggest to you, that was Sergeant
8 Tully's assessment of your position; that you had gone
9 through a difficult time in the middle of 2012, you had
10 gone through rehab and you returned to work? 12:21

11 A. I never informed Sergeant Tully of what the difficult
12 time was.

13 227 Q. Yes.

14 A. All I said -- what I said to Sergeant Tully at one
15 point is: Some day, sergeant, I am going to tell you 12:21
16 everything I know, I just can't now. Because in 2012 I
17 am already -- I am already on the way, gathering
18 evidence and printing stuff, gathering my evidence for
19 what is about to happen in 2014. As I have stated, in
20 2011, I met a solicitor in relation to things, where 12:22
21 he's the first person I break confidence with. I have
22 never, to this way, told Sergeant Tully anything
23 because ultimately he retires at some point, but this
24 is all going on and he doesn't know about it and I
25 never told -- got the opportunity to tell him the full 12:22
26 story. That's my answer there.

27 228 Q. Garda Keogh, can we agree that there's no doubt about
28 this, that in 2012 you had a significant problem in
29 relation to alcohol?

1 A. I was drinking, yeah, I was turning to drink.
2 Obviously it was decision time as well. Am I going to
3 go ahead with this or am I not? This is not -- the way
4 it's portrayed by reading some of the Garda documents
5 is that I woke up on 8th May 2014 and had a great idea, 12:23
6 that I would just go and make a disclosure and become a
7 whistleblower for the craic. It wasn't like that, I
8 can assure you. Like, I had to go through, like, 2011,
9 '12, '13. By 2013 I firmly had my decision made, but
10 2012, I was still humming and hawing, what course of 12:23
11 action I was going to take.

12 229 Q. But would you agree, Garda Keogh, in 2012 you weren't
13 well for a long period of time during that year, with
14 your alcohol problem?

15 A. I'm not disputing that. 12:23

16 230 Q. Could I ask you, please, to be shown document 9448.
17 Garda Keogh, this is an absence report in relation to
18 you. It details materials in relation to a number of
19 years. I just want to look, if I could please, at
20 2012. Will you see that towards the last part of the 12:24
21 page. I think again there will be no dispute between
22 us, that that shows that in the year 1st January 2012
23 to 6th January 2012, you were off sick for 106 days.

24 A. That's correct. Is there any way we can just go down
25 prior to that, for the few years prior to that? 12:24

26 231 Q. Yes. Prior to that, you will see in 2011, there are I
27 think approximately six days?

28 A. Okay. And can we go -- just for continuity of this,
29 can we go down?

1 232 Q. Not on this screen, I will return to this. I am just
2 focusing on 2012 for a moment. In terms of 2012, the
3 position is that you were off sick for 106 days. I
4 think you can also confirm, and I think there's no
5 disagreement, that An Garda Síochána paid for your 12:24
6 treatment and looked after you in 2012?

7 A. Not fully, no. They undertook to fully pay the
8 treatment. At that stage I was down now €220 per week.
9 They they paid I think two-thirds, two-thirds of it, I
10 think, from recollection. 12:25

11 233 Q. Did you receive support from the Garda welfare services
12 during that time?

13 A. Oh yes. I have already said, they were excellent.
14 That's one thing I -- yeah.

15 234 Q. I think you indicated yesterday that you have nothing 12:25
16 but unreserved praise for the way in which they dealt
17 with you?

18 A. Yes.

19 235 Q. We will come back to that later on. Just in terms of
20 the documentation, can I also just ask if document 3657 12:25
21 could be put on the screen, please? This is a report
22 by Inspector Minnock and it's dated 2013. Can I just
23 ask you to look at the centre of the page complaint,
24 please? He says:
25
26 "Garda Keogh is presently engaged in full uniform
27 duties attached to a core unit in Athlone station. He
28 has an excellent relationship with both his peers and
29 supervisors. He carries out any duties assigned to him

1 in a professional and diligent manner.

2
3 As part of his continued rehabilitation, Garda Keogh is
4 in regular contact with the Garda welfare officer and
5 he attends AA meetings. He is aware of the services 12:26
6 available to him both from within the Garda
7 organisation and outside agencies. He continues to
8 make good progress as advised by chief medical officer
9 in a report of 19th October 2012. It would appear that
10 no further review is warranted at this time." 12:26

11
12 Again, I think you would accept that's a fair
13 representation of the position in relation to 2013?

14 A. I accept that. And once again, Judge, nobody knows
15 what is in my head at that time and what I'm -- 12:26
16 basically, in 2012, and I think I have given certain
17 documents in to the Tribunal, where it's clear I've
18 already commenced investigating and downloading
19 information in 2012. So, I'm already -- I'm still not
20 a hundred percent sure whether I am going to go ahead 12:27
21 with this or not but I am using alcohol as a crutch. I
22 don't deny it. Just back to the previous point: Since
23 1999, when I joined An Garda Síochána, until the end of
24 2011, I don't think I have a single sick day.

25 236 Q. I think in terms of Inspector Minnock, he is somebody 12:27
26 against whom you make no complaints, isn't that right?

27 A. Judge, Inspector Minnock, up until -- while he is under
28 Noreen McBrien's watch, he is someone I could trust,
29 but that changes after Superintendent Murray arrives.

1 There's a change there.

2 237 Q. Garda Keogh, can you just hold on for a moment? Do you
3 remember the discussion you had, that you talked about,
4 with Assistant Commissioner Finn, you were asked to
5 name people against whom you were making allegations? 12:28

6 A. Yes.

7 238 Q. Would you agree with me, Inspector Minnock was not one
8 of the people against whom you made an allegation?

9 A. That's correct, yeah, yes.

10 239 Q. I have to suggest to you, that has been the case 12:28
11 throughout. But I do so for the purpose of saying that
12 at this time, 2013, Inspector Minnock is effectively
13 saying that you're back in action and he's happy to see
14 you back in action. He's saying that you're making
15 efforts. 12:28

16 A. Mm-hmm.

17 240 Q. That you are taking part in your ordinary duties. An
18 Garda Síochána is looking after your welfare at that
19 time.

20 A. That's fair enough. Again, once again, Judge, 12:28
21 Inspector Minnock would have no idea, let's say, what's
22 going on in my head in relation to what -- in relation
23 to the matter of the disclosure and things like that.
24 Nobody knows because I'm telling nobody.

25 241 Q. Garda Keogh, will you agree with me, it's quite clear 12:29
26 that An Garda Síochána was fully aware of the fact that
27 you had a significant problem with alcohol in 2012 and
28 they sought to help you with that?

29 A. Yes. Yes, but I mean, I'm using alcohol as a crutch at

1 that time. I mean it's a big decision and I do use
2 alcohol as a crutch and unfortunately, you see, the
3 problem with alcohol is, Judge, it becomes a passtime,
4 then it becomes a habit and then it becomes an
5 addiction and I didn't know, I didn't know what I was
6 dealing with in relation to alcohol and the power of
7 it.

12:29

8 242 Q. I think in the course of your statements to the
9 Tribunal, not only did you not make any complaint about
10 Inspector Minnock but you also said at line 142, which
11 can be seen at page 685, it's referred to in Inspector
12 Minnock's statement, I should say, in 685, and you are
13 quoted as saying:

12:29

14
15 "I have had a good relationship with Inspector Minnock
16 at all times."

12:30

17
18 Isn't that correct?

19 A. Yeah. Just one second, I haven't seen -- I have to see
20 what date. Yes. Yeah. Look, over all, as I said, I
21 would have -- superintendent -- or Inspector Minnock,
22 certainly at one time I would have trusted him. The
23 trust part diminishes at a later period. But I have no
24 -- I have no -- he's not in my complaint in relation to
25 -- yeah.

12:30

12:30

26 243 Q. Thank you. Now, insofar as your diary is concerned,
27 you have referred to this on numerous occasions, I
28 think the position is that you have indicated to the
29 Chairman that you started taking your diary at the

1 suggestion of Judge McMahon, is that right?

2 A. Sorry, just can you go a bit slower please?

3 244 Q. Yes. Is it the case that you started to write a diary
4 because Judge McMahon suggested it might be a good
5 idea? 12:30

6 A. Yes.

7 245 Q. I wonder if we could have page 13252, please? Just
8 while we are waiting, can I ask you to confirm to the
9 Chairman that this diary is a diary that you wrote up,
10 not necessarily on the day of the entries but during 12:31
11 the period which is under review by this Tribunal?

12 A. That would be fair to say.

13 246 Q. And again, if you have the original of that book, I
14 wonder if you could be given it please?

15 A. I have it here. 12:31

16 247 Q. Yes. Could I trouble you just to look, please, at that
17 page. 10th April 2014?

18 A. Sorry 2014?

19 248 Q. 2014.

20 A. Sorry, excuse me, sorry. Yeah. 12:31

21 249 Q. Okay. You see on the left-hand side there's an entry
22 on the 7th April, saying?
23

24 "Met Ming Castlerea."
25 12:31

26 A. Yes.

27 250 Q. Can the Chairman take it that is Mr. Ming Flanagan and
28 that you met him in Castlerea?

29 A. Yes, Luke Ming Flanagan TD, yes.

1 251 Q. Was that the first time you met him?
2 A. No. No, it wasn't. The first time I met him was --
3 the first time I met him, I can't remember, it was the
4 end -- it was actually after that Vincent Brown show
5 episode that I gave in evidence earlier. I clearly 12:32
6 remember the night he told me, he was down in Offaly,
7 meet me in Edenderry, and when I went to Edenderry he
8 got the towns mixed up, Edenderry is on the Kildare
9 border, he was over in Banagher, which is on the Galway
10 border. So, by the time he had to drive the whole way 12:32
11 from Edenderry to Banagher, he was up in Cloghan, and
12 it was actually on an old bog road, the Cloghan to
13 Athlone road, on the side of the road at night and I
14 jumped into the side of the car with him. And that's
15 the first time we met. 12:32

16 252 Q. I think you will agree me that in this diary you are
17 reflecting your thoughts about the steps you're
18 preparing to take to make a statement and to try and
19 become a whistleblower, is that fair comment?
20 A. That would be fair. 12:33

21 253 Q. Yes. Just looking please at the right-hand side, I
22 think the entries are in blue ink and in black ink,
23 isn't that right?
24 A. Yes.

25 254 Q. That obviously indicates that they were written at 12:33
26 different times?
27 A. Yeah, it would.

28 255 Q. Can you help us to know which was written at which
29 time? which was written first?

1 A. Oh I mean, I couldn't. The fact that they're in
2 different pen, different ink, Judge, it would show I'm
3 actually not trying to hide anything. I just pick up
4 whatever pen and whatever entries I am writing in. I
5 don't know what entry I would have -- the only way I 12:33
6 could say, the entries at the top are the first ones
7 and then, as we go down, the entry in black at the
8 bottom is obviously a later one.

9 256 Q. Okay. Let's just take this in sequence. The first
10 section, the first three lines, please help me if I get 12:33
11 this wrong because it's rather difficult on the
12 photocopy. It says:
13
14 "Limited phone contact. No names, dates, times,
15 locations." 12:34
16

17 A. Yeah.

18 257 Q. To what does that refer?

19 A. Ah that's to do with -- that's to do with trying to
20 avoid phone monitoring. Because I have already -- from 12:34
21 the first day that I am in contact with John Wilson and
22 with what's going on with him and Sergeant McCabe, and
23 actually it's a concern that his phone was monitored,
24 not mine. But by the -- I become paranoid, I suppose,
25 in relation to the phone. 12:34

26 258 Q. Can I stop you there, Garda Keogh, for a moment?

27 A. Yes.

28 259 Q. I am going to ask you this question repeatedly.

29 A. Yeah.

1 260 Q. Do you have any evidence yourself of what you have just
2 said?
3 A. Of?
4 261 Q. Do you have any evidence that Mr. Wilson's phone was
5 monitored, from your own personal knowledge? 12:34
6 A. I have no evidence.
7 262 Q. Thank you.
8 A. Other than I know how An Garda Síochána work. I know
9 they have a phone monitoring section and it's very
10 active and they're very good at it. So... 12:34
11 263 Q. Garda Keogh, again we will come back to this at a later
12 stage, but would you agree with me, there is a world of
13 a difference between knowing and proving that a phone
14 has been interfered with and believing that a phone has
15 been interfered with? 12:35
16 A. Well, I am somewhere between strongly suspecting and
17 believing. But probably suspecting at that stage is
18 where I am in that.
19 264 Q. Let's come back to that again. Just looking down at
20 the next word? 12:35
21 A. Yeah.
22
23 265 Q. "Feelings of fear, diarrhoea caused by anxiety in
24 stomach, legs feel like jelly, hands tremble at times."
25 12:35
26 will you read, please, the next line?
27 A.
28 "Heart beats faster than..."
29

1 "Heart beats faster than.."
2
3 Something, it looks like -- I can't.
4 266 Q. Not to worry, can you please read the next word?
5 A. 12:35
6 "Paranoi d but..." --
7 267 Q. Paranoid, yes?
8 A.
9 "...commi tted."
10 268 Q. 12:35
11 "Paranoi d but commi tted."
12
13 So that reflected your view of yourself on that day?
14 A. Around that time.
15 269 Q. Around that time? 12:36
16 A. Yeah.
17 270 Q.
18 "Wonder how von Stauffenberg fel t when he wanted to
19 take down Hi tler."
20 12:36
21 CHAI RMAN: Attempted.
22 MR. McGUI NNESS: Attempted.
23 271 Q.
24 MR. MURPHY: "...attempted to take down Hi tler."
25 12:36
26 A. That's a comment in relation to -- I suppose I'm
27 wondering, let's say, when Claus von Stauffenberg is to
28 carry in the briefcase into the wolf's lair when they
29 are trying to assassinate Hitler and Himmler. I am

1 actually trying to get it into my own head, how could
2 he physically have done that, how could he have walked
3 in to that. Because if I am so fearful dealing with
4 the Guards, like I just can't understand how he would
5 have been brave enough to do what he did. I don't know 12:36
6 how he did that.

7 272 Q. Did you think you were like him on that day?

8 A. No, no, no, no, that was just my -- I'm trying to
9 describe my -- I feel so fearful and I am just -- I
10 mean and I am only dealing with, let's say, small fry 12:36
11 compared to what he was dealing with. That's my point,
12 I'm going, how could he, how could -- I'd say I assume
13 I probably saw the film Valkyrie or something in and
14 around that time. I mean it just stood out.

15 273 Q. Did you see yourself, therefore, in what you were 12:37
16 thinking of doing at the time as taking down people?

17 A. Well, no.

18 274 Q. Is that what you were contemplating?

19 A. Ah no, no, I knew, I mean this was in -- where are we?
20 April/May. I had a good idea, I would have known from 12:37
21 the history of Garda whistleblowers that I was going to
22 have to take on, I would have been taking on Garda
23 management in the end, that was my view. That at some
24 point it's going to end up with -- I will be in a face
25 off with cabal at some period. As I say, this core 12:37
26 group, not everybody, a core group of senior officers,
27 is how I describe it.

28 275 Q. Garda Keogh, would you just help the Chairman on this
29 point as well please, when you use the word paranoid,

1 your word, what symptoms did you feel at the time?
2 Were you angry?

3 A. No. Phones, I am switching phones from 2013 I think,
4 whenever -- whenever -- early 2014, late '13 to early
5 '14, I start switching phones and phone numbers, SIM 12:38
6 cards, the whole lot, just to avoid any possible
7 monitoring or anything. Because I knew, if there was
8 any inclination that they would have known or suspected
9 what I was up to, that I would have been shutdown
10 immediately. 12:38

11 276 Q. would you agree with me, you hadn't told anyone in An
12 Garda Síochána that you were thinking of making any
13 kind of statement?

14 A. I have to break confidence, you see, at certain times.
15 So, by April '14 I have told certain members of An 12:38
16 Garda Síochána.

17 277 Q. Can I ask you again to assist the Chair, were you
18 drinking at this time?

19 A. In general, I'm not sure. It's in my diaries. I write
20 actually in when I'm drinking. 12:39

21 278 Q. Yes.

22 A. So I wasn't drinking that week anyway.

23 279 Q. And again, we will come back to this later on, but
24 elsewhere in your diaries you make reference to taking
25 Xanax, was that a drug that had been prescribed for 12:39
26 you?

27 A. Yes, prescribed. I am still prescribed with Xanax.

28 280 Q. Were you advised by your doctors to take Xanax and to
29 drink alcohol at the same time?

1 A. No, definitely not. My doctor stopped giving me Xanax
2 because I had told him, I told him when I was trying to
3 stop drinking one time, oh -- actually, I remember I
4 think the first time I took Xanax with alcohol, I
5 remember reading on the label it had "do not use 12:39
6 machinery and do not use with alcohol", and I suppose
7 curiosity has to kill the cat with me. I said, I
8 wonder what's that like and took Xanax with drink and
9 that was the first time I took it.

10 281 Q. Can I ask that you to be shown document 1338, please? 12:40
11 Sorry, Chairman, I've got the wrong document there at
12 the moment. Yes. Thank you. Just at the top
13 right-hand corner, this is an entry for November 2015?
14 CHAIRMAN: And the number of this, Mr. Murphy, do you
15 have that? 12:41
16 MR. MURPHY: I think it should be 13383.
17 CHAIRMAN: Thank you.
18 MR. KELLY: 383?

19 282 Q. MR. MURPHY: Just by way of example, to help the
20 Chairman understand the recording that you put down, 12:41
21 this is a week starting 16th November 2015, and the
22 entries from left to right proceed to say:
23
24 "Sick drink sick drink sick drink."
25 12:41
26 On the 19th it says:
27
28 "Stopped drinking. Noticed about 20 Xanax were gone.
29 Only drank six..."

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29

Is that glasses or bottles of wine?

A. Oh that would be bottles.

283 Q.

"...bottles of wine. Seven cans over four days.
Struggling to cope."

12:41

A. I was struggling to cope, I mean.

284 Q.

I think you very fairly indicated that you realised or
your doctors realised that to take these two in
combination, that's to say alcohol and Xanax is not
good for you, to put it mildly?

12:41

A. Do you remember here, we're into November 2015.

285 Q.

Yes.

A.

I'm on my last legs within An Garda Síochána. I know
I'm going out at this stage. Because I go sick
permanently on the 26th of -- the 26th of -- the next
month, December, 2015, I'm gone. I am on my way out
and I know that at this stage. Like, I know -- I think
I said last week, I knew I was going to enter into the
next stage of this, which was going to be into the
siege warfare stage, you know, where I'm gone and I'm
going to be cut off from my colleagues and my wages are
obviously at that time under attack. That's it. My
diary notes explain it.

12:41

12:42

12:42

286 Q.

Just to assist the Chairman in that regard, I picked up
the impression in the last few days that you were of
the belief that you stepped out of work in December
2015 voluntarily. I have to suggest to you that's

1 incorrect, that in fact the reason you stood down at
2 that stage was because the CMO took the view that you
3 were unfit for work; isn't that right?
4 A. well, no. well -- well -- I have read that, but
5 there's a problem there. Can you just -- can you just 12:43
6 tell me when that decision was made?
7 287 Q. Yes. December 2015, on the 18th. I wonder if you
8 could be shown, please, document 3792?
9 A. Okay. Sorry, just that date again, December?
10 288 Q. 2015. 12:43
11 A. Yeah, the date, please?
12 289 Q. The 18th.
13 A. Okay, the 18th. well, you see, I have to say I'm still
14 working on the 21st December. I have not been informed
15 that I'm not fit for duty at that stage, so I have to 12:43
16 dispute that. I wasn't informed and I was on duty on
17 the 21st December, 9pm to 7am.
18 290 Q. would you mind please turning back your diary to the
19 17th, or the 18th?
20 A. Yeah. 12:44
21 291 Q. That page reference, Chairman, is 13342. So there I
22 think it details a meeting at 11am between yourself and
23 the CMO?
24 A. Yes.
25 12:44
26 292 Q. "He showed me my sick record."
27
28 A. Yes. Where I was marked out with flu.
29 293 Q. Yes?

1 A. That's the discussion where I say, sure I'm -- no, I
2 think from recollection he said, why aren't you out of
3 work? Because I at this stage bring a load of
4 documents up, and I said, look, this is happening,
5 that's happening, and he said, why aren't you out with 12:44
6 work related stress. I said, I am. He then went and
7 showed me his records and it was viral flu for all
8 those sick entries, they were all marked viral flu.

9 294 Q. Garda Keogh, that's a separate issue, which I will come
10 back to, I promise you, later on. But in terms of at 12:45
11 this stage, what I want to do is to bring to your
12 attention and to the Chairman's is that -- if you could
13 be shown, please, document 3792. These are the notes
14 taken by Dr. Oghuvbu. They start on the previous page.
15 It's 3791. Just can I draw your attention just to the 12:45
16 heading:
17
18 "Notes and recommendations."
19
20 The middle of the page? So: 12:45
21
22 "Since last seen, further periods of short-term
23 absences. Some of concern highlighted. 4/7 July had
24 forgotten he was mistaken after calling in off sick
25 from 10/7/2015. Attributes this to drinking while off 12:46
26 and takes Xanax with alcohol on the 4/7/2015."
27
28 Sorry, probably, Chairman, on 9/7/2015
29 CHAIRMAN: Yes, that's right.

1 295 Q. MR. MURPHY: So that's the history that Dr. Oghuvbu
2 recorded as having received by you. If you turn over
3 to the next page, please, to 3792. If you take,
4 please, the fourth bullet-point. Scroll down, please.
5 Yes, that's it "discussed! It says there: 12:46
6
7 "Discussed how we progress from here and agreed, must
8 engage with the treatment interventions as required by
9 his GP and..."
10 12:47
11 I think it's:
12
13 "...punctually with GP. Continued to engage with EAB
14 supports. RTW will be supported depending on GP
15 intervention, importance of compliance restated." 12:47
16
17 Then the next one:
18
19 "Agreed temporarily unfit to attend work pending
20 re-examination by GP." 12:47
21
22 So ultimately, in that situation, there is effectively
23 a review by management of the position on 3646, please.
24 You will see in the central column:
25 12:47
26 "Observations by the occupational health observations
27 and actions. Members condition appears to have taken a
28 turn for the worst, which wasn't apparent at the time
29 of the CMO's last review on 19th May 2015. Necessary

1 that the member will engage with support services
2 offered to him. The member should be booked into a
3 treatment facility to help him rehabilitate."
4

5 Those entries, Garda Keogh, I think suggest, and I 12:48
6 think there shouldn't be any disagreement between you
7 and I at this point, that at that time, at the end of
8 2015, the CMO's view was that the treatment you needed
9 was rehabilitation in relation to alcohol and at that
10 stage, with regret, he saw that you were unfit for work 12:48
11 for that reason. Isn't that the case?

12 A. I can't agree with you because he didn't say that to
13 me. Because like, I was in work on -- like my note on
14 the 21st December, as I said, I'm on duty on the 21st
15 December. So, no, I have got no notice, he didn't 12:48
16 actually say it to me at the time and I haven't got a
17 notice of that. Then I go into work and it's:

18
19 "12 midday, post at home from Chief Super Wheatley
20 reaffirming breach of discipline. Fined 300. More 12:49
21 post in locker for me. All rubbish stuff."
22

23 That would have been my work locker at work. So, you
24 know, management are in that period of time putting me
25 under a lot of pressure. And, as I said, I know myself 12:49
26 I'm on my last days in this period of time. I know the
27 game is up. So, I went sick myself on the 26th
28 December 2015 and I was never informed between that
29 meeting and this meeting that Dr. Oghuvbu had marked me

1 out on the 18th December. So I can't agree with that.

2 296 Q. You see, Garda Keogh, this is one example, and there
3 will be others, where I have to suggest to you that
4 reality and your perception of reality differ. So here
5 is an example where a decision has been taken in your 12:50
6 best interests by the CMO, with result, but today you
7 still take the view that this was somehow your choice
8 and that you were dictating events. I have to suggest
9 to you, with respect, that is effectively a false
10 perception on your part of reality? 12:50

11 A. Look, I don't know. All I can say is the CMO didn't --
12 I have no recollection of and I didn't take -- no,
13 there was no -- from my recollection, the CMO touches
14 base with my doctor then, I think to sign a thing to
15 allow him to discuss welfare, because of both doctors, 12:50
16 they discuss it, one is the Garda doctor and one is my
17 doctor. But I have got no notification to say I am
18 sick, that I'm not fit for duty. I wouldn't have gone
19 in on the 21st. At that stage, I mean I would have
20 given anything not to have gone in, even that one day 12:51
21 towards the end. Like that was dreadful. And I mean,
22 the other thing is, yesterday I'm accused of being a
23 mastermind running media campaigns with TDs and the
24 media and I'm some sort of mastermind, and today we're
25 onto this, that I can't function. So, it's just, I'm 12:51
26 not sure which is worse. Anyway.

27 297 Q. Garda Keogh, the point I'm seeking to make to you is
28 that the record will show that you had a problem, which
29 you do accept you had, and that problem was one of

1 alcoholism?

2 A. I don't dispute that.

3 298 Q. Fine.

4 A. I am not disputing that.

5 299 Q. I will return to Dr. Oghuvbu at one of the later 12:51
6 issues, but can we go back to 2014, back to your diary
7 please at page 13252?

8 A. what date? Sorry, what date is that?

9 300 Q. This is 10th April 2014, the von Stauffenberg
10 reference? 12:52

11 A. Okay.

12 301 Q. Do you see that?

13 A. Just one moment.

14 302 Q. Now, I think you will agree with me, Garda Keogh, that
15 like von Stauffenberg, at this stage even you were not 12:52
16 alone, there were other people who were helping you,
17 isn't that right? You had I think referred to a few
18 days ago a circle of trust that you had?

19 A. Yeah.

20 303 Q. So if we just take that period in 2014, in April 2014, 12:52
21 who was in the circle of trust, your circle of trust?

22 A. Well, in April of '14, I don't know, I'm trying to
23 think. I mean, a circle of trust, when I say that,
24 it's not a thing where there's a document. I mean this
25 is -- I can't answer, in that period. 12:52

26 304 Q. To elaborate on your phrase, would you agree that
27 Mr. John Wilson was one of the people who was helping
28 you at that time?

29 A. Oh yes.

1 305 Q. Would you agree that Mr. Ming Flanagan was somebody who
2 was helping you at that time?
3 A. Yes.

4 306 Q. They both feature in the diary?
5 A. Yes. 12:53

6 307 Q. If we look please forward to page 13254, which is the
7 following week, the 28th April, if you please look at
8 the left-hand column. It says:
9
10 "Affi davi ts signed. " 12:53
11
12 A. Yeah.

13 308 Q. And then underneath that it says:
14
15 "Dáil 30/4/2014. " 12:53
16
17 A. Yeah.

18 309 Q. Does that reflect a visit by you to the Dáil to meet
19 Mr. Flanagan with Mr. Wilson?
20 A. That's the time where we tried to go to GSOC and where 12:53
21 John Wilson and Luke Ming -- John Wilson is a retired
22 guard at this stage, where they basically try to make
23 the complaint to GSOC and GSOC don't -- I'm up in
24 Dublin with them, waiting to called in as a witness
25 should GSOC take the complaint, but GSOC say that 12:54
26 because the complaint emanated from a guard under the
27 old Act, they couldn't take the complaint. That's the
28 day then Luke Ming Flanagan has to change his speech in
29 the Dáil at leader's questions with Enda Kenny. The

1 only article I recall, which was interesting at the
2 time, I can't remember the name of the journalist, he
3 wrote an article, "Hilarity is no Laughing Matter". It
4 was to do with Enda Kenny accused Luke Ming Flanagan,
5 he made a smart comment, which I understand he 12:54
6 withdrew, and I remember that incident well.

7 310 Q. So by this date you have sworn an affidavit, is that
8 right?

9 A. Sorry, did you say by mistake.

10 311 Q. I'm sorry. 12:55

11 CHAIRMAN: By this date. Mr. Murphy, there is a
12 confusion. Mr. Murphy said, by this date.

13 WITNESS: Oh, sorry.

14 CHAIRMAN: No, no, it's all right, it's just a
15 mishearing, you had sworn an affidavit. 12:55

16 WITNESS: Yes.

17 CHAIRMAN: That's the question you were asking.

18 WITNESS: Yes.

19 312 Q. MR. MURPHY: Is that the affidavit which was your first
20 affidavit in this controversy? 12:55

21 A. Yes.

22 313 Q. We will come back to that.

23 A. That was signed in Tullamore.

24 314 Q. So, on 30/4/2014, did you have your affidavit with you
25 at the Dáil, to show it to Mr. Flanagan? 12:55

26 A. Sorry, just one second.

27 315 Q. Sure.

28 A. On the 30th of which? We're on to which?

29 316 Q. April.

1 A. April.

2 317 Q. Just below the reference to "affidavit"?

3 A. I mean, I have no note, I can't remember whether I had

4 it with me or not.

5 318 Q. Okay. If you turn then over to the following page, 12:56

6 which is 13255.

7 A. Just the date, please?

8 319 Q. The date is the 8th May.

9 A. The 8th May. Yeah.

10 320 Q. This is the date where it says: 12:56

11

12 "Ming announces allegations in the Daily and names me."

13

14 A. Yeah.

15 321 Q. And then what's the next entry please? 12:56

16 A.

17 "While I meet with Judge Pat McMahon."

18

19 322 Q. Just before that, on the left-hand column, it says:

20 12:56

21 "TV3..."

22

23 Can you read that?

24 A. I'm looking for it.

25 323 Q. On the 7th? 12:56

26 A. Oh, that's on the 7th. Yeah. Yes, that is a separate

27 matter, Judge. Yes.

28 324 Q. Right. Just below that you see:

29

1 "Wilson meet Ming."
2
3 what does the rest of that say, please?
4 A.
5 "Wilson meet Ming, invoke Section 62 re Shatter, he 12:57
6 resigns."
7
8 Judge, this is something -- just for clarification,
9 Judge. Alan Shatter, all what was happening in his
10 career emanates from when senior Garda officers lied to 12:57
11 him. There was a period of time where he was believing
12 these senior officers -- and this is a separate matter
13 that really shouldn't -- I'd love to meet Minister
14 Shatter or former Minister Shatter at some point about
15 this and I don't think it would be fair, Judge, for him 12:57
16 to be asked that without me speaking to him first
17 325 Q. Garda Keogh, can we summarise it is in this way: By
18 this date you had been named in the Dáil as a person
19 who has made a protected disclosure?
20 A. Mm-hmm. 12:58
21 326 Q. You were aware, were you not, that you did not have to
22 be named in the Dáil?
23 A. Yes. But to clarify that, as Deputy Flanagan said,
24 like that was for -- I think -- he said, it is for your
25 protection because they'll go after you. 12:58
26 327 Q. You told us about other advisers prior to that time,
27 including a solicitor. Did you go and seek advice from
28 them as to whether you should have your name published
29 in the Dáil?

1 A. No, I didn't seek legal advice regarding that, no.

2 328 Q. Did you speak to the Judge about whether you should
3 have your name named in the Dáil or not?

4 A. No. I didn't, because when I met the judge, I think
5 that was all happening at the time as I met the judge. 12:58

6 329 Q. But you had been told before by Mr. Flanagan that he
7 intended to publish your name?

8 A. Yes.

9 330 Q. Yes.

10 A. Because I didn't want my name to be -- look, I used to 12:58
11 be a private person and that. But em, I didn't want my
12 name, but he said, look, they're going to come after
13 you, it's for your protection if you are named, and
14 that is on a record somewhere, it'll be harder for them
15 to go after you. 12:59

16 331 Q. Did you speak to your GRA representative as to whether
17 it was a good idea for you to be named at this stage?

18 A. No, no, no. I pulled away from the GRA prior to the
19 this, you see. I wouldn't have been able to trust the
20 GRA, just to do with certain persons that were in the 12:59
21 GRA in that, the area at the time.

22 332 Q. It's a matter entirely for the Chairman entirely to
23 decide, but it is open on one view of these facts to
24 conclude that you were quite happy to have your name
25 published? 12:59

26 A. Well, look, at the original time I don't recollect that
27 was the way.

28 333 Q. At the time, like Mr. von Stauffenberg, you believed
29 that you had a mission to achieve?

1 A. I don't think Mr. von Stauffenberg announced his name
2 now before he was going to carry the briefcase into the
3 wolf's layer.

4 334 Q. Garda Keogh, in terms of the attitude that you adopted
5 on that occasion, because of that concession by you, 13:00
6 your name became known publicly straightaway?

7 A. It became public.

8 335 Q. Yes. Do you understand it need not have been made
9 public at that time?

10 A. I don't know, I'm not sure. I don't think -- I think 13:00
11 in hindsight now, if I wasn't named public I mightn't
12 be sitting here, I could be in some jail somewhere for
13 something. I'm not so sure about that.

14 336 Q. And again in terms of this protected disclosure that
15 you were making, did you consider that this was 13:00
16 something which made you very important?

17 A. Well, you see, I would be -- I would know the history
18 of the Guards from, I mean, the foundation of the State
19 and everything.

20 337 Q. CHAIRMAN: What had that got to do with it? 13:00

21 A. Well, obviously I know what's happening to John Wilson
22 and Maurice McCabe.

23 338 Q. CHAIRMAN: Right. I see. When you mentioned the
24 foundation of the State, sorry, you misled me when you
25 said the foundation of the State? 13:01

26 A. Oh yeah, even the history of that, like the history of
27 the Guards.

28 CHAIRMAN: No, no, I see. I do understand your point.
29 Okay.

1 339 Q. MR. MURPHY: Can I put it this way: Did this publicity
2 attract attention and support that you received, in
3 terms of messages of support.

4 A. Ah yes, yes, yes. And a lot, a lot from members of An
5 Garda Síochána, that was the surprising part. A lot. 13:01
6 From all over the country, people I used to work, all
7 over the country.

8 340 Q. When did you first receive communications from Deputy
9 Daly and Deputy Wallace?

10 A. It was whenever -- Luke Ming Flanagan, at the time TD, 13:01
11 was going to Europe, he then handed me over to Deputies
12 Wallace and Daly. Whatever time period that was.

13 CHAIRMAN: Okay. We will take a break there.

14 MR. MURPHY: Yes, Chairman.

15 CHAIRMAN: If that is a convenient time. It sounds 13:02
16 like a convenient time, with the handover from Deputy
17 Flanagan and so on. Thank you very much. Very good.

18

19 THE HEARING THEN ADJOURNED FOR LUNCH AND RESUMED, AS
20 FOLLOWS: 13:02

21

22 341 Q. MR. MURPHY: Thank you, Chairman. Garda Keogh, just
23 before lunch I think I was asking you when you could
24 recall meeting with Deputy Daly, Clare Daly, and Mick
25 Wallace. Just to help you, I wonder could be shown 14:00
26 13287, please. Could I just draw your attention to the
27 top right-hand corner? I think it's 18th December
28 2014. Please take a moment, if you would, just to
29 check that in your own diary. Do you see at the top of

1 it, it says:
2
3 "Meet Clare Daly and Mick Wallace."
4
5 Could you just perhaps read the balance of it, which is 14:01
6 not very clear on my note.
7 A. Yeah.
8 342 Q. Please.
9 A. They had, now it was one glass of wine, just from
10 recollection. 14:01
11
12 "They had wine. The smell of it was unnatural to me,
13 like a bloodhound."
14
15 oh 14:01
16
17 "I'm deeply patriotic to Eire. My greatest hero is PH
18 Pearse, Claus von Stauffenberg."
19
20 Do you want me to read it all? 14:01
21 343 Q. Well, in fact, if I can help with the latter part, I
22 think it says:
23
24 "My greatest hero is PH Pearse, Claus von Stauffenberg
25 and I will soon meet their fate. Drinking now 8:30pm." 14:01
26
27 A. Yes, well their fate didn't end too well,
28 unfortunately.
29 344 Q. Garda Keogh, isn't it the case that that entry refers

1 to several different things, first of all meeting at
2 8pm with Clare Daly and with Mick wallace?

3 A. That's correct, yeah.

4 345 Q. And your description of their drinking wine, and then a
5 reflection on your part about what you thought your 14:02
6 fate might be, connected to Stauffenberg and Pearse.
7 So, help me to identify, was that one of the earliest
8 meetings you had with Ms. Daly and Mr. wallace, or
9 would you have met them before?

10 A. No, I actually met them in the Dáil, it was time I was 14:02
11 working -- it was with Deputy Luke Ming Flanagan. I
12 went up to the call with him. I had come off nights.
13 So I had just finished nights. I was actually trying
14 to sleep on the ground in an office in the Dáil. I
15 think the first time I met them -- like I was on the 14:02
16 ground with just a jacket under my head, just trying to
17 sleep, because I was on night work and then had to come
18 up to Dublin for whatever the incident was. But I mean
19 it was just hello, hello and that, I think, just from
20 recollection. There was no -- I was half asleep and I 14:03
21 can't -- there's no -- it was Deputy Flanagan that I
22 was dealing with at that time, so...

23 346 Q. And in addition, I think in the entries that follow, we
24 don't need to deal with them all here today, but we may
25 cover them when dealing with issues affecting the 14:03
26 promotion of Superintendent Murray. Could I ask you to
27 turn, please, to page 13311? That's an entry on 13th
28 May of 2015. Just on the left-hand side, I think if I
29 could read this to you, you might just confirm I am

1 right. It says:
2
3 "Sick. Clare Daly and Mick Wallace called to the house
4 to tell me not to give up. CD..."
5 14:04
6 Presumably that's Ms. Daly.
7
8 "Don't worry, we will get them in the end."
9
10 A. Yes, I remember that. 14:04
11 347 Q. To whom was she referring when you and she would get
12 them in the end?
13 A. It wasn't you and she, it wasn't like that. I wasn't
14 in a great place at the time, Judge. She just gave me
15 a bit of encouragement. She put her hand of my 14:04
16 shoulder and she just said, don't worry, we'll get them
17 in the end, like that. That was the way it was.
18 348 Q. Is it the case then, can the Chairman can take it that
19 the agreed view of you and your circle of trust at the
20 time was to try and get certain people? 14:04
21 A. Certain people, as in the cabal, like them is Garda
22 management. As I said, there's a whole series of
23 events going on in -- this is what year, '14 or '15, to
24 do with Sergeant McCabe in particular.
25 349 Q. Is the word cabal your word or a word from one of the 14:04
26 others in the circle of trust?
27 A. That would be my word. I wrote it in a letter to
28 Detective Superintendent Mulcahy at some point at the
29 start. I remember writing the word, because I remember

1 a little thing came up with the spelling of the word.
2 Apparently it can be spelt with a C and a K.

3 350 Q. Would you agree with me, at this point this language
4 suggests that certainly by this date your priorities
5 had moved on from having a criminal investigation into 14:05
6 matters which are the subject of a protected disclosure
7 to a new thing, which was to get people?

8 A. No, no, I don't. Because at this stage -- just -- -
9 can we see the top of the page, just for the date?

10 351 Q. Yes, May 2015? 14:05

11 A. May '15. I'm trying to think. Oh, May '15, like
12 there's a whole -- at that period there's -- what I
13 would say is, the Guards already embarked on a cover
14 up. And then there's -- I am under serious pressure
15 from Garda management at the same time, you know, it's 14:06
16 a parallel thing.

17 352 Q. And again, I will come back to each of those points you
18 have make in due course in the correct issues. But
19 just in general terms, was Garda Fergal Greene a member
20 of your circle of trust as well for a while? 14:06

21 A. Garda Fergal Greene. Basically, Judge, Garda Fergal
22 Green was the person who, when I broke trust first
23 within the ranks of An Garda Síochána, to my memory.
24 And I had to do that because he was in the storeroom
25 where the particular DVD that I had to get -- I was 14:06
26 going nowhere until I got the, as I said, primary piece
27 of evidence. So I had to break trust with Fergal, or
28 confide in him, sorry, is the right word. I had to
29 say, look, this is the story, I have to do this, I need

1 to get that and I need it to be done above board, how
2 will we do it. He said, because you're the
3 investigating officer, you're entitled to sign out,
4 sign out that, at the time, video, which I did, and
5 then when I was finished with it, I got it copied onto 14:07
6 DVDs, signed it back in accordingly. So, I was going
7 nowhere without Garda Greene, Judge, my complaint or
8 none of this was going anywhere without Garda Greene.

9 353 Q. I wonder can be shown page 13305, please. This is one
10 of your diary entries for April, sorry March and April 14:07
11 2005?

12 A. 2000 and.

13 354 Q. '15, sorry. Can I ask you to look at the bottom
14 left-hand entry, the very bottom of the left-hand side
15 of the page. It says: 14:07
16
17 "FG rang to say I betrayed him and he is pulling out."
18

19 A. Yes.

20 355 Q. So is that the divergence between you to which you 14:08
21 referred earlier?

22 A. No, no, this is a separate matter. This is a separate
23 thing.

24 356 Q. Right.

25 A. Judge, I betrayed -- well, betrayed -- yes, I did 14:08
26 betray Fergal in a particular matter. But I was later
27 to explain to him, I did it for the right reason and I
28 used -- I distinctly remember using the example of when
29 Winston Churchill had to sink the French fleet in the

1 Mediterranean, world war II, that was the example that
2 I used. Although they were allies and all the rest,
3 Churchill under the -- I based a lot of stuff to do
4 with historical events, Judge, and where mistakes were
5 made in the past, and that's why. So, it was under a 14:08
6 scenario like that, that I had felt I did something for
7 the right reason and I had to go back to Fergal to say,
8 look, I am sorry about this, but I have done something.
9 He was aware of that and that was that scenario.

10 357 Q. But up to that time or thereabouts, the Chairman can 14:09
11 take it that Fergal Green was a friend of yours?
12 A. Yes.

13 358 Q. In relation to what you were seeking to do?
14 A. Yes. Seeking to expose criminality, I mean, yes.

15 359 Q. Well, did he meet with Deputy Wallace and Deputy Daly? 14:09
16 A. No, I don't think so.

17 360 Q. Just looking at the top of that page, you make
18 reference to a meeting in Dublin at 12:45 on 13th March
19 2015. Again, that's with Mr. Wallace and Ms. Daly, and
20 I think with Sergeant McCabe, is that Sergeant Maurice 14:09
21 McCabe?
22 A. Yes.

23 361 Q. I think you said that's your first meeting with him?
24 A. Yes. Just one second.

25 362 Q. Sure. 14:09
26 A. I am just back with my own diaries there. 2nd April,
27 the same thing. Yeah. Okay. What date?
28 363 Q. I believe it's 13th March and it's your diary.
29 Left-hand column.

1 A. Okay. Yes.

2 364 Q. Do you see the next line:

3

4 "Have to double cross FG, like Churchill sinking the
5 French fleet." 14:10

6

7 A. Well, I have just actually gone into that.

8 365 Q. Yes.

9 A. I just explained that there, yes.

10 366 Q. But you're saying that wasn't connected to the previous 14:10
11 meeting, is that what you are saying? You see, you
12 have it associated with a meeting between Wallace and
13 Daly and McCabe, same day?

14 A. I don't know, I don't know if we had a meeting before,
15 I'm not sure. Like, I can't recall, if that's the day 14:10
16 or whatever. It's in that period, time period.

17 367 Q. I think this morning you said to us that you thought
18 you hadn't met Assistant Commissioner Fanning. I just
19 want to help you in that regard. Can you look, please,
20 at page 13335? 14:10

21 A. Excuse me, I never said I never met with Assistant
22 Commissioner Fanning.

23 368 Q. Well again, perhaps we can review the record, but are
24 you saying to the Chairman that you have?

25 A. I have, I have met Assistant Commissioner Fanning 14:11
26 twice, Judge.

27 369 Q. Well, this looks like it may have been the first visit?

28 A. Correct.

29 370 Q. Can I ask you, please, to look at the page that I

1 mentioned, 13335. On the right-hand side of the page
2 there is an entry --
3 A. Just please.
4 371 Q. 30th November 2015?
5 A. Thank you. 14:11
6 372 Q. Do you see that? So it seems to suggest that you were
7 on duty in the station in Athlone as PO; is that right?
8 A. Yes.
9 373 Q. Would you like to read to the Chairman what comes next?
10 A. Sorry, 30th November 2015? 14:11
11 374 Q. Yes.
12 A.
13 "KH gets word State are withdrawing everything against
14 him."
15 14:12
16 375 Q. Sorry, I think we may be at cross purposes. What I am
17 looking at, please, is page 13335. Thank you. Just on
18 the middle of the page there:
19
20 "5pm PO." 14:12
21
22 MR. KELLY: Sorry, Chairman.
23 CHAIRMAN: Yes.
24 MR. KELLY: The witness is working off his original
25 diary. 14:12
26 CHAIRMAN: Yes.
27 MR. KELLY: Mr. Murphy is working off this.
28 CHAIRMAN: Yes.
29 MR. KELLY: Perhaps if he would give the date clearly

1 to the witness.

2 CHAIRMAN: Yes. It's Friday, 30th November 2015. Make
3 sure it's 2015. Get your diary for 2015.

4 MR. MURPHY: It may be the 3rd October, Chairman.

5 CHAIRMAN: well, it says November at the top. I am 14:12
6 sorry, I see. Sorry, it's October going into November.

7 MR. MURPHY: Yes, Chairman.

8 CHAIRMAN: so it's actually the 30th October, because
9 the next day on the diary is November, do you
10 understand. 14:13

11 WITNESS: Yes, yes.

12 CHAIRMAN: Thank you very much. Do you see that?

13 WITNESS: Yeah.

14 376 Q. MR. MURPHY: Garda Keogh, does it say:
15
16 "9pm AC FF came into the station."
17
18 Is that Fintan Fanning?
19 A. Yes. 14:13

20

21 377 Q. "He said he knew who I was even though we never met."
22

23 A. Yes.

24 378 Q.
25 "He says he appreciates what I'm doing, we couldn't
26 really talk." 14:13
27

28 Is that right?
29 A. That's correct.

1 379 Q. Okay. Can I ask you then to be shown page 13373. And
2 this should be an entry around 1st January 2018.
3 A. Right.
4 380 Q. Do you see the opening part, again perhaps you might
5 just help us to understand. If I am right in this, 14:13
6 please say so; if I am wrong, please correct me. It
7 says:
8
9 "Entering into the fourth year of this SHIT, things
10 turning slowly. New allies. D Taylor, F Fanning, 14:14
11 J Barrett."
12
13 Could I ask you just to confirm for the Chairman that
14 at that stage you considered people to be allies to
15 incorporate David Taylor, who I think was the former 14:14
16 press secretary of An Garda Síochána?
17 A. Yes.
18 381 Q. Assistant Commissioner Fanning and Mr. John Barrett?
19 A. Yes. And by that, when I say allies, I mean it's -- I
20 see the way I have it worded, but for me it's very 14:14
21 simple. You're enemy's enemy is your friend.
22 382 Q. Had you met with Mr. Taylor at any stage?
23 A. Not at that stage, I don't think so.
24 383 Q. Did you receive any telephone calls or information from
25 Mr. Taylor when he was still working? 14:14
26 A. Em, I would have. I would have had some contact with
27 him.
28 384 Q. We might come back to that. Could I ask you to turn
29 forward to 13376, please? Do you see on 27th January

1 2018, there is a reference to a phone call:
2
3 "DT."
4
5 Is that David Taylor or is that somebody else? 14:15
6 A. Em, just one second.
7 385 Q. Sorry, third line.
8 A. I see it. Just give me a second.
9 386 Q. Sure.
10 A. Yes. The full entry is: 14:15
11
12 "Noirín in Tribunal, she supported all whistleblowers.
13 DT rang..."
14
15 That is David Taylor 14:15
16 387 Q. That is David Taylor?
17 A. Yes.
18 388 Q. Again, we may come back to this, but just so the
19 Chairman understands, at that stage was David Taylor
20 prone to ringing you on regular basis while he was 14:16
21 still working at Garda headquarters?
22 A. No, not regular basis, no. How that starts I think is
23 just, whenever he comes forward, I, just from
24 recollection, just ring to say, look -- to say, look, I
25 just want to make contact to say I wish you the best. 14:16
26 It started off just simple there.
27 389 Q. Just looking again at that entry for a moment, if you
28 would please. Do you see it says:
29

1 "DT..."
2
3 David Taylor.
4
5 "...rang. Drug seizures a few years ago in Athlone, 14:16
6 drugs missing and warrant F Fan onto it."
7
8 Does that refer to Fintan fanning?
9 A. It is. It's to do with the 2012 drugs seizure that was
10 in the documents there, that was very curiously, very 14:16
11 curiously investigated and, of course, was never put in
12 with the main investigation which I originally
13 reported.
14 MR. McGUI NNESS: Chairman, I wonder could I just
15 intervene. Because it's not clear to me how the last 14:17
16 few questions relating to these entries and with the
17 answer that it's provoking is relevant to our
18 inquiries.
19 CHAIRMAN: well, that thought is occurring to me, but I
20 am reluctant to -- 14:17
21 MR. McGUI NNESS: I am just concerned, Chairman, that it
22 might cause, as it were, some parties to attempt to go
23 on and have examination that aren't directly relevant
24 at all.
25 CHAIRMAN: what do you say to that, Mr. Murphy? 14:17
26 MR. MURPHY: Chairman, I will pass from that the
27 substance of that communication quid pro tem and
28 perhaps I can address you later. What I am eliciting
29 from this is the fact of the communication.

1 CHAIRMAN: I understand. Let me say this: I am
2 conscious as you are exploring these things,
3 Mr. Murphy, I am conscious of the limitations of my
4 function. While Garda Keogh, indeed, maybe the Gardaí,
5 anybody may wish it to be otherwise, I might wish it to 14:18
6 be, not that I do or don't, but I am limited to that.
7 So look, for the moment, if and insofar as you maintain
8 that a line of cross-examination that explores factual
9 matters is relevant to the Tribunal or otherwise
10 permissible, maybe you would address us on that or deal 14:18
11 with it in some shape or form and alert Mr. McGuinness
12 to it and Mr. Kelly, so we know where we're going and
13 we can have a discussion, and any other relevant party.
14 MR. MURPHY: Yes, Chairman.
15 CHAIRMAN: Okay. Thank you very much. 14:18
16 390 Q. MR. MURPHY: Moving very briefly then thereafter, could
17 I ask you to see page 13389.
18 A. Yeah.
19 391 Q. This is an entry for May 2018.
20 CHAIRMAN: I think that certainly comes under 14:19
21 Mr. McGuinness's concern, Mr. Murphy. I think we can
22 leave that until a later stage.
23 MR. MURPHY: May it please you, Chairman.
24 CHAIRMAN: All right.
25 392 Q. MR. MURPHY: So in effect, Garda Keogh, I think we will 14:19
26 agree, as you did at the outset, that when it came to
27 pursuing the issues that you have raised in 2014, you
28 are not alone, you agree with that?
29 A. No. Not in '14. In '14 -- you see this is what --

1 this emanates years later, Judge. None of these
2 guys -- I've never heard -- as I stated even to do with
3 the HR incident, I wouldn't give my statement to HR
4 because I didn't trust them. Like Commissioner Fanning
5 is the head of HR at the time. I didn't know anything, 14:19
6 him or anything about him. The same with
7 Superintendent Taylor, John Barrett. I knew none -- I
8 never heard of any of these people. It's only years
9 later and as things move in a certain direction.

10 CHAIRMAN: Mr. Murphy is suggesting, as I understand 14:20
11 it, and I am making no declaration as to materiality to
12 this inquiry, but Mr. Murphy is suggesting, as I
13 understand it, that from an early point you were
14 associated with Mr. Flanagan and then Ms. Daly and
15 Mr. Wallace. 14:20

16 A. Yes.

17 393 Q. CHAIRMAN: And then as events unfolded, as I understand
18 it, he's making the point that other people, so to
19 speak, came on board in a general way, in support of
20 your claims, allegations, your case, I am trying to be 14:21
21 neutral. That's basically what Mr. Murphy is
22 suggesting?

23 A. It's fairly right. But even on that, each one, it's
24 sort of different with -- it's more -- it's fairly
25 right. But just to point out, Judge, like these notes, 14:21
26 I'm hiding nothing in these notes, they're there for
27 the Tribunal.

28 394 Q. CHAIRMAN: Mr. Murphy hasn't suggested that you have
29 been hiding something?

1 A. Oh no, no.

2 395 Q. CHAIRMAN: So you don't need to defend an allegation
3 that doesn't exist. If necessary, you can give
4 reasons, and Mr. Kelly will assist you, if necessary.
5 But I'm just summarising where we are at the moment, my 14:21
6 understanding of where we are at the moment and my
7 comment to you and, indeed, to Mr. Murphy, that I am
8 not making any decision as to the relevance of these
9 matters to the inquiry. We will have to wait and see
10 how things develop. 14:21

11 MR. MURPHY: Thank you, Chairman.

12 CHAIRMAN: Sorry to interrupt but I think it is useful
13 to have that clarified.

14 396 Q. MR. MURPHY: Thank you. Chairman, if I can change
15 direction and move back to 2014. Could I ask if the 14:22
16 witness could be shown page 3900 and succeeding pages,
17 which is the statement of Detective Superintendent
18 Declan Mulcahy.

19 CHAIRMAN: Thank you.

20 397 Q. MR. MURPHY: Garda Keogh, before we come to deal with 14:22
21 each of the individual issues, I think you will agree
22 with me that your evidence so far in the Tribunal has
23 indicated two things; you're not making any complaint
24 against Detective Superintendent Mulcahy, is that
25 right? 14:22

26 A. That's correct.

27 398 Q. I think secondly, correct me if I am wrong, but I think
28 you have indicated that whereas you were slightly wary
29 from the beginning, that he developed trust with you

1 and that you felt he was a tenacious investigator?

2 A. The trust went both ways. I trusted him towards the
3 end as well, just for clarification.

4 399 Q. Thank you.

5 A. Yeah. 14:22

6 400 Q. He will he say in the course of his evidence that he
7 and his team worked extremely hard to follow up the
8 leads which you had given them?

9 A. Yeah. Now, as I have said, it did take him a bit of
10 them to get into it but they -- but there's no doubt, 14:23
11 no doubt -- I said that clearly at some stage.

12 401 Q. Again, Garda Keogh, if you just bear with me for a
13 moment. You will understand the Chairman has insisted
14 that I will put to you what witnesses say. So I will
15 try and do that in as simple way as possible, perhaps 14:23
16 using the statement for that reason.

17

18 There is also a separate reason I want to just take you
19 through, because here is somebody against whom you have
20 no complaint. I want to help you at this stage, with 14:23
21 the benefit of hindsight, to look back at what it was
22 like for him to have to deal with you at that time.
23 So, if we just take it in stages. On the first page,
24 on the 15th May, he will say that he and Assistant
25 Commissioner Ó Cualáin were briefed with Inspector 14:23
26 Michael Coppinger of the facts surrounding the report.
27 He effectively then was assigned to the investigation.
28 He then says on the 30th May he was advised by
29 Assistant Commissioner Ó Cualáin, that he had arranged

1 for you to meet with them on the 7th June?

2 A. Yes, that's correct.

3 402 Q. Did you go with him and meet with him, on the 7th June?

4 A. The 7th June was my first time to meet with Assistant
5 Commissioner Ó Cualáin and Detective Superintendent 14:24
6 Mulcahy.

7 403 Q. Again, I will move through this as swiftly as I ask,
8 Garda Keogh, just to help the Tribunal. But
9 effectively he says at this meeting you outlined your
10 concerns that were contained in your affidavit of the 14:24
11 7th May, is that right?

12 A. 8th May.

13 404 Q. And that at the meeting you expanded on the affidavit
14 and brought up other issues and he recorded rough notes
15 of that meeting? 14:24

16 A. Yes, and the thing -- the main thing was the collusion
17 complaint.

18 405 Q. Again, I think the next item is that he met you on 11th
19 June 2014 and he was in the company of Detective
20 Inspector Coppinger? 14:24

21 A. That's correct.

22 406 Q. And that meeting took place at your home?

23 A. Yes.

24 407 Q. Again, the purpose or the exercise that day was to
25 record in writing your formal statement of complaint? 14:25

26 A. Yes.

27 408 Q. Then that statement was effectively -- work on that
28 statement was suspended and was resumed on the 13th
29 June, and again at your home to facilitate you?

1 A. Yes. The last one was in Oranmore.

2 409 Q. Yes.

3 A. Yes.

4 410 Q. Again, I think there is no dispute between us, but
5 again this continued onto 18th June, Oranmore. The 14:25
6 statement was concluded in the evening. It was read
7 over to you and you signed it?

8 A. Yes.

9 411 Q. He and Detective Inspector Coppinger witnessed that
10 signature? 14:25

11 A. Yes.

12 412 Q. In addition, he will say that in the course of making
13 your statement you handed over to Detective Inspector
14 Coppinger a number of exhibits and you were later
15 provided with a typed copy of your statement? 14:25

16 A. Yes.

17 413 Q. On the 13th June, he then says that he met with Garda A
18 at Athlone Garda Station and he handed over to
19 Detective Superintendent Mulcahy the official date
20 mobile phone that he had in his possession and he also 14:25
21 will say evidence that he had previously, on 10/6/2014,
22 made a request to Superintendent McBrien to seize the
23 phone. I think there's no dispute about that either,
24 is there?

25 A. I wouldn't have known, you see, about that part of it. 14:26

26 414 Q. Okay. But thus far, Garda Keogh, would you agree that
27 that indicates a fairly prompt investigation by him and
28 by his team; they met with you at least three times?

29 A. Yes.

1 415 Q. Yes.

2 A. Oh yes. But -- yes, but like we're still -- the first
3 meeting is on the 7th June and I made the disclosure on
4 the 8th May. I thought, like, I thought when I went --
5 I wasn't sure, you see, how it would work, how -- I 14:26
6 didn't think it would take the whole month.

7 416 Q. Garda Keogh, I'm not seeking to blame you at all for
8 this, I am just simply putting before you what the
9 witnesses will say, because it is will be a matter for
10 the Chair to decide whether there is any merit, any 14:26
11 criticism of them, which I say there isn't. But if we
12 move then, please, further on to page 3901. Detective
13 Superintendent Mulcahy will say when the official phone
14 was taken possession of from Garda A, he arranged for
15 it to be analysed by Garda Garry Walsh, who is trained 14:27
16 as telephone liaison officer. Having completed this,
17 it was found it didn't contain any text messages, nor
18 did it contain any contact details for any person named
19 Ms. B, to whom you made reference?

20 A. You're speaking very quick. 14:27

21 417 Q. I am referring to the top, right-hand side of the page?

22 A. Okay. Yeah, as I said, I have already said, my
23 understanding is the phone was wiped.

24 418 Q. You don't dispute that that's what took place, do you?

25 A. With Superintendent Mulcahy meeting with Barry Walsh 14:27
26 and giving -

27 419 Q. Yes.

28 A. Oh I can't dispute that, no.

29 420 Q. Would you agree with me that's indicative of a standard

1 eye level professional examination of exhibits,
2 standard practice?

3 A. I have always said from the start of this, a lot of the
4 stuff in that investigation was done very thorough.

5 421 Q. Again, if we can just speed along, I don't want to 14:27
6 delay the Tribunal on this unnecessarily, but he goes
7 on to confirm in the next few sentences that in order
8 to establish the full picture of contact, he sought the
9 call related data from the service provider.

10 A. I would accept that, yes. 14:28

11 422 Q. He will say that some of the data could not be provided
12 for the relevant period due to the fact that it was
13 outside of the timeframe that the service providers are
14 required to retain data, which is a period of two
15 years? 14:28

16 A. I understand that.

17 423 Q. I am sure you have come across that in your
18 investigative experience as well?

19 A. Yes.

20 424 Q. He will also say that he took possession of Garda A's 14:28
21 official notebook and he arranged for a forensic
22 examination of that notebook. Again, I think you will
23 agree it's good police work?

24 A. Oh yeah.

25 425 Q. This was dealt with by Detective Garda John Leonard of 14:28
26 the handwriting section. He says that during the
27 examination nothing of an evidential nature was
28 uncovered?

29 A. Again, I have no issue with anything that has been

1 said.

2 426 Q. In the following paragraphs he will say that he went to
3 Athlone Garda Station on four different dates between
4 10/6/2014 and 6/8/2014 and Detective Inspector
5 Coppinger took possession of a number of exhibits which 14:29
6 he documented. Then, I think on the 26/6/2014, he went
7 with Detective Inspector Coppinger to Athlone Garda
8 Station, where he met with now Inspector Curley but
9 then Detective Sergeant Curley. Detective Sergeant
10 Curley provided him with a key to a locked store close 14:29
11 to the D/Branch office, which contained operation Loki
12 files. Detective Coppinger carried out a search of the
13 store based on the information supplied by you, where
14 he believes there may have been a collection of stolen
15 DVDs in the store, but he confirms that no evidence in 14:29
16 support of that claim was found.

17 A. I accept what you are saying there, but there was
18 stolen DVDs and there was commercial opium, as I have
19 already said. I understand --

20 427 Q. Again, Garda Keogh, to be fair to you, this is probably 14:30
21 one of these examples where you have a belief or a
22 suspicion, but when the investigators go to check, they
23 don't find evidence?

24 A. This is one -- where are we, we're into -- what date is
25 this? 14:30

26 428 Q. This is 26th June 2014.

27 A. June, yeah, like it's a good deal after from the 8th
28 May.

29 429 Q. But in addition, they don't just stop there, he will

1 also say that they contacted Chief Superintendent Mark
2 Curran in respect of the store and his knowledge of
3 that and he said that he had no knowledge of it or
4 hadn't searched it or cleared it out, as had been
5 alleged by you.

14:30

6 A. If I alleged that Mark Curran cleared it out, I take
7 that -- withdraw that, if I alleged that Chief
8 Superintendent Curran cleared it out. That would be
9 totally wrong, just to clarify that. I don't believe
10 Chief Superintendent Curran -- no, I believe it was
11 cleared ought all right but...

14:30

12 430 Q. So you're not making any point against Chief
13 Superintendent Curran on that issue?

14 A. Not for clearing out, no, no, no, definitely not, no.

15 431 Q. Then to touch on a different issue. You see on
16 23/9/2014, there was a meeting between Assistant
17 Commissioner Ó Cualáin, Chief Superintendent Mark
18 Curran and Superintendent McBrien in Dublin. Their
19 discussion took place about the possible suspension of
20 Garda A. It was agreed there was no local or other
21 issues to justify the suspension at that time because
22 neither the chief superintendent nor the superintendent
23 had received any complaint regarding Garda A following
24 the commencement of the investigation or the visit to
25 Athlone.

14:31

14:31

14:31

26
27 Just on that point, I think you would accept, would you
28 not, that that indicates that Superintendent McBrien
29 was of the same view, doesn't it?

1 A. Sorry?

2 432 Q. Would you agree with me that report indicates that
3 Chief Superintendent McBrien was in agreement that
4 there wasn't a basis to suspend Garda A at that time?

5 A. I accept -- 14:32

6 433 Q. Yeah.

7 A. Well, I accept that part of it, but I am also aware
8 there was -- there was a good bit of evidence given at
9 the start. Then we have the issue of the HR thing, as
10 I said. Look, if I was able to go back in time and if 14:32
11 it was explained properly to me. But things happened
12 and I cannot change what has happened. This is all
13 just the way it has happened and that's it.

14 434 Q. I think will you agree with me, though, that in coming
15 to that decision Superintendent McBrien was not 14:32
16 targeting you?

17 A. I never said -- I have never said Superintendent
18 McBrien targeted me.

19 435 Q. And again, I suggest to you that means none of the
20 other people were doing so either? 14:32

21 A. Not in relation to this particular thing.

22 436 Q. I see. Thank you.

23 A. In relation to this matter.

24 437 Q. Okay. Just the next page I would like to refer to is
25 your evidence in relation to communications. Could I 14:33
26 ask you to see page 3902 please. Again, these things
27 could have happened, Garda Keogh, but he will say that
28 having attempted to contact people on several occasions
29 on the number provided by the reporter, that's by you,

1 that the number appeared to be disconnected. And then,
2 you advised him that the person you had mentioned had
3 changed his number; is that correct?

4 A. I'm sorry. You talk very fast and perhaps I am a bit
5 slow, but sorry...

14:33

6 438 Q. To avoid wasting time on this but just to say --

7 CHAIRMAN: Take your time, Mr. Murphy. I have to say,
8 I have some sympathy with Garda Keogh. I know it's in
9 the interest of efficiency.

10 MR. MURPHY: Yes.

14:33

11 CHAIRMAN: And I note there's another thing, when you
12 have something up on the screen, you don't want to
13 waste time by reading it when we can all read it.

14 MR. MURPHY: Yes.

15 CHAIRMAN: I understand that perfectly. But if you
16 could speak a little more slowly.

14:33

17 MR. MURPHY: Certainly, Chairman.

18 CHAIRMAN: I think that would be -- I know that Garda
19 Keogh would appreciate that and, I have to confess,
20 that I'll go on those coattails.

14:34

21 439 Q. MR. MURPHY: Garda Keogh, I think you see in the top of
22 that statement there is a reference to the attempts
23 made by Detective Superintendent Mulcahy to make
24 contact?

25 A. Yes.

14:34

26 440 Q. I think you have seen the statement before, do you
27 disagree with it in any way?

28 A. Em, just -- disagree with which?

29 441 Q. Do you disagree that these steps were taken by

1 Detective Superintendent Mulcahy?
2 A. Oh no. I don't disagree with...
3 442 Q. Do you see, at the end of that paragraph, that
4 Detective Superintendent Mulcahy will say:
5
6 "The person we spoke to wasn't sure how the process
7 worked."
8
9 A. Yes. I'm aware of that, yes.
10 443 Q. You assured you that you wouldn't do anything until he, 14:34
11 Detective Superintendent Mulcahy, could meet and
12 explain it to him?
13 A. Yes.
14 444 Q. Now, in the next paragraph, do you see there is a
15 reference there to the judge, about four lines down? 14:35
16 A. Yeah, I see it.
17 445 Q. He says, on the 3/7/2014 that he, Detective
18 Superintendent Mulcahy, made contact. The person said
19 he wanted to put the matter behind him. He said you
20 told the story to the judge, who told him to distance 14:35
21 himself from it. Do you see that?
22 A. "He told his story to the Judge, who told him to
23 disconnect himself from it."
24
25 I don't know if that -- that doesn't sound right to me 14:35
26 but... I don't know what to say about that.
27 446 Q. Very good. Well, perhaps I can summarise it in this
28 way: Detective Superintendent Mulcahy will give
29 evidence of the steps he took to make contact with a

1 potential witness?

2 447 Q. CHAIRMAN: That is the informant who had given you
3 information.

4 A. Yes.

5 448 Q. CHAIRMAN: They tried to make contact with him? 14:36

6 A. Yes.

7 449 Q. CHAIRMAN: His number appeared to be disconnected?

8 A. Yes.

9 450 Q. CHAIRMAN: You were in a position to give them a
10 different number for him? 14:36

11 A. Right.

12 451 Q. CHAIRMAN: They rang that and then the story, it all
13 makes sense if you realise that that's the person
14 they're trying to contact?

15 A. Yes. 14:36

16 452 Q. CHAIRMAN: That person was unsure as to the process,
17 etcetera, etcetera, etcetera, and Superintendent
18 Mulcahy, if I understand it, was trying to reassure.
19 Does that make sense?

20 A. Yes. 14:36

21 453 Q. CHAIRMAN: As we look at this.

22 A. Just for clarification, Judge, I have given in evidence
23 where that person had actually dropped phones with me,
24 dropped contact with me and then at some stage
25 afterwards comes back with I think a series of text 14:36
26 messages or something and then he drops the phone then.
27 Maybe perhaps -- and then he drops the phone.

28 CHAIRMAN: All of that may be so, there may be no
29 argument with it, but Mr. Murphy is simply going

1 through the steps that the Ó Cualáin team, namely
2 Detective Superintendent Mulcahy and Detective
3 Inspector Coppinger, this is what they did, he is
4 recording what they did. Mr. Murphy is sort of
5 inviting you to agree that this represents a thorough 14:37
6 and proper investigation. I think that's where
7 Mr. Murphy is going, is that correct?

8 454 Q. MR. MURPHY: Exactly. Thank you.

9 A. As I have said, Judge, parts of the investigation were
10 completely thorough. Just there were problems in other 14:37
11 parts. I think I've said that from the start.

12 CHAIRMAN: And no doubt Mr. Murphy will be asking you
13 about the different parts in due course?

14 455 Q. MR. MURPHY: Yes. Garda Keogh, I think you will have
15 reached the end of 3904. Detective Superintendent 14:38
16 Mulcahy will refer to a meeting in Portumna Garda
17 station with you on 13th August 2014.

18 A. Yes.

19 456 Q. I think at this meeting you expressed your views about
20 the investigation? 14:38

21 A. Yes.

22 457 Q. Those were taken into account by the investigators, but
23 also I think you queried why Garda A had not been
24 suspended from duty?

25 A. Yes. 14:38

26 458 Q. You also said to the investigators that you were
27 satisfied that there were no leaks coming from the
28 investigation?

29 A. I think that was correct, yeah, I think.

1 459 Q. And would you agree that you were also expressing the
2 view that you were happy for the investigation to
3 continue?

4 A. Yes.

5 460 Q. So again, just to pause there for a moment, up to this 14:38
6 date, I think you will agree with me, that the
7 investigators were keeping in regular contact with you,
8 were listening to your concerns and were seeking to
9 address them?

10 A. I'm not sure, it's a bit later I think when they get 14:39
11 the -- start doing the real digging. I have never
12 disputed the fact that they do. I'm not sure just the
13 time period, when exactly. But I have no issue with
14 anything that's being said here to far.

15 461 Q. Then the role of another person comes up in the next 14:39
16 section, at page 3905, that's to say the DPP. By this
17 time, I think you will agree, that the gardaí had asked
18 you for your consent to disclose your identity to the
19 DPP and you gave that consent?

20 A. Yes. That's the investigation team, yes. 14:39

21 462 Q. Again, you weren't at these meetings but Detective
22 Superintendent Mulcahy will say that there were two
23 meetings, one on 14th August 2014, another on 9th
24 November 2014, where the DPP was updated about the
25 progress of the investigation? 14:40

26 A. Yeah, I don't dispute any of this.

27 463 Q. I think thereafter he will say that the investigation
28 conducted was conducted in as detailed a fashion as
29 possible. But can I now ask you to move on, please, to

1 page 3909? In particular, it's the last paragraph on
2 page 3909, please. Here I want to ask you not about
3 the investigation, Garda Keogh, but your communications
4 with Detective Superintendent Mulcahy. Let me explain
5 as I go through what I mean by this.

14:40

6
7 First of all, I want to say that Detective
8 Superintendent Mulcahy will say that he spoke to you
9 throughout the investigation concerning welfare
10 matters?

14:41

11 A. Yes, that's correct.

12 464 Q. He will also say that he maintained contact with both
13 Superintendent McBrien and Superintendent Pat Murray in
14 respect of welfare issues that arose concerning
15 yourself?

14:41

16 A. I understand that.

17 465 Q. He will say that on 5/3/2015 he again spoke to you
18 about your welfare and he recommended to you the
19 availability of welfare officers?

20 A. Yes.

14:41

21 466 Q. He says that you reply by saying that Ms. Friel from
22 the welfare office had not told you that she was
23 working out of the same office as Aidan Glacken and you
24 raised issues as to whether you could trust the welfare
25 people?

14:41

26 A. I remember that.

27 467 Q. Detective Superintendent Mulcahy will say that he
28 advised you that the service was confidential, that
29 there were other welfare officers?

1 A. He did.

2 468 Q. I think that you signed off by thanking him for the
3 call at around 22:06?

4 A. Yeah.

5 469 Q. Then he will say that following a long conversation 14:42
6 with you on the 19/4/2014 and a further conversation
7 with you on the morning of the 20/4/2014, that he had
8 concerns for your welfare and as a result of his
9 concerns he contacted Superintendent Pat Murray and
10 advised him of those concerns? 14:42

11 A. I see that's there, yeah.

12 470 Q. Just to pause, and the reason I am putting this to you,
13 I appreciate you see things from one perspective, but I
14 am just inviting you and the Chair to see the
15 perspective of somebody who is working hard to follow 14:42
16 up your leads and who was concerned for you at the
17 time, and is taking steps that you can't see to try and
18 make sure that the Garda welfare authorities are
19 available to you, to help you?

20 A. That's correct, but also that goes both ways. It 14:42
21 should go both ways, what you just described there,
22 yes.

23 471 Q. But also I am going to put it to you that it also
24 shows, and we will see some more of this detail later,
25 that notwithstanding your dislike for Superintendent 14:43
26 Pat Murray, that in fact he was also working behind the
27 scenes to ensure that you got appropriate welfare
28 health. You may not have been aware of this at this
29 time, but I have to suggest to you that's the evidence

1 will be?

2 A. Just for clarification, there's a lot -- there's a
3 couple -- there's a lot more senior officers that I
4 dislike more than Superintendent Pat Murray. Just to
5 clarify that. 14:43

6 472 Q. Well again, just walk with me, Garda Keogh, in relation
7 to this particular aspect of the case. If we look at
8 the next phase, at the top of page 3910, please, I
9 think he will say that you sent him a text message
10 saying: 14:43

11

12 "I will accept welfare if you are still offering."
13

14 A. Yes, that's correct.

15 473 Q. He rang you again, regarding your welfare? 14:44

16 A. Yes.

17 474 Q. I think at that stage he will say that you were still
18 reluctant to utilise the appointed welfare officer for
19 the division?

20 A. Yes. 14:44

21 475 Q. He will also say that he noticed that you were
22 intoxicated?

23 A. I have no doubt, yes.

24 476 Q. He will then say also that having had that discussion
25 with you, on 18th June 2014 he rang the welfare 14:44
26 officers Garda Morgan Landy and Garda Clare Malone and
27 explained the position in order to facilitate increased
28 help for you?

29 A. Yes, again, I can't -- I'm agreeing with all of that.

1 477 Q. Again, just to help the Chairman understand the
2 position from your own perspective, I think he will say
3 that he also spoke and made arrangements with Garda
4 Michael Quinn, the welfare officer who was appointed to
5 make liaison with you? 14:44

6 A. Yes.

7 478 Q. I think it's fair to say you've had a good rapport with
8 Mr. Quinn since that time?

9 A. Judge, he was brilliant, he has been brilliant
10 throughout the last couple of years. 14:45

11 479 Q. Moving along, by 27/4/2015, Detective Superintendent
12 Mulcahy will say that he rang you to update you on the
13 progress of the investigation and he enquired again for
14 your welfare and became aware from you that you had a
15 planned meeting with Mick Quinn on Friday, 1st May 14:45
16 2015?

17 A. Again, yes, I can't dispute anything here.

18 480 Q. Then he will also say that he phoned Superintendent Pat
19 Murray and advised him about the welfare action which
20 he had taken and that you had asked him to ring Pat 14:45
21 Murray and to explain to him that he was not bad?

22 A. That was that I wasn't bad.

23 481 Q. Yes.

24 A. I asked Detective Superintendent Mulcahy to ring Pat
25 Murray to say, listen -- I obviously explained to him, 14:45
26 this guy is putting me under a lot of pressure, can you
27 talk to him and tell him I'm not bad, is what I am
28 trying to say there.

29 482 Q. Then, on 1/9/2015, Detective Superintendent Mulcahy

1 spoke with you and you confirmed to him that you had
2 been to visit Mick Quinn, the welfare officer?

3 A. Again, I am agreeing with all of this.

4 483 Q. Yes. Then moving forward to 26/6/2014, he will say
5 that he received a text from you asking if you could 14:46
6 take a call and that you had been talking to Olivia
7 O'Neill regarding the investigation?

8 A. That would be correct.

9 484 Q. I think you will agree, he advised you not to get
10 involved with any witnesses? 14:46

11 A. Yes. Well, she wasn't a witness in this investigation.

12 485 Q. He also said if they wished, they could contact him?

13 A. Yes.

14 486 Q. He also said to you that any name that came up during
15 the investigation would be interviewed? 14:47

16 A. Yeah. As I said, that name that had just cropped up
17 there, she has nothing to do with the main
18 investigation, just for clarification on that.

19 487 Q. Sure. Then again he will say that you enquired of him
20 on 30th June 2014 if he could get the names of the 14:47
21 investigating team?

22 A. Yes.

23 488 Q. He provided you with those names?

24 A. He did, yes. There was a reason for that. Just, there
25 was a reason but that's all correct. 14:47

26 489 Q. Then moving forward to the 31/10/2014, at page 3911, he
27 will say he received a text from you asking if he,
28 Superintendent Mulcahy, could call you. But before he
29 could ring back, he will say that he received a second

1 text at 21:47 that said:

2

3 "If you want to be commissioner, you need my support."

4

5 A. Judge, I remember that. I know I was drinking that 14:48
6 night and I remember the next morning or whenever I
7 looked at the texts and I just went, oh God. But I do
8 remember, yeah.

9 490 Q. That's a fair answer, Garda Keogh, because I think he
10 will say that he rang you back and that he found that 14:48
11 you were very drunk and on bringing this to your
12 attention, you said that you hadn't drunk in over a
13 year and this was the first time. He said to you that
14 there was help for you available if you needed it?

15 A. Mm-hmm, yeah. Oh look, I'm not disputing it. I was 14:48
16 under a lot of serious pressure sure during all this.

17 491 Q. I take it you agree with me that Detective
18 Superintendent Mulcahy showed concern for your welfare
19 at this stage and at every other stage?

20 A. Yes. 14:48

21 492 Q. Then he said that you weren't making a lot of sense and
22 spoke of bugs, b-u-g-s, and talked about a gun in
23 someone's mouth, do you recall that?

24 A. I don't recall it but -- I don't recall obviously the
25 conversation there. 14:49

26 493 Q. Sure.

27 A. But I mean, if the detective superintendent has it
28 written down that, if he has it noted that way, I'm not
29 disputing, I'd say his version would be, would...

1 494 Q. I think he also noted that you said Assistant
2 Commissioner Ó Cualáin needs to distance himself from
3 Glacken and he would be commissioner.
4 A. Mm-hmm.
5 495 Q. Then he went on to speak about a file which was in the 14:49
6 district office and was close to Garda A and that Clare
7 Daly was coming to speak with you soon and that she
8 would speak in the Dáil?
9 A. Yeah. Some of that rings a bell actually to do with --
10 actually, yeah, I recollect just what that may have 14:50
11 been about, not the actual conversation.
12 496 Q. Sure.
13 A. But I do recollect what that was about, yes.
14 497 Q. And again, he will say in evidence, just turning to
15 page 3912, following this conversation he made contact 14:50
16 with Superintendent McBrien and outlined his concerns
17 for you to her?
18 A. I accept that.
19 498 Q. Moving forward then to 2/11/2014, he received another
20 phone call from you and you told him that you were not 14:50
21 tout wage war and said:
22
23 "Make up your effing mind, you are pussyfooting
24 around."
25 14:50
26 Now, at this stage he could understand that you were
27 well intoxicated.
28 A. Yeah, well, look I was frustrated as well the
29 investigation and different parts of the investigation

1 and that, and look I -- what can I say?

2 499 Q. Okay. But I think he said he will talk to you when you
3 are sober?

4 A. That's correct, yeah.

5 500 Q. I think you went on then to say a number of other 14:51
6 things, one of which was that you said that you weren't
7 on a witch hunt and that the super, that's to say
8 Superintendent Noreen McBrien, was 100%.

9 A. Mm-hmm.

10 501 Q. But that fellow Curran, which he understood to be Chief 14:51
11 Superintendent Curran, declared war with him, he is
12 making it hard for the super.

13 A. Look, that was my view, I suppose, and I had lot of
14 drink and that was my view.

15 502 Q. Okay. Again just moving forward to give the Tribunal a 14:51
16 sense of the continual communication between you and
17 Detective Superintendent Mulcahy. On 5/12/2014 he rang
18 you to update you on the investigation. You gave him
19 certain information. Then he says that in the
20 following days he became a bit concerned because he 14:51
21 couldn't make contact with you and out of concern for
22 your welfare, he contacted Superintendent McBrien on
23 5/3/2015. So there appears to be a bit of a gap at
24 that time, is that right, between December of '14 and
25 March of '15? 14:52

26 A. I can check my own notes here.

27 503 Q. Please.

28 A. December -- what date in December '14, sorry?

29 504 Q. 5th December 2014.

1 A. The 5th. 5th December '14. Yeah, okay, I don't know
2 what -- em, I don't know what that is about.

3 505 Q. Okay.

4 A. That there is a gap, just in contacting me? Is that
5 just your question there? 14:52

6 506 Q. No, I think the position is, he was finding it
7 difficult to make contact with you during that time.

8 A. Okay.

9 507 Q. I think the explanation you gave him was that you were
10 -- that you made contact with him by phone on the 5th 14:53
11 March 2015 and advised him that you were out stress
12 sick for a few weeks.

13 A. Right.

14 508 Q. That you were under pressure?

15 A. Yeah. 14:53

16 509 Q. He understood that to be pressure at work?

17 A. Sorry?

18 510 Q. He understood that you meant that you were under
19 pressure at work?

20 A. Yeah. 14:53

21 511 Q. Okay. I think you asked him how long the investigation
22 would take and that would determine how long that you
23 would be out of work; is that correct?

24 A. Yes.

25 512 Q. He then went on to say that your sick had nothing to do 14:53
26 with the investigation being conducted by Detective
27 Superintendent Mulcahy?

28 A. Oh yes -- well, hang on now. You see, they're all link
29 in, it's not as simple. But Detective Superintendent

1 Mulcahy, as I said, he was not a person that would
2 cause -- he was someone I could turn to, just to
3 clarify, yeah.

4 513 Q. He agrees with you, Garda Keogh.
5 A. Mm-hmm. 14:54

6 514 Q. Just turning to the top of page 3913, please. This is
7 on 5th March 2015. Detective Superintendent Mulcahy
8 spoke to you about the new Superintendent Pat Murray
9 and he said that he knew him from his time as an
10 inspector in the Wicklow. Once again he spoke to you 14:54
11 about your welfare and the availability of the welfare
12 officers?
13 A. Yeah.

14 515 Q. Then turning down to 1st April 2015, he phoned you
15 again and gave you an update on the investigation? 14:54
16 A. Yes.

17 516 Q. I think on that day he will say that he told you --
18 when he spoke to you, that you told him that you felt
19 pinned in and when he asked you why, that you replied:
20 14:54
21 "The craic with the tax on the car and that surgeon
22 referred because he was out stick with stress."
23

24 A. Yes, but at the time, of course, they were marking me
25 out with flu. In any case, I am not disputing 14:55
26 what's --

27 517 Q. CHAIRMAN: That is a reference to Superintendent
28 Murray, isn't that right, two things, the car and the
29 conversation, when he said he would refer you to Garda

1 doctor, isn't that right?

2 A. CMO, yes.

3 518 Q. CHAIRMAN: That seems to be a reference to that?

4 A. Em...

5 519 Q. CHAIRMAN: You said you were suffering from stress, he 14:55
6 said I'll have to refer you or I am going to -- isn't
7 that right, that seems to be a reference, is that
8 right?

9 A. Yeah, I'd have to just get the date. Just what date,
10 period are we in here. 14:55

11 MR. McGUINESS: The 1st April.

12 520 Q. CHAIRMAN: No, but just what you are describing to
13 Detective Superintendent Mulcahy, it doesn't seem
14 terribly important, frankly, but you mention the
15 question of the tax and I am recalling your 14:55
16 conversation with Superintendent Murray, one of which
17 was about the car tax and one of which was about stress
18 and referring you to the doctor?

19 A. Yeah.

20 521 Q. CHAIRMAN: Is that right? That seems to be what that's 14:56
21 about?

22 A. Yeah. So far, there's nothing in this that I have so
23 far disagreed with, Judge.

24 CHAIRMAN: Okay.

25 522 Q. MR. MURPHY: He again enquired of you whether there was 14:56
26 welfare problem and that you said that you were out
27 sick on stress, that you went back on advice and would
28 not do full weeks?

29 A. I accept, I just can't remember that part of it.

1 523 Q. CHAIRMAN: Can you recall having seen Superintendent
2 Mulcahy's statement? In other words, are you quite
3 happy that whatever he says is correct?
4 A. I read Detective Superintendent Mulcahy's, and from
5 recollection, nothing, there was nothing in it that 14:56
6 I --
7 CHAIRMAN: Okay. Mr. Murphy, if there something
8 specific that you want to refer to for the purpose of
9 your case, well and good, but otherwise you may take it
10 that Garda Keogh has no problem with any of what 14:57
11 Detective Superintendent Mulcahy says.
12 MR. MURPHY: Yes, Chair. I think I have literally got
13 one and a half pages to go but I will deal with just
14 three points, if I can.
15 CHAIRMAN: Certainly, that's all right. Then we might 14:57
16 take a little break, that might be a good point in
17 time.
18 524 Q. MR. MURPHY: I think that if you look, please, at page
19 3913?
20 CHAIRMAN: I think that's the one we're on. 14:57
21 MR. KELLY: It is, yes.
22 MR. MURPHY: Sorry, before we move on, can I just ask
23 you to look at middle paragraph, page 3913. Detective
24 Superintendent Mulcahy will say that you told him that
25 you were happy with the investigation and you 14:57
26 appreciated the call.
27 A. Sorry, I can't see this -- I don't know where we are
28 here, I'm sorry.
29 MR. McGUI NNESS: The last line.

1 MR. KELLY: Judge, I think there is an issue, I am
2 experiencing it myself, I think the witness is having
3 difficulty following where we actually are at a
4 passage. It may be because he's not being given an
5 opportunity -- I'm not criticising any one. 14:58
6 CHAIRMAN: I understand.
7 MR. KELLY: Trying to read the passage that he is
8 referring to.
9 CHAIRMAN: What I am keen on is this, Mr. Kelly, I am
10 keen that Garda Keogh will have a break. I am 14:58
11 conscious of the fact Mr. Murphy wants to refer to
12 certain parts of this to, so to speak, put them, but
13 Garda Keogh makes it clear he has no problem. I am
14 also conscious that it would be nice for Garda Keogh to
15 have a little break, maybe for all of us to have a 14:58
16 little break. And Mr. Murphy says, look, I have three
17 things to do. So I think we will crack on, finish the
18 three things and then take the break. If there is any
19 big misunderstanding, we can deal with it. But as I
20 understand, we are at present on 3913, we have been 14:58
21 referring to some parts of it, if you don't understand
22 it, come back to me, or you can always refer back to it
23 later, do you know what I mean.
24 MR. KELLY: All I am saying is, when the witness is
25 being referred to a passage, I am making the suggestion 14:58
26 that perhaps it would be good to ask him has he had an
27 opportunity to read it, let him read it first before
28 inviting him to comment on it.
29 CHAIRMAN: I understand.

1 MR. KELLY: I can see he is trying to comment but
2 without having read the stuff, because he's feeling, I
3 think, under pressure. But there it is.

4 CHAIRMAN: I understand. Okay. well, Mr. Murphy, I'll
5 tell you what we will do, put the three points you want 14:59
6 to make, I am conscious of what Mr. Kelly is saying,
7 and if there is any question of -- if you want to come
8 back to it, Mr. Kelly, you just mention it.

9 MR. KELLY: Yes, certainly, I will, but I would like --

10 CHAIRMAN: And the same for you, Garda Keogh, even more 14:59
11 importantly, if you want to come back to it. We will
12 complete this part first.

13 MR. KELLY: Sure.

14 CHAIRMAN: Mr. Murphy is going to refer to three
15 paragraphs or three bits or three sentences, we will 14:59
16 get his three sentences.

17 MR. KELLY: Yes.

18 CHAIRMAN: We will then close down for a short while
19 and we will return. All right?

20 MR. MURPHY: Chairman, not for now but perhaps this is 14:59
21 an issue I can deal with Mr. McGuinness on, but there
22 is a point I have raised with him about to what extent
23 you, Chair, would require us to put every piece of
24 evidence. I think the indication before lunchtime was
25 that you would require it to be put. 15:00

26 CHAIRMAN: No, Mr. Murphy, sorry. well, this gives me
27 a convenient. Ms. Gleeson was cross-examining Garda
28 Keogh in relation to an exchange with Inspector
29 Farrell. I was aware that Inspector Farrell had made a

1 statement in which he had described a fuller
2 description. It was the piece where Inspector Farrell
3 had recorded Garda Keogh as saying, go through the
4 motions, tick all the boxes, I don't care what you say.
5 It seemed to me that that might be of some significance 15:00
6 in regard to if Inspector Farrell came forward, gave
7 evidence, and was doing that, it might be said and
8 legitimately said, well that should have been put. In
9 fact, when it happened -- so on that specific point, I
10 suggested to Ms. Gleeson that it would be a useful 15:01
11 thing if Inspector Farrell was going to give a fuller
12 description with a specific thing in mind. Ms. Gleeson
13 understood exactly what I was saying and, in fact, put
14 the very point.

15 MR. MURPHY: Yes. 15:01

16 CHAIRMAN: It then in fact somewhat evaporated because
17 Garda Keogh said, I have no difficulty with Inspector
18 Farrell's, he said, it's only just that at the time he
19 seemed to be representing dark forces behind and
20 superior to him. That, I think, is it. No, I wasn't 15:01
21 making a general rule, I was just suggesting to
22 Ms. Gleeson and she immediately identified the passage,
23 which was very helpful, put it to Garda Keogh and the
24 whole thing was cleared up.

25 15:01

26 So, if I can just say, I will leave it to counsel's
27 discretion as to what's important. But if Garda Keogh
28 says, look, as far as I'm concerned Detective
29 Superintendent Mulcahy did an extremely good job,

1 worked very thoroughly and I agree with everything, I
2 don't disagree with anything in his statement, which is
3 more or less his position.
4

5 If that were to change, no doubt Garda Keogh would tell 15:02
6 us and Mr. Kelly would be careful to remind us of that
7 and then we would deal with whatever consequence. Now,
8 I am sorry to make a speech about that at all but I
9 hope that's helpful.

10 MR. MURPHY: If I can explain, my apprehension is that 15:02
11 Mr. Justice Charleton had called publically for a very
12 strict application of Dunn v Browne and I queried
13 whether that was necessary for this process and I think
14 you've indicated very clearly it's. So that's most
15 hopeful. 15:02

16 CHAIRMAN: Just tell me again.

17 MR. MURPHY: Dunn v Browne is the one that put every
18 piece of evidence one's witness is going be to called
19 to give evidence about, which would seem to be rather
20 burdensome, where so much information has been opened 15:02
21 by the Tribunal already.

22 CHAIRMAN: I was always forgetting things like that to
23 put and I was always criticised on it when I was at the
24 bar. You may consider yourself free from that. Sorry,
25 I don't want to -- It's not for me to dissent from the 15:03
26 wisdom of these decisions. But in the particular
27 circumstances I don't require it, over and above what
28 is strictly required by the Rules of Evidence.

29 WITNESS: Sorry, Judge, can I just make a point? I

1 never said that Inspector Farrell represented dark
2 forces.

3 CHAIRMAN: No, I understand that. I am trying to help
4 you here. I know you didn't. Sorry. I am trying to
5 deal with the situation where -- I know you didn't say 15:03
6 that, but you were encountering the authorities, them,
7 the them you were encountering.

8 WITNESS: Yes.

9 CHAIRMAN: He was not the them but there it was.

10 WITNESS: Judge, the issue with him, just because he's 15:04
11 friends with another guard.

12 CHAIRMAN: I understand that. I think the whole thing
13 is pretty clear. Thanks very much. So we will take a
14 little break. Okay. We will take a little break now,
15 Mr. Murphy. 15:04

16 MR. MURPHY: Yes.

17 CHAIRMAN: You can come back further to this if you
18 need to on this issue. All right. Thank you very
19 much.

20 15:04

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

23

24 CHAIRMAN: Just so people know, we will be breaking at
25 3:45. Just so everybody knows where they are. 15:17

26 MR. KELLY: Chairman, just to explain. I have spoken
27 to Garda Keogh, just during the break, I think he will
28 find it easier where he is being referred to a passage
29 if he is able to look at the paper version. I said in

1 that case, just ask to see the paper version.

2 CHAIRMAN: Certainly.

3 MR. KELLY: Because the screen --

4 CHAIRMAN: It's not always the easiest thing, yes, I
5 agree. 15:18

6 MR. KELLY: It's not.

7 CHAIRMAN: It's not always the easiest.

8 MR. KELLY: So, that combined with rising a little
9 earlier today may help, because he has been in the
10 witness box -- 15:18

11 CHAIRMAN: Absolutely, Mr. Kelly. The other thing is,
12 while we're on that, Mr. Murphy, if it is convenient
13 and only if it's convenient, if you are going to be
14 referring to a lot of pages, if it was possible to do
15 it, if you could let us know in advance, we could 15:18
16 arrange with our researchers to have the pages ready
17 and convenient, which would save you trouble as well.

18 MR. MURPHY: Yes.

19 CHAIRMAN: But look, you've enough to worry about in
20 managing your own case, but if that's possible well and 15:19
21 good and if it's not possible there will be no
22 criticism or anything like that.

23 MR. MURPHY: Yes, Chairman.

24 CHAIRMAN: Okay. So, here we are again. Okay, thank
25 you very much. By the way, you were right, I'm sorry, 15:19
26 you were right when I said about the dark forces behind
27 it, you were perfectly correct to correct me that
28 that's not what you said about Inspector Farrell.

29 WITNESS: Inspector Farrell.

1 CHAIRMAN: That's not what you said about him, you said
2 about connection with somebody else. Perfectly
3 correct. Thank you.

4 MR. MURPHY: Chairman, just in relation to Mr. Kelly's
5 request, I wonder if your researchers could provide the 15:19
6 witness with volume 13 please, at page 3913.

7 CHAIRMAN: Thank you. Okay.

8 525 Q. MR. MURPHY: Thanks, Garda Keogh. I have spoken to
9 Mr. Kelly, Chairman, also, and with your permission
10 what I propose to do from time to time is to invite the 15:20
11 witness to take a moment to read a paragraph and then I
12 will ask him questions.

13 CHAIRMAN: Absolutely. If you are happy and Mr. Kelly
14 is happy, then that's --

15 526 Q. MR. MURPHY: we will try that, Chairman, to see if it 15:20
16 works with this witness. Garda Keogh, could I ask you
17 just to look at the last paragraph on page 3913, it
18 begins with the words "on 19/4/2015", please take a
19 moment.

20 CHAIRMAN: Is he to go into the next page, Mr. Murphy? 15:21

21 MR. MURPHY: No, Chairman.

22 A. Yeah, I have read that.

23 527 Q. MR. MURPHY: Again, in terms of the detail contained
24 there, are you happy to accept that you said to
25 Detective Superintendent Mulcahy that you were talking 15:21
26 about all out attack and taking Nóirín O'Sullivan down,
27 and also mentioning Alan Shatter and that you were
28 going to take him down?

29 A. Em, yeah. Now at the time, Judge, just for

1 clarification, I think in relation to Minister Shatter,
2 I think I would be very sympathetic to him now and what
3 he has gone through. Things have changed in so much
4 over the last years and different things and, as I
5 said, I would love to be able to just meet him for five 15:21
6 minutes.

7 528 Q. Just as of that date, Garda Keogh, are you happy to
8 agree that on that date that's what you said?

9 A. Look, I can't deny it.

10 529 Q. Could I just ask a further question flowing on from 15:22
11 that: Can we take it then, if you recall earlier today
12 when I asked you at the very beginning about the phrase
13 "taken down" and you indicated that that wasn't your
14 objective. By this time, in April 2015, is it your
15 evidence that you were trying to take down people from 15:22
16 office?

17 A. Well, certainly at that point I had a firm view in
18 relation to Commissioner Nóirín O'Sullivan. And just
19 in relation to this thing, this particular part, I just
20 see it's 22:28 when I'm in conversation with the 15:22
21 Detective Superintendent Mulcahy. I don't think he has
22 stated in -- oh, he has said I was intoxicated, I see
23 that there. I was just presuming.

24 530 Q. Sure.

25 A. Looking at the time I would have been ringing him 15:22
26 there. But all this, you see, I have all this on my
27 mind and like I have lived through all this and it was
28 in my mind and I can't -- as I said, that's the way it
29 was.

1 531 Q. CHAIRMAN: Garda Keogh, can I ask you a question?
2 A. Yeah.

3 532 Q. CHAIRMAN: Did that represent your state of mind or was
4 that a drunken statement?
5 A. Judge, I -- 15:23

6 533 Q. CHAIRMAN: I don't mean to be rude or offensive now
7 when I say this, but I mean, let's talk plainly?
8 A. Yeah. I would not have said those, that wording.

9 534 Q. CHAIRMAN: I understand. Don't worry. I am saying,
10 did it reflect your state of mind or was it simply a 15:23
11 bizarre thing that you said in drink?
12 A. Judge, I'd say it was probably a bit of both, if I am
13 to be honest about it. I'd say a bit of both.

14 CHAIRMAN: Okay. Thank you very much.

15 535 Q. MR. MURPHY: Thank you, Garda Keogh. I think just to 15:23
16 help you on that answer, Garda Keogh, the second point
17 I wish to mentioned to the Chair before we rise, can I
18 ask you to turn over to page 3914, just to amplify what
19 you said.

20 CHAIRMAN: The next page? 15:24

21 536 Q. MR. MURPHY: The next page please, Judge, yes. Could I
22 ask you, Garda Keogh, just to go maybe seven lines
23 down, you will see a sentence beginning "he states".
24 Do you see that?
25 A. Yeah. 15:24

26 537 Q. Could you please just take a moment to read just down
27 to the words "appendix K".
28 A. I remember reading this, yeah.

29 538 Q. Take a moment to read that down to "appendix K".

1 A. Yeah.

2 539 Q. Okay. So, would you agree with me that from the point
3 of somebody like Detective Superintendent Mulcahy
4 phoning you to be told that you were playing around
5 with your computer, putting pictures of rats on Nóirín 15:24
6 O'Sullivan's face, was something that would have been
7 very strange?

8 A. Just on that, just on that particular line, because
9 that obviously jumped out when I read the documents, I
10 don't know what I was saying at the time but I actually 15:25
11 wouldn't have been able -- I wouldn't have that level
12 of knowledge with a computer to be able to do that. I
13 simply wouldn't. I only went on to -- like I said
14 earlier, I didn't even use the Garda e-mail on Pulse.
15 Although I'm good with the Garda Pulse system, emails 15:25
16 is only a thing even very new to me. I'm not -- I have
17 never had a digital phone or anything, I still work off
18 old phones that you press the button and stuff like
19 that. So I wouldn't have had that knowledge to do
20 that. 15:25
21

22 Now, what I was trying to say at that point in time
23 have I no idea in relation to that particular thing.
24 But I just see here, just in general to do with the
25 whole investigation, I see: 15:25
26

27 "It was a circus of madness".

28

29 540 Q. Do you see just below that, Garda Keogh, you refer to

1 meetings with Maurice McCabe, Clare Daly and Mick
2 Wallace, had you been talking to them about taking down
3 N6ir6n O'Sullivan?

4 A. Oh no, no, no, no, no, no, no. It was -- ah, no. I
5 recall that meeting in Dublin, of course. It was the 15:26
6 first time I met Maurice McCabe and, of course, we were
7 just in stations across from each other, he was in
8 Mullingar and I was in Athlone. We're in the same
9 division. But em, I don't think -- I don't think it
10 was -- I mean, I don't think it was like that. I'm 15:26
11 not --

12 541 Q. The third point, the final point on this statement, can
13 you turn please to the next page, page 3915. This
14 moves forward in time to 7th April 2016.

15 A. Just that paragraph on the 7th. 15:26

16 542 Q. If you look down to the last paragraph when you have
17 "the following morning..." ?

18 A. Okay.

19 543 Q. Before you read it, if I can summarise it, apparently
20 he's ringing you to tell you about the DPP's decision. 15:27
21 A. Okay.

22 544 Q. Just take a moment, please, just to read the last
23 paragraph, "the following morning"?

24 A. Okay. Yes, I have read this.

25 545 Q. Okay. First of all, would you agree with me that that 15:27
26 would suggest that this was in the morning time, that
27 you had not yet started drinking and that you were
28 reasonably sober, because you're talking about going
29 out drinking later on?

1 A. Oh, I can't accept that.

2 546 Q. Okay.

3 A. Because my drinking pattern, Judge -- what year is
4 this?

5 547 Q. 2016? 15:28

6 A. 2016, yeah, I'd say it would've been -- I'm in the
7 period there, Judge, of binges, binge drinking. So, I
8 mean, just because it's in the morning doesn't
9 necessarily mean I wasn't drinking.

10 548 Q. Do you dispute that you told him that you were going to 15:28
11 the press and you wanted to bring down Nóirín
12 O'Sullivan. He told you that the DPP had directed no
13 prosecution?

14 A. Look, I'm not disputing any part of that. Like I
15 can't, I can't. 15:28

16 549 Q. Okay. Then finally on this third point I think, he
17 will say that you rang him back later and spoke about
18 drinking, you said that your head wasn't correct and
19 that every family had it, and he understood that to
20 mean a drink problem? 15:28

21 A. Yes, I recall -- well, I just --

22 550 Q. Fine.

23 A. I am not disputing this, Judge.

24 551 Q. Just the last question on that point, I want to put it 15:28
25 to you, on his behalf, because I represent him and the
26 other gardaí who I represent, that this evidence, I
27 will be submitting later in the Chairman, at the end of
28 this process, shows, and I think you don't disagree,
29 that Detective Superintendent Mulcahy did the best he

1 could in terms of the investigation but showed
2 kindness, concern for your welfare and that he wasn't
3 acting alone. I have to put it to you that the Garda
4 system was looking out for you. He was trying to
5 engage the welfare supports -- 15:29

6 CHAIRMAN: That is a series of questions, Mr. Murphy,
7 each of which may be perfectly valid, but it is a
8 portmanteau question. Would you mind taking it
9 one-by-one?

10 552 Q. MR. MURPHY: Certainly. Garda Keogh, would you agree 15:29
11 that Detective Superintendent Mulcahy sought to enlist
12 the welfare supports of An Garda Síochána to help you?
13 A. Yes.

14 553 Q. Would you agree that he spoke to other senior officers,
15 Superintendent McBrien and superintendent -- 15:29
16 A. Murray.

17 554 Q. -- yes, with a view to ensuring that they were aware
18 that you were a person that needed help from a welfare
19 point of view?
20 A. I don't dispute that. 15:29

21 555 Q. And finally in that regard, that throughout the course
22 of that particular period of time, when you were
23 speaking to him you were frequently intoxicated or the
24 worse for wear, if I can put it that way?
25 A. I was under a lot of pressure. Like, I was under a lot 15:30
26 of pressure at that time. I mean...

27 556 Q. Thank you.
28 A. At that period, going into work, again through all
29 this, like I'm -- this is in the middle of, while the

1 investigation is going on, I am still working alongside
2 Garda A. It's just a very difficult -- I turned to
3 drink, and that's my story. I can't, I can't change it
4 I'm afraid.

5 MR. MURPHY: Chairman, I propose to turn to the issues 15:30
6 and deal with them in sequence.

7 CHAIRMAN: Certainly. If you would like to start,
8 Mr. Murphy, we will proceed.

9 557 Q. MR. MURPHY: Yes, with issue number 1. So I think the
10 position is that issue number 1 relates to the 15:30
11 investigation of a Pulse entry by you on the 18/5/2014.
12 Can I ask you, first of all, to be shown page 1802? I
13 don't have volume number, Chairman, but I will
14 certainly have that by tomorrow morning.

15 CHAIRMAN: That is all right. I'm sorry, what volume 15:31
16 is that?

17 MR. MURPHY: 1802.

18 MR. KELLY: I think that is volume 7.

19 CHAIRMAN: Thanks very much.

20 WITNESS: Sorry, 18 -- 15:31
21 MR. MURPHY: Page 1802.

22 CHAIRMAN: We will get it for you now. 1802.

23 MR. MURPHY: Again, Chairman, insofar as I can I will
24 try to use the same documents as Mr. McGuinness --

25 CHAIRMAN: Thanks very much. 15:31
26 MR. MURPHY: -- and to only add extra ones if it
27 becomes necessary.

28 CHAIRMAN: Yes.

29 MR. MURPHY: So most of these documents we will have

1 first month, that, as I said, was extremely difficult.
2 So...

3 563 Q. would you agree with me that Judge McMahon didn't think
4 you had to do it?

5 A. Yeah. Oh, I've also said Judge McMahon thought it was 15:33
6 a bad idea. Yeah.

7 564 Q. would you agree with me that Detective Superintendent
8 Mulcahy would have preferred if you hadn't done it?

9 A. Oh, he would have definitely preferred if I hadn't done
10 it. 15:33

11 565 Q. Yes.

12 A. But the other thing is, I have to -- I mean, for me, at
13 the time, in the station, and I have said it already,
14 you know, if there was one thing, if I could go back in
15 time to do again, there's so much other stuff I would 15:34
16 change, that's one thing I wouldn't change, personally.

17 566 Q. CHAIRMAN: You wouldn't change that?

18 A. Yeah, no, I wouldn't. I would still put that on.
19 CHAIRMAN: Okay.

20 567 Q. MR. MURPHY: Can I just put to you the suggestion that 15:34
21 it wasn't necessary for you to do this at all.

22 A. For me, it was.

23 568 Q. And again I suggest to you, just park this for the
24 moment, put away the words "for me", just saying
25 objectively speaking would you agree with me it wasn't 15:34
26 necessary for you to do this?

27 A. Objectively -- well, if you are looking at objectively,
28 you have to look at my side. So I would say it was for
29 me.

1 569 Q. CHAIRMAN: why was it necessary for you?
2 A. Judge, as I said, there was a lot of -- I got to -- I
3 didn't get to tell everyone in the station, listen,
4 this is -- I explained this last week. whoever was
5 working on whatever night, I think it was the night of 15:34
6 the 8th May, that --
7 570 Q. CHAIRMAN: No, on the 18th, you put this on Pulse.
8 A. Yes.
9 571 Q. CHAIRMAN: why? You said it was necessary --
10 A. Yes. 15:35
11 572 Q. CHAIRMAN: -- for me.
12 A. Yes.
13 573 Q. CHAIRMAN: Question: why?
14 A. Well, there was two reasons. Well, as I said, there
15 was the night, as I clarified last week, on the 18th, 15:35
16 whatever time on the 18th, or whenever it was that
17 Ms. B stuck out her tongue at me, I took that up in
18 defiance, I am untouchable.
19 574 Q. CHAIRMAN: I have to ask you a question.
20 A. Yes, Judge? 15:35
21 575 Q. CHAIRMAN: I am sure you are going to be asked it, but
22 I can't resist asking you. If she hadn't stuck out her
23 tongue would we have this on Pulse?
24 A. Em, I don't know, Judge.
25 576 Q. CHAIRMAN: So it was her sticking out her tongue that 15:35
26 made you -- that's why it was necessary --
27 A. No, no, no.
28 577 Q. CHAIRMAN: Do you know what I mean? I mean, listen, I
29 am trying to understand this. I'm sorry, I hope I'm

1 not -- but that question has been intriguing me.

2 A. Yes. I took that up as, when she did, stuck out her
3 tongue at me that it was --

4 578 Q. CHAIRMAN: I'm invulnerable?

5 A. Untouchable is the word, and there is nothing you can 15:36
6 do. And that's the way I took it up. And --

7 579 Q. CHAIRMAN: In the sense that there's nothing you can do
8 that will -- I am invulnerable to anything that you'd
9 do?

10 A. Yes. 15:36

11 580 Q. CHAIRMAN: Okay. I'll fix you is the thing. I'll put
12 this on you pulse.

13 A. well...

14 581 Q. CHAIRMAN: Does that make sense?

15 A. Yeah. well, the other part to that is -- 15:36

16 582 Q. CHAIRMAN: Do you understand why I am asking you?

17 A. Oh, I do.

18 583 Q. CHAIRMAN: Do you know what I mean? Because I was
19 struck by the sticking out of the tongue and so on.
20 And I sort of understand you said look, I think you 15:36
21 mentioned the red mist and that was it and you were
22 very angry and so on.

23 A. Yes.

24 584 Q. CHAIRMAN: Okay. But you didn't put it on until your
25 next shift? 15:37

26 A. Yes. I would have tuned, thought about it, stewed over
27 it.

28 585 Q. CHAIRMAN: Okay.

29 A. I would have.

1 586 Q. CHAIRMAN: But you say, I'm not understanding why you
2 say it was necessary for you. I am not understanding
3 that.
4 A. well, at this point the investigation team haven't met
5 me. 15:37
6 587 Q. CHAIRMAN: That is right.
7 A. I did say it was extremely difficult that first month.
8 That first month, before I can get talking -- once I
9 can get talking to Detective Superintendent Mulcahy I
10 can lift all this off my shoulders and give it to him. 15:37
11 And that's the best way I can explain it.
12 CHAIRMAN: Okay. All right. Sorry.
13 588 Q. MR. MURPHY: Garda Keogh, I have to suggest to you that
14 by putting the information the way you did on Pulse you
15 drew attention to the details of matters that you had 15:37
16 referred to Detective Superintendent Mulcahy, you were
17 letting people know what it was all about; isn't that
18 right?
19 A. Em, that would be accurate, yeah.
20 589 Q. Were you drawing attention to yourself? 15:37
21 A. No, no, no. Again it was for other people. Just, it
22 was the atmosphere in the station at that time. I
23 think I said earlier on, where, you know, prior to the
24 8th May I was a colleague and after the 8th May it was
25 like just there was an alien in the station and it was 15:38
26 extremely difficult. And as I said, it was, there was
27 younger guards there that didn't have a clue what was
28 going on. And then, you know, I do believe I had a
29 right to be apprehensive, because it's within the next

1 couple of days we have the events of Olivia O'Neill and
2 Liam McHugh. So there was -- my apprehension wasn't
3 unfounded is what I'd say, Judge.

4 590 Q. You see I have to suggest to you that what you did here
5 was extremely imprudent, because you ultimately 15:38
6 revealed information that you had gone to great
7 trouble, on your own case, to keep confidential until
8 it was presented through the confidential recipient
9 process. This was inconsistent, I have to put to you.

10 A. I equally have to try to protect myself. 15:39

11 591 Q. And again that may be your perspective, but I have to
12 suggest to you that your perspective is flawed.

13 A. Well, I have just given it from my point of view. I
14 understand the other side of the argument completely,
15 but that's... 15:39

16 592 Q. Just on that point, Garda Keogh, understanding the
17 other side of the argument, if any of your superior
18 officers saw this on Pulse, I have to suggest it would
19 have been their duty to follow and enquire what on
20 earth this is about? 15:39

21 A. Yes. Yes. I understand where -- seeing all the
22 documents so... yeah.

23 593 Q. From that then can I ask you would you agree it was
24 reasonable for them to raise questions about what type
25 of information was present and whether it was covered 15:39
26 and registered by CHIS?

27 A. Yeah. Up to a certain point. Up to a certain point.
28 Of course. But like, I make it very clear when I am
29 asked, listen, I write the letter to Chief

1 Superintendent Curran and I say look, when this is over
2 I will fully comply with you in relation to this. I
3 think that the last line, it cropped up on the screen
4 last week sometime, but -- so...

5 594 Q. Garda Keogh, can I ask you to turn over to page 640, 15:40
6 please. It should be in volume 1 -- sorry, volume 2 --
7 volume 3, I beg your pardon.

8 A. Page number, please?

9 595 Q. 640, please.

10 A. Thanks. 15:40

11 596 Q. So this is a document you have seen before, which is a
12 note, extract from Inspector Farrell's diary,
13 19/5/2014, do you see that?

14 A. Yes.

15 597 Q. Again I have to suggest to you that when he informed 15:41
16 you, Inspector Farrell informed you that if you had any
17 information that it should be registered on CHIS in
18 accordance with HQ1260 he was correct.

19 A. We've gone through all this, Judge. I have said this
20 was not -- this was not a CHIS matter. This was not a 15:41
21 CHIS matter. And...

22 598 Q. Garda Keogh, can I ask you, who were you to decide
23 whether it was or was not a CHIS matter?

24 A. Judge, I, as I said, hand over everything to Detective
25 Superintendent Mulcahy, including all this information. 15:41
26 I become their informant technically and I hand
27 everything I have and they then are dealing with the
28 subject of the source there. And I mean, that's it.

29 599 Q. Well at this stage, on the 19/5/2014, isn't it the case

1 that the CHIS directions and HQ1260 were being
2 correctly implemented by your superiors, nothing more,
3 nothing else. They weren't trying to target you, they
4 were trying to apply the rules.

5 A. I think I have clearly written "this is not a CHIS 15:42
6 matter" on my replies.

7 600 Q. And again I have suggest to you that when all of the
8 authorities above you and the termes of the contents of
9 the document itself say it is, that you are wrong?

10 A. Can you just come again at that part? 15:42

11 601 Q. CHAIRMAN: He says that CHIS rules say it was a CHIS
12 matter. That is what counsel says.

13 A. I'd have to look at the CHIS rules to be able to answer
14 that question, Judge.

15 CHAIRMAN: Okay. 15:42

16 602 Q. MR. MURPHY: You see, again, let's come back to this
17 for a moment. You are in a disciplined organisation,
18 An Garda Síochána. Do you agree?

19 A. It is supposed to be disciplined.

20 603 Q. well, you're supposed to be disciplined also. The 15:42
21 detailed protocols in relation to CHIS are all
22 available, on my instructions, on a Garda portal, is
23 that right?

24 A. Yes.

25 604 Q. The Garda portal is something that you can read as a 15:42
26 member of the force 24 hours a day?

27 A. Yes.

28 605 Q. In this case, this particular rule was self-evidently
29 applicable to this area, but you keep on objecting to

1 its use because you seem to feel you have a parallel
2 investigation where you are exempt from the ordinary
3 rules, is that the case?

4 A. No, no. This, the circumstances of this matter is
5 different. It's not a CHIS. It's a separate thing to 15:43
6 CHIS, this particular thing. And as I said, I'd have
7 to look at CHIS.

8 606 Q. Just to help you in that regard, can I ask you to turn
9 to 163, which should be in volume 1, to see your reply.

10 A. 163. 15:43

11 607 Q. Just at the end of the page you say:
12
13 "This is not a CHIS matter."
14
15 This is to Superintendent McBrien. 15:44
16
17 "The information is in the care of Assistant
18 Commissioner Donal Ó Cualáin. Forwarded for your
19 information please."
20 15:44
21 But again, I have to suggest to you that you are the
22 one who has lowered the blind on the train window;
23 you're on the secret train, which is the confidential
24 recipient, and you choose to open up that window and
25 let all your station colleagues and anybody else who 15:44
26 has access to Pulse to see it, and I have to suggest to
27 you that once you do that, that triggers the
28 application of those rules, isn't that true?

29 A. I'm...

1 608 Q. Even with the benefit of hindsight, Garda Keogh, I
2 appreciate you're describing your thought process at
3 the time, but looking back at it now, can you see that
4 by pulling down that blind and letting everybody see it
5 on Pulse, naturally, the superiors had to say, what is 15:44
6 this?
7 A. Equally the other guards in the station didn't know
8 what was going on and was thinking am I going to be
9 reporting them for something to do with penalty points
10 or Mickey Mouse things. Sorry, I shouldn't say -- 15:44
11 CHAIRMAN: It's all right.
12 WITNESS: Excuse me, I did not mean to say what came
13 out there, Judge.
14 CHAIRMAN: You only said Mickey Mouse things.
15 WITNESS: What I meant to say -- 15:45
16 CHAIRMAN: That's all right.
17 WITNESS: -- is: The younger guards in the station
18 didn't have a clue what was going on.
19 CHAIRMAN: Okay. Here's where we are stopping. We are
20 stopping here for the moment. Mr. Murphy is saying, 15:45
21 it's one thing to make your protected disclosure to the
22 Ó Cualáin team and that gives you confidentiality, he
23 says it's quite another thing to put information on
24 Pulse, that, on Mr. Murphy's suggestion, and you
25 appeared to agree with it, is bound to call down an 15:45
26 inquiry from the Guards. If it hadn't, I mean if they
27 had simply left it there without doing anything,
28 possibly one might have wondered what they were at.
29 But this is what he says. So, therefore, when they

1 call that down, they are entitled to ask: what's the
2 position here in regard to CHIS? Now I appreciate you
3 say this is not a proper CHIS situation. So we have a
4 difference of opinion here. And Mr. Murphy says, well,
5 that's all very well, but it's not for the garda to 15:46
6 start saying to his superintendent I've looked into
7 this or I haven't or whatever it is, that this is not a
8 CHIS. That is where we are at the moment. Now that's
9 the purpose of where Mr. Murphy is going and that, as I
10 understand, is where the difference goes. And I think 15:46
11 we will adjourn until tomorrow simply noting that there
12 is a difference and where we can, as far as we can,
13 locate that zone of disagreement. Okay.

14 WITNESS: Yes. Yes, Judge.

15 CHAIRMAN: That seems to me to be the situation as it 15:46
16 exists at the moment.

17 WITNESS: Yes, Judge.

18 CHAIRMAN: All right.

19 WITNESS: Okay. Yes, Judge.

20 CHAIRMAN: Thank you very much. Okay. Very good. 15:46
21 Thank you very much.

22

23 THE HEARING THEN ADJOURNED UNTIL WEDNESDAY, 23RD

24 OCTOBER 2019 AT 10:30AM

25

26

27

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