

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

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

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

HELD IN DUBLIN CASTLE
ON WEDNESDAY, 23RD OCTOBER 2019 - DAY 106

106

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

GWEN MALONE STENOGRAPHY
SERVICES

APPEARANCES

SOLE MEMBER: MR. JUSTICE SEAN RYAN,
FORMER PRESIDENT OF THE COURT OF
APPEAL

REGISTRAR: MR. PHILIP BARNES

FOR THE TRIBUNAL: MR. DIARMAID McGUINESS SC
MR. PATRICK MARRINAN SC
MS. SINÉAD McGRATH BL
MR. JOHN DAVIS, SOLICITOR

FOR GARDA NICHOLAS KEOGH: MR. MATTHIAS KELLY SC
MR. PATRICK R. O'BRIEN BL
MS. AISLING MULLIGAN BL
INSTRUCTED BY: JOHN GERARD CULLEN SOLICITORS
MAIN STREET
TOWNPARKS
CARRICK-ON-SHANNON
CO. LEITRIM

FOR SUPERINTENDENT
NOREEN McBRIEN: MR. PAUL CARROLL SC
MR. JOHN FERRY BL
INSTRUCTED BY: CARTHAGE CONLON
O'MARA GERAGHTY McCOURT
SOLICITORS
51 NORTHUMBERLAND ROAD
DUBLIN 4

FOR ASSISTANT COMMISSIONER
FINTAN FANNING: MR. PAUL McGARRY SC
MR. STEPHEN O'CONNOR BL
INSTRUCTED BY: MR. ANDREW FREEMAN
SEAN COSTELLO & COMPANY
SOLICITORS
HALIDAY HOUSE
32 ARRAN QUAY
SMITHFIELD
DUBLIN 7

FOR GARDA FERGAL GREENE,
GARDA STEPHANIE TREACY
& GARDA DAVID TURNER: MR. PATRICK McGRATH SC
MR. JAMES KANE BL
MR. EOIN LAWLOR BL
INSTRUCTED BY: MS. ELIZABETH HUGHES
MS. ÉABHALL NÍ CHEALLACHÁIN
HUGHES MURPHY SOLICITORS
13 WELLINGTON QUAY
TEMPLE BAR
DUBLIN 2

FOR

1. COMMISSIONER OF AN GARDA SÍOCHÁNA
2. CHIEF SUPERINTENDENT PATRICK MURRAY
3. CHIEF SUPERINTENDENT MARK CURRAN
4. DETECTIVE INSPECTOR MICHAEL COPPINGER
5. CHIEF SUPERINTENDENT LORRAINE WHEATLEY
6. RETIRED DETECTIVE SUPERINTENDENT DECLAN MULCAHY
7. ASSISTANT COMMISSIONER MICHAEL FINN
8. CHIEF SUPERINTENDENT ANTHONY MCLOUGHLIN
9. RETIRED ASSISTANT COMMISSIONER JACK NOLAN
10. RETIRED ACTING COMMISSIONER DONAL Ó CUALÁIN
11. RETIRED COMMISSIONER NOIRÍN O'SULLIVAN
12. ASSISTANT COMMISSIONER ANNE MARIE MCMAHON
13. CHIEF SUPERINTENDENT JOHN SCANLAN
14. SUPERINTENDENT ALAN MURRAY
15. SUPERINTENDENT AIDAN MINNOCK
16. INSPECTOR EAMON CURLEY
17. GARDA MICHAEL QUINN
18. RETIRED GARDA GERRY WHITE
19. CHIEF MEDICAL OFFICER DR. OGHUVBU
20. GARDA OLIVIA KELLY
21. RETIRED DETECTIVE SERGEANT TOM JUDGE
22. MR. ALAN MULLIGAN, ACTING EXECUTIVE DIRECTOR
23. RETIRED DETECTIVE CHIEF SUPERINTENDENT PETER KIRWAN
24. MR. JOE NUGENT, CHIEF ADMINISTRATIVE OFFICER
25. CHIEF SUPERINTENDENT KEVIN GRALTON
26. INSPECTOR BRIAN DOWNEY
27. MONICA CARR, HEAD OF DIRECTORATE, HUMAN RESOURCES AND PEOPLE DEVELOPMENT
28. MR. BRIAN SAVAGE
29. CHIEF SUPERINTENDENT ANNE MARIE CAGNEY
30. DETECTIVE INSPECTOR SEAN O'REARDON
31. INSPECTOR LIAM MORONEY
32. ASSISTANT COMMISSIONER DAVID SHEAHAN
33. CHIEF SUPERINTENDENT MATT NYLAND
34. CHIEF SUPERINTENDENT MICHAEL FLYNN
35. SERGEANT KIERAN DOWNEY
36. ASSISTANT COMMISSIONER ORLA MCPARTLIN
37. CHIEF SUPERINTENDENT MARGARET NUGENT
38. GARDA AISLING SHANKEY-SMITH
39. INSPECTOR TARA GOODE

MR. SHANE MURPHY SC
MR. MÍCHEÁL P. O'HIGGINS SC
MR. CONOR DIGNAM SC
MR. DONAL MCGUINNESS BL
MS. SHELLEY HORAN BL
MS. KATE EGAN BL
MS. ALISON MORRISSEY
MS. EMMA GRIFFIN
CHIEF STATE SOLICITOR'S OFFICE
OSMOND HOUSE
LITTLE SHIP STREET
DUBLIN 8

INSTRUCTED BY:

FOR MS. OLIVIA O'NEILL:
INSTRUCTED BY: MR. JOHN CONNELLAN BL
MR. PAUL CONNELLAN
T&N McLYNN
BASTION COURT
11-13 CONNAUGHT STREET
ATHLONE

CO. WESTMEATH

FOR AGSI,
INSPECTOR NICHOLAS FARRELL,
SERGEANT ANDREW HARAN,
SERGEANT AIDAN LYONS,
SERGEANT SANDRA KEANE:

INSTRUCTED BY:

MR. DESMOND DOCKERY SC
MS. SINÉAD GLEESON BL
REDDY CHARLTON SOLICITORS
12 FITZWILLIAM PLACE
DUBLIN 2

I N D E X

W I T N E S S

P A G E

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

C R O S S - E X A M I N E D B Y M R . M U R P H Y 6

1 THE HEARING RESUMED, AS FOLLOWS, ON WEDNESDAY, 23RD
2 OCTOBER 2019:

3
4 CHAIRMAN: Now, Mr. Murphy, morning.

5 MR. MURPHY: Good morning, Chairman, good morning, 10:31
6 Garda Keogh.

7 CHAIRMAN: Good morning.
8

9 GARDA NICHOLAS KEOGH CONTINUED TO BE CROSS-EXAMINED BY
10 MR. MURPHY, AS FOLLOWS: 10:31

11
12 1 Q. MR. MURPHY: Just to pick up where we finished
13 yesterday, Garda Keogh, I think the position is that
14 yesterday, at page 159 of the transcript, at question
15 608? 10:32

16 CHAIRMAN: Have you got that?

17 WITNESS: Not yet.

18 CHAIRMAN: would you prefer the hard copy or would you
19 prefer when we get it onto screen?

20 WITNESS: The hard copy. 10:32

21 CHAIRMAN: Take this one.

22 MR. KELLY: Judge, I just see the realtime transcript
23 hasn't started yet, at least on my one.

24 CHAIRMAN: Has it stopped on your one? Art will be
25 there in a moment. 10:32

26 MR. KELLY: Yours is out as well.

27 CHAIRMAN: Mine is out as well. How do you know that?

28 MR. KELLY: Just looking at it.

29 CHAIRMAN: Are you looking at mine?

1 MR. KELLY: No, but I am hopeful I am getting the same
2 one as you. Not actually yours. It's just I have made
3 the deduction that --
4 CHAIRMAN: I understand. We are up and running here.
5 Art, would you look at Mr. Kelly's? 10:33
6 MR. MURPHY: Chairman, I am sorry to add to the list of
7 woes, we are in the same position.
8 CHAIRMAN: All right, let me just have a word. We will
9 give him a minute or two. The poor guy is under
10 pressure, wandering around the place. I will give you 10:34
11 10 minutes. I have to rise for ten minutes, because it
12 takes me five minutes to get back to the office and
13 five minutes to get down so, just entirely walking. We
14 will have an early break. That's sooner than you
15 thought you'd have. All right. I will come back at 10:35
16 ten to, all right. Then we will get cracking again.
17 Thanks very much.
18
19 THE HEARING THEN ADJOURNED BRIEFLY AND RESUMED AS
20 FOLLOWS: 10:35
21
22 CHAIRMAN: Very good, thanks very much. Now, okay, all
23 set. Okay. Take your time, there is no rush. Now,
24 Mr. Murphy.
25 2 Q. MR. MURPHY: Thank you, Chairman. Garda Keogh, I 10:50
26 wonder if you could be shown the transcript from
27 yesterday, at page 159, please.
28 CHAIRMAN: Page 159.
29 3 Q. MR. MURPHY: Can I draw your attention to --

1 CHAIRMAN: Give him a chance. You have 159 there?

2 WITNESS: Yes.

3 CHAIRMAN: Okay, yes.

4 4 Q. MR. MURPHY: At line 7, I think you said:

5

6 "Equally the other guards in the station didn't know
7 what was going on and was thinking am I going to be
8 reporting them for something to do with penalty points
9 or Mickey Mouse things. Sorry, I shouldn't say --"

10

11 Then you go on to say at line 17:

12

13 "The younger guards in the station didn't have a clue
14 what was going on."

15

10:50

16 Just pausing there for a moment, garda, can we take
17 from that that you saw your function in putting this
18 material on Pulse to letting the younger guards and
19 local guards in the station know that this was not a
20 Mickey Mouse matter but was a big matter?

10:50

21 A. Judge, still to this day the only record on Pulse --
22 there is no record on Pulse of my original complaint.
23 The collusion complaint or anything like that, there is
24 no record on Pulse to this day.

25 5 Q. Garda Keogh, if you just listen to my question. Would 10:51

26 you agree with me that what you were doing here is
27 letting, in your mind, the local gardaí and, in your
28 words, the younger guards in the station know that what
29 had reported was a big thing, not a Mickey Mouse thing?

1 A. I can't disagree with that. As I said, in that first
2 month, I was under a lot of pressure in that first
3 month.

4 6 Q. The trouble is, Garda Keogh, isn't it, would you agree
5 with me, that by taking the steps that you took, in 10:51
6 garda terms that meant that you were publishing this
7 information to any sentient guard with access to the
8 Pulse system in the country?

9 A. If I could have trusted management, Judge. The fact
10 is, I couldn't trust management. That is also why I 10:52
11 asked Judge McMahon to hold the DVD. At the very
12 outset -- even today, if I was to go back to report
13 this again, I mean the reality is, and leaving out that
14 I couldn't go to GSOC, I'd actually drive across the
15 border and I'd try and make contact with someone in the 10:52
16 PSNI to get the information to Drew Harris directly.

17 7 Q. Garda Keogh.

18 A. I still couldn't go through the ranks today.

19 8 Q. Garda Keogh, that's not an answer to the question I
20 asked. The question I asked was: would you not accept 10:52
21 that by doing what you did, in Garda terms you were
22 effectively publishing this information to any guard in
23 the country who had access to Pulse, not just the local
24 grounds, not just the local young guards?

25 A. I wasn't thinking of every guard in the country at that 10:52
26 point.

27 9 Q. Again, we had this discussion yesterday, leaving your
28 subjective mindset out, do you agree with me now, with
29 the benefit of hindsight, that what you did was

1 effectively broadcast this to the ensure Garda
2 membership in the country?

3 A. I can't agree, on the basis that I didn't trust them
4 and I was right not to trust them. And there is no
5 record of what should be on Pulse today from them. 10:53

6 10 Q. So again, Garda Keogh, that's not an answer to the
7 question I asked. If I could ask you to be shown 122,
8 please, of the materials. Could I draw your attention,
9 please, to the bottom of the page, the second last
10 paragraph. 10:53

11 CHAIRMAN: Beginning which, "such Pulse" or "I pointed
12 out"?

13 MR. MURPHY: The paragraph "I pointed out in my
14 statement..."

15 10:53

16 CHAIRMAN: Yes.

17 11 Q. MR. MURPHY: volume 1, page 122, the second last
18 paragraph. So, this is your statement, Garda Keogh, to
19 the Tribunal dated 9/8/2018. Can I just draw your
20 attention to the last two lines of that paragraph, 10:54
21 where it says, and I quote:

22

23 "Judge McMahon had specifically requested that I did
24 not discuss any matters relating to the internal police
25 investigation with any other members." 10:54

26

27 I think you will agree that was your evidence to the
28 Tribunal?

29 A. Yes, that's correct.

1 12 Q. So, would you agree with me that you disobeyed with the
2 instruction given by Judge McMahon?
3 A. Look, as I've said --
4 13 Q. Sorry, yes or no?
5 A. No, this isn't as simple, Judge, as a yes or no. I 10:54
6 explained to Judge McMahon and I have already stated
7 that Judge McMahon did -- I can't remember his words,
8 but he very politely said that it probably wasn't a
9 good idea or something like that. But I am sure I
10 would have had to try and explain to him the 10:54
11 circumstances I was in within that month.
12 14 Q. Would you agree with me that you disobeyed the
13 instruction received from him, his request that would
14 you not discuss any matters relating to the internal
15 police investigation with any other members? 10:55
16 A. It's again not as simple as that. I mean, a lot of
17 this stuff was already in the public domain.
18 15 Q. You see, Garda Keogh, I have to suggest to you that it
19 is quite simple. But moving on from that, I have to
20 suggest to you, in the next paragraph, you say: 10:55
21
22 "I believe this interference by Inspector Farrell or by
23 Chief Superintendent Curran were inappropriate
24 interference with senior Garda management in the
25 independent police investigation headed by Assistant 10:55
26 Commissioner Ó Cualáin."
27
28 Do you have that?
29 A. I see that.

1 16 Q. Again, I have to suggest to you that by your actions at
2 that time you disobeyed the instruction you received
3 from Superintendent McBrien, and you disobeyed the
4 instruction you received through her from Chief
5 Superintendent Curran? 10:55

6 A. Just for clarification, what instruction are you...

7 17 Q. Will you please turn to page 160, a document we have
8 seen only in recent days but perhaps you have forgotten
9 it.

10 A. I see that. That's not an instruction in relation -- 10:56
11 it's veering off slightly, I think.

12 18 Q. Just to be clear, you are saying that the words were
13 they say:

14

15 "Garda Keogh is to provide reports as to the reasons 10:56
16 the enquiry was made in relation to personal data."

17

18 Is not an instruction, is that your evidence to the
19 Chairman?

20 A. No, that's not. But what's said -- this is, em -- if 10:56
21 you wish to read out what's on page 160.

22 19 Q. Yes.

23

24 "Garda Nicholas Keogh is to provide a report as to the
25 reasons this enquiry was made in relation to personal 10:57
26 data."

27

28 A. I supplied data to Detective Superintendent Mulcahy.

29 20 Q. So again I think in terms of this process, I have to

1 suggest to you, what's developing here is a sort of
2 parallel universe, Garda Keogh, where you are following
3 your own rights and your own interpretation of the CHIS
4 system and then quoting Judge McMahon as protection,
5 when in fact you disobeyed Judge McMahon? 10:57

6 A. No. That's -- I don't interpret it that way.

7 21 Q. Again, in relation to interpretation, Garda Keogh, I
8 have to suggest to you that the rules which we are
9 talking about are rules which are governed by a
10 disciplined organisation and that you at that time were 10:57
11 obliged to obey orders?

12 A. It's supposed to be a disciplined organisation, and
13 that includes the top ranks also.

14 22 Q. I have to suggest to you that that's an insubordinate
15 view of a situation that ultimately at this time, the 10:58
16 time we're talking about, you were disregarding the
17 clear injunctions from your superiors?

18 A. That's is not correct. Because at this period in time,
19 I haven't actually got -- as I said, Judge, to you
20 earlier, I have all this on my shoulders and it's not 10:58
21 until I meet Detective Superintendent Mulcahy that I
22 can lift, shift this from my shoulders, give it to him.

23 23 Q. But, of course, it would have been possible for you
24 simply to answer the questions directed to you by your
25 superiors, wouldn't it? 10:58

26 A. I answered them as best I could.

27 24 Q. Again, we will have to disagree on that and it's a
28 matter for the Chairman to decide what to make of it.
29 Can I ask you to be shown volume 7, page 1812, please?

1 A. 1812?

2 25 Q. Now, can I draw your attention to paragraph 2.1?

3 A. Of page 1812?

4 26 Q. Sorry, Chairman, there is a slight issue here. It may
5 appear that the Tribunal has redacted this on the soft 10:59
6 copy system. That being the case, perhaps I will ask
7 the questions in a different way.

8 CHAIRMAN: Okay, thank you very much. The whole thing
9 seems to be redacted. 1812, overture is redacted.

10 27 Q. MR. MURPHY: So, first of all, I think you're aware 10:59
11 from this document -- you have seen it before, have you
12 not?

13 A. Judge, this is the document we're referring to that I
14 have in front of me. [INDICATING].

15 CHAIRMAN: Exactly. 11:00

16 MR. MURPHY: If that's form, that you have it, can I
17 turn then to the evidence of Chief Superintendent
18 Curran?

19 CHAIRMAN: Very good.

20 28 Q. MR. MURPHY: Are you aware from your training as a 11:00
21 member of An Garda Síochána of the importance of the
22 CHIS system?

23 A. Yes.

24 29 Q. Are you aware from your training as a member of An
25 Garda Síochána that management of the CHIS is not the 11:00
26 sole or personal responsibility of any individual
27 garda?

28 A. I would be aware of that. I know how the CHIS system
29 works.

1 30 Q. Sure. would you agree with me that it's understood
2 that the CHIS system works for the benefit of the
3 organisation, An Garda Síochána, as a whole?
4 A. I'd agree with that. As I said, Judge, I have handed
5 persons to the CHIS system and I know how it works. 11:00
6 This, Judge, was an exceptional circumstance, which I
7 argue was not a CHIS matter.

8 31 Q. CHAIRMAN: Mr. Murphy will probably get to that. For
9 the moment he says it works for the benefit of the
10 organisation as a whole, do you agree with that? 11:01
11 A. I agree with that.

12 CHAIRMAN: You agree with that. Take it nice and easy
13 in relation to the particular questions.

14 32 Q. MR. MURPHY: would you agree with me that the CHIS
15 system provides for a system of control and 11:01
16 supervision?
17 A. Yes.

18 33 Q. would you agree with me that one member of a divisional
19 advisory group is a member of superintendent rank with
20 a role of controller? 11:01
21 A. I just can't remember that part, but I am not
22 disagreeing with that.

23 34 Q. Chief Superintendant Curran will say in his evidence,
24 that person is obliged to adopt what's referred to as
25 an intrusive style of supervision in relation to all 11:01
26 aspects of CHIS activity and to provide detailed
27 reports to the divisional officer, isn't that correct?
28 A. That's correct. It would probably be a detective
29 superintendent.

1 35 Q. In terms of the core issue, Chief Superintendent Curran
2 will say that any member must have his source referred
3 for assessment within the CHIS, otherwise the system
4 breaks down?

5 A. Judge, yeah, but there's also certain criteria to 11:02
6 qualify for the CHIS system. Judge, there's certain
7 aspects where you can't be engaged in criminality and
8 there's different -- there are qualification aspects as
9 well as to who can and can't be CHISed. And as I have
10 already stated, my view is firmly this was not a CHIS 11:02
11 matter.

12 36 Q. Would you agree with me, by doing what you did, by
13 placing this material on plus, you provided a
14 predicament for the local management?

15 A. Judge, I had to also protect myself. 11:03

16 37 Q. You see, I have to suggest to you that could you have
17 easily protected yourself by cooperating with the local
18 management?

19 A. No, Judge, I was waiting to meet with the investigation
20 team at this point. 11:03

21 38 Q. But having done that, you acted contrary to what you
22 understood were your obligations as advised by Judge
23 McMahon and had published this material?

24 A. Just can you repeat that question, please?

25 39 Q. Yes. Rather than following the advice Judge McMahon 11:03
26 had given you, you had published the material. Whereas
27 now you are acting in response to your superiors as if
28 this material hadn't been reported.

29 A. As I said I think at the very start, you know, if this

1 was like a Dunnes Stores worker and a Dunnes Stores
2 manager and I put that onto the computer system, there
3 would be no questions about it. It was the fact it
4 said senior Garda, high ranking officer, that's where
5 they went bananas, Judge. 11:04

6 40 Q. Do you think therefore, as I understand your answer,
7 that your standard of work is to be measured as that of
8 a worker of Dunnes Stores s opposed to a member of An
9 Garda Síochána? Is that the attitude you had towards
10 your work at that time? 11:04

11 A. No, in relation to -- this is to do with the whole
12 heroin supply in the midlands, we're going back to
13 this.

14 41 Q. You see, Garda Keogh, you know yourself from your own
15 experience, do you not, that the management of 11:04
16 informants is of particular importance to An Garda
17 Síochána as a whole?

18 A. Sorry, can you just --

19 42 Q. You understand, do you not, that the management of
20 informants is of particular importance to An Garda 11:04
21 Síochána as a whole?

22 A. I understand that.

23 43 Q. Did you read or are you familiar with the Morris
24 Tribunal reports?

25 A. I think at the very, end where he says certain aspects 11:04
26 are not -- if certain changes are not followed in
27 relation to the criminality in Donegal, Judge Morris
28 said, this will happen again.

29 44 Q. And all of your training, I suggest, following on from

1 that report indicated the importance of cooperating
2 with the system of management of confidential
3 information, enunciated by CHIS?
4 A. well, I understand that.
5 45 Q. I think you agreed with me yesterday that the revised 11:05
6 code of practice 12610, was placed on the Garda portal
7 and was accessible to you and to every other member of
8 An Garda Síochána?
9 A. It probably was. As I also said yesterday, I am not
10 good with the Garda portal system. I'd be good on the 11:05
11 Pulse system, but the portal system and in general
12 computers, I just -- I'm not a technically minded
13 person. I've no -- I never -- I mean, as a kid I was
14 never into computer games or anything like that.
15 46 Q. I wonder could be shown volume 47, page 13145, please. 11:05
16 Do you have that?
17 A. 13145.
18 47 Q. Yes, please.
19 A. which paragraph?
20 48 Q. If I can ask you to look at subparagraph (d). This is 11:06
21 a notice of grounds of appeal filed by your solicitor,
22 Mr. Cullen, in relation to the Finn investigation. Can
23 I ask you to look at subparagraph (d)?
24 CHAIRMAN: would you read paragraph (d). It's all
25 right, no, I have it. Thank you very much. No, no, 11:07
26 the relevant part is there. I didn't have it until a
27 moment ago but now I have it. Thanks very much.
28 49 Q. MR. MURPHY: Just to show that I think you understood
29 what was happening at the time, the way in which it's

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put is:

"The findings say that Superintendent McBrien was asking Garda Keogh to explain why he was checking another garda member on Pulse."

11:07

And the answer is:

"It was because Garda Keogh was an active garda carrying out investigations."

11:07

Just in terms of something you said the other day, did you understand yourself on the day you entered the Pulse to be a guard who was carrying out a parallel investigation in conjunction with the Ó Cualáin inquiry?

11:08

A. Yeah, there's a gap, you see, there, Judge, and that gap is in that first month. Like, this is all my work from 2011, '12, '13, up until I meet -- '14, until I meet with Detective Superintendent Mulcahy on 7th June 2014, that is the day I hand everything over. My argument would be, up until that day everything is still in my hands, Judge.

11:08

50 Q. You see, I have to suggest to you that the circumstances that you created, both in relation to this incident and the incident in issue number 2, on 18/5/2014, triggered a necessary and reasonable response from Garda management in your district?

11:08

A. Judge, they could have simplified that very easily, you

1 know. Instead of writing -- I have read all the
2 documents, Judge, in relation to the to-ing and fro-ing
3 on this thing. You see, it's like a hot piece of coal
4 that none of them want to handle. Judge, it could have
5 been dealt with very simply, in that I understand -- 11:09
6 from what I have read, Assistant Commissioner at the
7 time, Ó Cualáin, says he wasn't aware of this. Very
8 simple, someone could have picked up the phone or
9 written a letter and said there's this piece of
10 intelligence here, Donal Ó Cualáin is the investigating 11:09
11 member from the 9th, is it, he's appointed on the 9th
12 May, but I don't get to meet him until the 7th June.
13 So, all this could have been done fairly quickly and
14 neatly in that regard.

15 51 Q. Can I put it to you that Chief Superintendent Curran 11:09
16 will say that your assurances that the substantive
17 matter was being progressed through the confidential
18 recipient process did not exempt him from his duty and
19 his responsibility. He was obliged to enquire?

20 A. That's fair enough, but he could have equally written 11:10
21 to the commissioner if was not aware that Donal
22 Ó Cualáin was the appointed officer. He could have
23 written to the commissioner and had this given to the
24 appointed officer. There was a number of ways they
25 could have dealt with this, instead of the way they 11:10
26 dealt with it.

27 52 Q. Well just in the light of your last answer, where
28 you've accepted, as I see it, that it was fair enough
29 for Chief Superintendent Curran to enquire, do you

1 agree with me, therefore, if that's the case, that he
2 was not targeting you in any way by making enquiries
3 which he was obliged to make?

4 A. Initially, Judge, he was entitled, of course, to
5 enquire as the manager of the CHIS system, is this 11:10
6 source a CHIS source. But as I stated and I think I
7 put it down in writing from the very start, this is not
8 a CHIS matter.

9 53 Q. Again, he will disagree with you in relation to that
10 issue. But I just want to understand this for the 11:11
11 purpose of the Chairman, because it appeared in the
12 earlier phase of your evidence that you were making
13 accusations of targeting, but now I understand you to
14 accept that there was a legitimate duty to enquire on
15 the part of Chief Superintendent Curran and 11:11
16 Superintendent McBrien, is that the case?

17 A. There's a lot of -- there's a whole lot --

18 54 Q. CHAIRMAN: This is an important question.

19 A. Yes.

20 55 Q. CHAIRMAN: I would certainly like a straight answer. 11:11
21 A. Yes.

22 56 Q. CHAIRMAN: Do you understand?

23 A. I do.

24 57 Q. CHAIRMAN: From what you said earlier, it looks like
25 you're saying it was okay for Chief Superintendent 11:11
26 Curran to make the enquiry?

27 A. Yeah.

28 58 Q. CHAIRMAN: That's what you said a few minutes ago?

29 A. Yes.

1 59 Q. CHAIRMAN: And Mr. Murphy is saying, if that's the case
2 it wasn't targeting?
3 A. No, but --
4 60 Q. CHAIRMAN: Do you follow me? That's all, I just want
5 to clarify where we are going here. What do you say to 11:11
6 that?
7 A. I have already replied to say it wasn't a CHIS matter
8 and therefore --
9 61 Q. CHAIRMAN: No, no, don't let's get into this for a
10 second. Sorry. Let's take it slightly differently. 11:12
11 Suppose he believed, wrongly, erroneously, suppose he
12 believed it was a CHIS matter and suppose he was
13 mistaken in that, was it okay to make the enquiry?
14 A. The initial enquiry, yes.
15 62 Q. CHAIRMAN: So the initial enquiry was okay? 11:12
16 A. Yes.
17 63 Q. CHAIRMAN: Is that right? I mean, I am not trying to
18 draw you into making a concession or a comment, I
19 simply want to be clear I know what you are saying?
20 A. In the initial enquiry, I would accept he is the CHIS 11:12
21 manager. But when I write back and I give my
22 explanation, and I give a good lengthy letter at some
23 stage to him, Judge.
24 64 Q. CHAIRMAN: Yes.
25 A. And I do explain at the bottom - 11:12
26 65 Q. CHAIRMAN: Okay.
27 A. - that I will fully comply with him after the
28 investigation and comply with --
29 66 Q. CHAIRMAN: No, just so we know where we are. The

1 initial enquiry by Chief Superintendent Curran, you say
2 that's all right?

3 A. Yeah.

4 67 Q. CHAIRMAN: You've no problem with that initial one.
5 A. The initial enquiry. 11:13

6 68 Q. CHAIRMAN: The initial enquiry. Later developments are
7 another day's work. Okay, so the initial one is all
8 right?

9 A. Yes.

10 69 Q. CHAIRMAN: Okay, thank you. You have problems with the 11:13
11 later ones?

12 A. Yes.

13 CHAIRMAN: Okay, very good.

14 70 Q. MR. MURPHY: I take it you agree, therefore, that 11:13
15 Superintendent McBrien, against whom you make no
16 complaint, also acted reasonably in relation to this
17 matter?

18 A. In that, yes.

19 71 Q. Chief Superintendent Curran will say in his evidence 11:13
20 that armed and burdened with the duty he had, that he
21 was concerned as to whether he was compliant with HQ
22 directive 12610, because what was happening here, as
23 you said it, was unique and different?

24 A. Well, I hope we're all agreed on that part of it.

25 72 Q. But he considered that your conduct also was highly 11:13
26 unusual?

27 A. Well, Judge, the question has the answer in this
28 particular thing. In this particular thing the
29 question actually answers -- contains the answer.

1 73 Q. well if we look at --
2 A. where --
3 74 Q. CHAIRMAN: That sounds like something of a riddle and I
4 think I am able to work it out, but don't let me work
5 it out and get it wrong. Tell me. Explain. 11:14
6 A. The previous question -- sorry, Mr. Murphy.
7 75 Q. MR. MURPHY: Sure. Just to help you with the question.
8 Could you turn to volume 7, page 1787?
9 A. If you could just ask the question you previously
10 asked? 11:14
11 76 Q. I am going to ask that question again but with the
12 benefit of the document, so you can see it?
13 A. what page?
14 77 Q. 1787, volume 7.
15 A. which paragraph? 11:14
16 78 Q. Do you have the page?
17 A. I have 1787.
18 79 Q. Can you look, please, at the middle of the page?
19 CHAIRMAN: what is the paragraph beginning?
20 MR. MURPHY: It begins "It should be borne in mind...". 11:15
21 do you see that?
22 MR. KELLY: Sorry Chairman, I don't see it. The number
23 I am looking at is 1787, have I got that wrong?
24 CHAIRMAN: No, that's correct. If you look at the
25 paragraph beginning "It should be borne in mind", you 11:15
26 may have to do some scrolling.
27 A. Judge, just before I try to read it, who is the author
28 of this report? Is it me?
29 MR. MURPHY: Chief Superintendent Curran.

1 A. Okay, sorry.

2 80 Q. Yes.

3 A. Okay.

4 81 Q. Okay. So do you see there that in that paragraph and
5 in the subsequent paragraph, Chief Superintendent 11:16
6 Curran is indicating that in his mind at that time the
7 potential implication of having this unresolved was
8 that if the intelligence was accurate, that further
9 criminality was possible and had to be addressed. He
10 communicated with the assistant commissioner in the 11:16
11 eastern region, who subsequently requested clarity and
12 compliance with HQ directive 12610, do you see that?

13 A. I see, yeah. Subsequently requested clarity, yeah,
14 yeah.

15 82 Q. Just to be clear: what this shows is not some kind of 11:16
16 vengeful attack on you, but I have to suggest to you it
17 shows Chief Superintendent Curran trying to ensure that
18 this is actually locked down, that there is effectively
19 confirmation that this matter is being investigated and
20 that there is no looseness in the system in relation to 11:17
21 the treatment of an informant. That was his duty.
22 Would you agree that that was something he was obliged
23 to do?

24 A. At the start -- at the start we've already agreed on
25 the initial thing, at the start. But by July 2014 the 11:17
26 criminal investigation is in full flow at this stage.
27 I mean, everyone else knows, all the gardaí know what's
28 going on because the investigation team are in Athlone.
29 The chief in Mullingar is certainly aware of what's

1 going on.

2 83 Q. well, would you turn back please, just again to assist
3 you, to the previous page 1786. The second last
4 paragraph, beginning:
5
6 "In around December 2014/January 2015..." 11:17
7

8 A. Yes. If I'm reading into this...

9 84 Q. Do you see here what's taking place is that -- he will
10 say in his evidence that, in fact, he was in contact 11:18
11 with Detective Superintendent Mulcahy in December and
12 January of 2015, do you see that?

13 A. I see that.

14 85 Q. And received an assurance about matters concerned,
15 namely the criminal matters relating to the 11:18
16 intelligence entry that were being pursued by Assistant
17 Commissioner Ó Cualáin?

18 A. Judge, from what I've read in the documents, Assistant
19 Commissioner Ó Cualáin claims he doesn't know anything
20 about the Pulse entry. 11:18

21 86 Q. You will see there in the paragraph where he was
22 talking to Detective Superintendent Mulcahy.

23 A. Yes, but I'm trying to link then, how come Assistant
24 Commissioner Ó Cualáin --

25 87 Q. Don't mind the link for a moment, just in terms of what 11:18
26 was done.

27 CHAIRMAN: Before we move, there's a word missing.
28
29 "Confidential --" if you look at the last full line,

1 that's significantly relieved, assuaged, do you
2 understand that? Look at the last full line of the
3 paragraph that Mr. Murphy has referred you to. This is
4 Chief Superintendent Curran, there is a word missing
5 and I think it has to mean, that significantly relieved 11:19
6 or some word like that, relieved my concerns, do you
7 follow?

8 A. Yes.

9 88 Q. CHAIRMAN: Just so we all know where we are going?

10 A. Yes. 11:19

11 MR. MURPHY: I am obliged.

12 CHAIRMAN: Now, Mr. Murphy.

13 89 Q. MR. MURPHY: Just what actually what actually happened.
14 what actually happened was, Chief Superintendent Curran
15 did make enquiries beyond you, to satisfy himself that 11:19
16 this matter was under investigation elsewhere. And
17 again I have to suggest to you, what he did there was
18 totally reasonable, proportionate and didn't involve
19 targeting of you?

20 A. At the start? 11:19

21 90 Q. No, no.

22 A. At the start, I've agree with you in relation to the
23 start.

24 91 Q. This isn't the start, this is December.

25 A. No, December -- December '14 is not the start. 11:20

26 92 Q. Yes.

27 A. May '14, May/June '14.

28 93 Q. whatever time this was done, would you agree this is
29 what you said a few moments ago was --

1 A. Sorry, you said this is the start.

2 94 Q. CHAIRMAN: No, no, no. There is confusion here.
3 You're agreed that at the beginning, that the first
4 enquiry by Chief Superintendent Curran was reasonable.

5 A. Yes. 11:20

6 95 Q. CHAIRMAN: And in accordance with his duty?

7 A. Yes.

8 96 Q. CHAIRMAN: You have agreed with that?

9 A. Yes, Judge.

10 97 Q. CHAIRMAN: But you say, what happened later constituted 11:20
11 the matter that you're complaining about as targeting
12 or discrediting?

13 A. Yes.

14 98 Q. CHAIRMAN: More specifically targeting. Okay.
15 Mr. Murphy now moves to December '14/January '15 and 11:21
16 Chief Superintendent Curran says, look, I have now been
17 in touch with Detective Superintendent Mulcahy and he
18 has given me information about the direction of the
19 inquiry, i.e. that it's going to cover this area or
20 something like this area, and that reassured him? 11:21

21 A. Yes.

22 99 Q. CHAIRMAN: That's what he's saying?

23 A. Yeah.

24 100 Q. CHAIRMAN: And what Mr. Murphy is asking is, was that 11:21
25 not reasonable of Chief Superintendent Curran? That's
26 what he is saying. That's what he is saying. I'm not
27 saying I agree with it or I don't agree with it because
28 that's not my business. But that's the question.
29 That's where we are at this moment. It doesn't concern

1 Assistant Commissioner Ó Cualáin or anybody else, Chief
2 Superintendent Curran. Now, what do you say to that?

3 A. My answer is, that is fair, but it could -- should have
4 been done earlier. Like we're talking about December
5 '14 to January '15, it could have been done months 11:22
6 prior to that.

7 101 Q. MR. MURPHY: You see, prior to that, as we know from
8 the correspondence, he has been looking for
9 confirmation through the local channels, through
10 Superintendent McBrien to you? 11:22

11 A. But I have written what I wrote on it, so I mean he
12 would have been aware far earlier than December '14 to
13 '15, so he could have done what he done in December '14
14 in around perhaps July of 2014.

15 102 Q. Garda Keogh, will you agree with me that what's 11:22
16 contained here shows clearly no harassment or targeting
17 of you, but rather an enquiry into matters the chief
18 superintendent had to enquire into?

19 A. I'm not so sure about -- I just can't agree on this
20 particular part of it. I am not so sure on that. 11:22

21 103 Q. Can I ask you then to turn, please, to volume 7, page
22 1787?

23 A. Sorry.

24 104 Q. 1787, yes. Do you see the final paragraph
25 "therefore..." ? 11:23

26 A. See the what?

27 105 Q. The paragraph "Therefore...". Can I just put it to you
28 on behalf of Chief Superintendent Curran that he
29 rejects any assertion by you that he sought to target

1 or to discredit you together with other members of the
2 senior management?

3 A. Judge, that's his case and I have given evidence on
4 that.

5 106 Q. Exactly, and I am putting this to you because I must do 11:23
6 so. I put it to you that in those circumstances, the
7 reasons that he had to outline and had to enquire into
8 those matters were because it was his duty to do so in
9 accordance with the relevant principles under CHIS and
10 to ensure that all matters were handled through the 11:23
11 appropriate channels, nothing more?

12 CHAIRMAN: what do you say to that?

13 A. well, Judge, I think we covered that. My argument is,
14 in the first part he was totally entitled to do what he
15 did, but after that he could have taken the course of 11:24
16 action that he does in the previous thing, in December
17 '14/'15, he should have done that in July '14 and then
18 that would have ultimately -- it would have had the
19 same outcome had he have done it months earlier, Judge.

20 107 Q. MR. MURPHY: Garda Keogh, again we obviously disagree 11:24
21 and it's for the Chairman to decide on that. But can I
22 just say to you, in relation to both issues, 1 and 2,
23 the same principles apply. what you have here is a
24 situation, you have done something unusual, you have
25 done something outside the norm and your superior 11:24
26 officers have to enquire into it. Ultimately, the
27 matter ends, isn't that correct?

28 CHAIRMAN: Is there not a difference, sorry, just help
29 me, is there not a difference? I mean the CHIS system

1 applies in respect of the Pulse entry. You have been
2 exploring that.

3 MR. MURPHY: Yes.

4 CHAIRMAN: Garda Keogh agrees to an extent, at the
5 beginning at least, in regard to the CHIS, in regard to 11:25
6 the entry. As he said earlier, he doesn't agree that
7 it is correctly a CHIS matter. So there is a
8 disagreement about that question. But on the other
9 one, surely there's a difference, Mr. Murphy. It's a
10 different situation, there's a complaint. 11:25

11 MR. MURPHY: Yes.

12 CHAIRMAN: They pursue it and they say, why did you do
13 that?

14 MR. MURPHY: Yes.

15 CHAIRMAN: There is no CHIS question there. 11:25

16 MR. MURPHY: No, but there's a duty question. Perhaps
17 I should elaborate on that.

18 CHAIRMAN: I think that might be helpful, certainly.
19 Do you understand?

20 A. I do. 11:25

21 108 Q. CHAIRMAN: I mean, they are related, they're in the
22 same 24 hour period?

23 A. Yes.

24 CHAIRMAN: But there are some distinctions. Okay.
25 Thanks, Mr. Murphy. 11:25

26 109 Q. MR. MURPHY: So in relation to the second matter, the
27 point is that ultimately, I have to suggest to you that
28 in relation to the second issue, that once again it was
29 legitimate and reasonable for the superiors in the

1 station to investigate what this meant, what the second
2 entry meant?
3 CHAIRMAN: What the query meant?
4 MR. MURPHY: Yes.
5 A. This is in relation to the Pulse check of Garda A? 11:26
6 CHAIRMAN: Yes.
7 110 Q. MR. MURPHY: Correct.
8 A. Yes, okay.
9 111 Q. CHAIRMAN: What do you say? Mr. Murphy is suggesting
10 to you that the Garda enquiries as to why you had made 11:26
11 the check, that those enquiries to you, why did you
12 make the check, he is suggesting that they were
13 reasonable, what do you say to that?
14 A. Judge --
15 112 Q. CHAIRMAN: Do you follow me? 11:26
16 A. Yeah.
17 113 Q. CHAIRMAN: As I say, I'm just trying to summarise what
18 the question?
19 A. Judge, I'm not sure if or when, just from memory, did I
20 know the way that Garda A made a complaint? I don't 11:27
21 know, I'm not sure. Superintendent McBrien perhaps,
22 may have -- I just can't remember, Judge. I can't
23 remember everything that --
24 114 Q. CHAIRMAN: I understand. Don't worry about that. But
25 at some stage Garda A realised that you -- and you are 11:27
26 able to check who has checked?
27 A. Yes.
28 115 Q. CHAIRMAN: Okay, you can trace the check. So Garda
29 Keogh has been checking up on me on Pulse, I don't like

1 that and I protest about that, blah-blah-blah, and he
2 writes his letter. You don't know about that, that's
3 not important. Mr. Murphy is asking you about the
4 response of the authorities. Superintendent McBrien
5 writes to you and says, why did you make the enquiry? 11:27
6 A. Yes. I explained this in evidence last week, that is
7 the first step that any guard in any case would do,
8 would be -- like, I've to go and I'm going to meet with
9 Detective Superintendent Mulcahy, I did go onto Pulse,
10 just to see was there anything on Pulse, it could have 11:28
11 been a minor little thing. As I said, like, a -- it
12 could have been as simple as a traffic accident.

13 116 Q. CHAIRMAN: Yes.
14 A. Some person in the car --

15 117 Q. CHAIRMAN: Let me stop you for a second. Somebody may 11:28
16 say it was improper of Garda Keogh to make that query.
17 Somebody may say that. If they do that, we will deal
18 with that?

19 A. I dispute --

20 118 Q. CHAIRMAN: No, no, we don't need to -- I am just trying 11:28
21 to get something out of the way before I ask -- I am
22 sorry. I am sorry. But the question is: Was it
23 reasonable in your opinion, was it reasonable --
24 Mr. Murphy is putting to you that it was reasonable of
25 the guards in the circumstances to write to you and 11:28
26 say, why did you make the query? That's his question.
27 If I understand it, that's his question. Tell us the
28 answer to that?

29 A. We know Garda A now had made a complaint.

1 119 Q. CHAIRMAN: It doesn't matter whether he made a
2 complaint or didn't make a complaint. All we is, out
3 of the blue you get a letter saying, why did you make a
4 check on Garda A on 18th May 2014. Now, Mr. Murphy is
5 saying to you that was a reasonable enquiry for the 11:29
6 senior Gardaí to make, what do you say to that?
7 A. My answer to you, Judge, is the same that I told
8 Detective Superintendent Mulcahy.

9 120 Q. CHAIRMAN: Just tell me again, just tell me straight.
10 Simple. What is the answer to that? 11:29
11 A. I had to check Garda A before go to make this --

12 121 Q. CHAIRMAN: That's not an answer to the question.
13 That's not the answer to the question. Sorry, I don't
14 want to be difficult. Let me explain. What's in my
15 mind? I will tell you: Was it reasonable for 11:29
16 Superintendent McBrien and, if necessary, behind her,
17 Chief Superintendent Curran, to be writing to Garda
18 Keogh saying, why did you make the enquiry? That's the
19 question. No, don't answer me for a minute, because I
20 am not asking the question yet. That's the question in 11:30
21 my mind, did the senior officers act reasonably?
22 That's the question in my mind. So, Mr. Murphy is
23 suggesting to you that it was reasonable of them to
24 say, why did you take the enquiry. Now, do you
25 understand the question? 11:30
26 A. I do understand. I am trying to think --

27 122 Q. CHAIRMAN: I know it's a bit complicated, because we
28 are a sort of level away from it. But was it
29 reasonable of Superintendent McBrien to make the query

1 to you?

2 A. On the basis that she got the complaint from Garda A, I
3 would say yes.

4 123 Q. CHAIRMAN: On any basis whatsoever. You have made a
5 check, is it reasonable for her to say, why did you 11:31
6 make the check?

7 A. Well, Judge, a lot of checks were made on me from
8 guards and no one has ever made an enquiry in relation
9 to who checked me.

10 124 Q. CHAIRMAN: So essentially you say it wasn't reasonable 11:31
11 because nobody else made a check on you before. Nobody
12 else queried you before about a check that you had made
13 on Pulse?

14 A. Yes.

15 125 Q. CHAIRMAN: Is that right? 11:31

16 A. Yes.

17 126 Q. CHAIRMAN: I am just trying to understand?

18 A. Yes, Judge.

19 CHAIRMAN: Okay. So you say, no, it wasn't reasonable?

20 A. Just for clarification, I am not sure when I would have 11:31
21 become aware of it if Garda A made a complaint. If he
22 made a complaint then, as I know he had, then, of
23 course, I'd say they were entitled to on that matter.

24 127 Q. CHAIRMAN: Thank you for clarifying that. Okay. You
25 say, if Garda A did make a complaint, we know he did 11:31
26 make a complaint.

27 A. Yeah. I don't know when I knew, found out that.

28 128 Q. CHAIRMAN: It doesn't matter when you knew. I am
29 sorry, I don't mean to snap at you. So we know he did

1 make a complaint. We know that Superintendent McBrien
2 responded to that complaint by writing to you and
3 saying, why did you make it?
4 A. Mm-hmm.
5 129 Q. CHAIRMAN: In those circumstances -- I am not 11:32
6 suggesting any answer to you, in those circumstances,
7 do you say that it was reasonable or not reasonable?
8 A. I would accept, I would accept that's fair enough but,
9 em... I would accept that's fair enough, but equally, I
10 had to check Garda A before I went to... 11:32
11 130 Q. CHAIRMAN: You justify the fact that you made the check
12 and you say, I had a good reason to make the check?
13 A. Yes.
14 131 Q. CHAIRMAN: And I don't care what anybody says, I am
15 standing over that point? 11:32
16 A. Yes, Judge.
17 CHAIRMAN: Okay. I understand, it's a somewhat more
18 subtle zone to be questioning whether it was
19 reasonable. Okay, I have that answer. Thank you very
20 much. Now, I am sorry for droning on for so long about 11:33
21 that. Thank you for your clarification of that.
22 132 Q. MR. MURPHY: Thanks, Garda Keogh. Just in light of
23 what you now said, can I ask you to turn to volume 47,
24 page 13145, please. If I can ask that you be shown
25 that. Do you have that, Garda Keogh? 11:33
26 A. Yes.
27 133 Q. Do you have that page?
28 A. Yes.
29 134 Q. If I can ask you to turn down to subparagraph (d) now.

1 Just to explain what this document. This document,
2 it's Mr. de Bruir, the independent expert's summary of
3 the complaints you were making about the Finn
4 investigation. He is summarising what you said and
5 then sometimes he refers to what is said by other 11:33
6 people. But first of all, in subparagraph (d) he says:
7
8 "The finding by Finn says that Superintendent McBrien
9 was asking Garda Keogh to explain why he was checking
10 another garda on Pulse. The answer is that Garda Keogh 11:34
11 was an active Garda carrying out investigations."
12
13 So he puts forward the question and he puts forward the
14 response. Now, first of all, can I ask you, is it your
15 evidence that in your mind at that time, when you made 11:34
16 the entry, you were a guard, an active guard carrying
17 out investigations?
18 A. Judge, this was my investigation at that time. And it
19 doesn't become --
20 135 Q. CHAIRMAN: The answer is yes? 11:34
21 A. Yes.
22 136 Q. MR. MURPHY: Then, Garda Keogh, to come back to the
23 words that you've used, because words matter, you have
24 said this was "my investigation". But will you accept,
25 would you not, that you were a guard at the time 11:34
26 assigned to Athlone Garda Station under the control of
27 Superintendent McBrien?
28 A. Yeah. Oh yeah, of course.
29 137 Q. She hadn't assigned you to do any investigative duties,

1 isn't that correct?

2 A. Nobody knew sure what was going on, at the top levels,
3 that I was going to -- what I was going to do, Judge.

4 138 Q. As at that time Assistant Commissioner Ó Cualáin hadn't
5 asked you to carry out an investigations either? 11:35

6 A. Excuse me? Sorry, can you just repeat that?

7 139 Q. Assistant Commissioner Ó Cualáin hadn't asked you to
8 carry out any investigations either?

9 A. I have never -- I haven't met Assistant Commissioner Ó
10 Cualáin at this point in time. 11:35

11 140 Q. Exactly. So, Garda Keogh, the question is, under the
12 chain of command, the person you were accountable to
13 was Superintendent McBrien, isn't that right?

14 A. Oh that's correct.

15 141 Q. You have accepted it was fair enough for her to enquire 11:35
16 because this was something that occurred on her watch,
17 isn't that correct?

18 A. Yes, that's correct.

19 142 Q. Can you explain to the Chairman then, if you turn over
20 the page, please, to volume 47, page 13146. I have to 11:35
21 suggest to you, what we are going to look at now is
22 your appeal against Assistant Commissioner Finn and
23 this is what was said on your behalf at that time:

24

25 "By seeking to close down Garda Keogh's report on 11:36
26 Pulse, taking it as a discrete issue and preconditioned
27 to any further intelligence gathering, it was
28 effectively stymieing such an operation."
29

1 Just pausing there for a moment.

2 CHAIRMAN: "Such investigation".

3 143 Q. MR. MURPHY: would you accept that Superintendent
4 McBrien, against whom you made no complaint, did
5 nothing to stymie any investigation you were carrying 11:36
6 on, whether it was authorised or not?

7 A. No, Superintendent McBrien didn't, no.

8 144 Q. Now, the next paragraph might help us to understand, it
9 says:
10
11 "A standard stratagem is employed here, where an
12 element only of the complaint is isolated as the
13 essence of the complaint and then defended where a
14 specific allegation in its totality is ignored."
15 11:36

16 Can you help the Chair to understand what your
17 complaint was there?

18 A. Judge, I can't just recall.

19 CHAIRMAN: Consider yourself forgiven. Consider
20 yourself relieved of that obligation. Sometimes, 11:36
21 sometimes you give instructions and sometimes your
22 advisers, in enthusiastic pursuit of your case, may
23 express themselves sometimes in colourful, attractive
24 but not altogether crystal clear terms. So, we will
25 have to crack what we think of that one. And this, 11:37
26 after all, is what is written on your behalf -- sorry,
27 this is Mr. de Bruir's understanding of what your side
28 wrote in your defence, in your appeal. So if you feel
29 like a bit of literary exegesis, then be my guest, but

1 I don't expect you or require you to do it.

2 145 Q. MR. MURPHY: Just one more question on that point. Can
3 I ask you to turn to subparagraph (f), where it says:

4
5 "This is an example where imperatives vaguely 11:38
6 importune, better policing, more information etc,
7 performed... "astrol ogical thi nki ng" whi lst bei ng
8 mandated with menaces so lacking in speci fici ty that it
9 is effecti vel y meani ngl ess. "

10 11:38

11 Now, that's a complicated sentence but can I ask you to
12 agree with me -

13 CHAIRMAN: Are you a popper or victim style man, I
14 suppose. Everything is either a cloud or a what,
15 everything in the world is a cloud or a something or 11:38
16 other, or a machine.

17 MR. MURPHY: I only make this point, Chairman, to Garda
18 Keogh because I think it's clear from the evidence
19 today that Garda Keogh's has taken a much more
20 reasonable view of the case than he did earlier on. 11:38

21 CHAIRMAN: well, that's a judgment, Mr. Murphy. As I
22 say, my respect and enthusiasm, I think that's the
23 cloud thinking, that's popper's cloud he's talking
24 about there. I think we will leave that, thanks very
25 much. 11:38

26 MR. MURPHY: Can I summarise points 1 and 2?

27 CHAIRMAN: Certainly, yes, go on.

28 146 Q. MR. MURPHY: Garda Keogh, what I simply say in relation
29 to points 1 and 2 is that individuals who I represent

1 who are connected with 1 and 2, Chief Superintendent
2 Curran will say all they did was their duty, they
3 didn't seek to target you, they didn't seek to hurt
4 you, they didn't seek to interfere with any
5 investigation you were carrying out, they just tried to 11:39
6 do their duty, nothing more and nothing else. Would
7 you agree with that?

8 A. That's why we are here, I suppose. I haven't agreed on
9 everything, I have agreed on certain things, Judge.

10 147 Q. CHAIRMAN: Yes. 11:39

11 A. I hold my view on certain things.

12 CHAIRMAN: Yes. Mr. Murphy, let me just say, I
13 understand that a submission, so to speak, a summary of
14 what you say is the result of the exchanges that you
15 have had with the witness. But I think it's reasonable 11:39
16 for him to say, well, look, I have said what I have
17 said. What implications or conclusions arise, it's
18 difficult for a witness to say, well, that's a
19 reasonable conclusion, a reasonable summary of all my
20 thinking. 11:40

21 MR. MURPHY: Chairman, absolutely. No, I am merely
22 putting forward at the end of that process what my
23 client will say.

24 CHAIRMAN: The essential point you're saying is, that
25 you're clients, Superintendent McBrien and Chief 11:40
26 Superintendent Curran --

27 MR. MURPHY: In fact, Chief Superintendent Curran is my
28 client, McBrien is not.

29 CHAIRMAN: I'm sorry, did no more than his duty in the

1 circumstances?
2 MR. MURPHY: Yes.
3 148 Q. CHAIRMAN: well, that's is what he says. You have
4 probably been over that ground and you have said yes to
5 a point and no to a point. 11:40
6 A. Yes, Judge.
7 CHAIRMAN: He should have done it earlier, that's your
8 case. So we will deal with that.
9 MR. MURPHY: Thank you, Chairman. If we move on to
10 issue number 3, please. 11:40
11 CHAIRMAN: Thank you very much.
12 MR. MURPHY: In relation to issue number 3, can I ask
13 you first of all --
14 CHAIRMAN: would you like a break before we go to issue
15 number 3. 11:40
16 WITNESS: No.
17 CHAIRMAN: Very good, thanks very much. Issue number
18 3, yes.
19 149 Q. MR. MURPHY: Could I ask you to be given volume 30,
20 please. 11:41
21 A. The page, please?
22 150 Q. Could you turn, please, to page 8683. Do you have
23 that?
24 A. Yes.
25 151 Q. If I can just ask you to turn please to the next page, 11:41
26 8684. This is a document we saw last week, which was
27 shown to you by Mr. McGuinness. I think you told us
28 last week, on the second day, day 100, at page 37 of
29 the transcript, that you have no complaint against

1 Garda Treacy?

2 A. That's correct.

3 152 Q. In terms of the report that is contained from Garda
4 Treacy, you can see that at page 8684 she is setting
5 out what she recalled was said to her by Ms. O'Neill? 11:42

6 A. Yes, we covered all this in detail.

7 153 Q. I am hoping to do this rather quickly, if I can. But I
8 think the position is, is it fair to say that by what
9 you indicated last week, you accept that you have no
10 complaint against Garda Treacy and the enquiry into 11:42
11 what Ms. O'Neill said actually stemmed from what Garda
12 Treacy said, not from what the top management said?

13 A. Sorry, can you repeat that part? Or where is that?

14 154 Q. Sure. Would you agree with me at the start of this
15 particular issue is the report made by Garda Treacy, 11:43
16 that's where it starts?

17 A. The paper trail starts there.

18 155 Q. That's where it starts. But there is no other trail,
19 is there, Garda Keogh? You have no evidence of any
20 other discussion before that paper trail commenced? 11:43

21 A. No.

22 156 Q. You accept that Garda Treacy is the person who
23 effectively initiated this enquiry?

24 A. Judge, I have explained that this was a very simple
25 thing. This was something like Chinese whispers, where 11:43
26 this comes out on this particular matter. I think I
27 have explained to you the best even, you know, how that
28 -- just, wording and everything, just minor little bits
29 of wording got mixed up in relation to this and this is

1 triggered.

2 157 Q. Garda Treacy, you're not saying for a moment -- sorry,
3 Garda Keogh, you're not saying for a moment that Garda
4 Treacy was told to say this by somebody else?

5 A. Oh no. 11:44

6 158 Q. You accept she is --

7 A. No, no, no I never said that. No.

8 159 Q. You're not saying that?

9 A. No.

10 160 Q. So we understand this comes from Garda Treacy, it's her 11:44
11 recollection of events, nothing more, nothing less?

12 A. Yeah.

13 161 Q. Thank you. So in that situation, I have to suggest to
14 you, that a superior officer in the station, confronted
15 with an ordinary Garda member saying, I have witnessed 11:44
16 the following things, as are set out on page 8684, was
17 reasonably entitled to enquire into what had taken
18 place?

19 A. Oh yes.

20 162 Q. If you look, please, back at page 8683, can I suggest 11:44
21 to you that part of what would be what Chief
22 Superintendent Curran did on that page, where he said:
23
24 "Please ensure that a statement is obtained from
25 Ms. O'Neill in relation to the information divulged to 11:44
26 Garda Treacy on 28th May 2014. "
27

28 A. I see that. But, Judge, on this particular -- where
29 they veer off here on this, they become very eager to

1 get a statement about me as opposed to whatever it is,
2 Ms. O'Neill, this is solved or whatever, or whatever it
3 is, what she's saying. This is where there starts to
4 be -- and this is -- it appears to be Chief
5 Superintendent Curran. And when you put all -- I know 11:45
6 we are dealing with each one of these things one at a
7 time, but like, for me it's death by a thousand cuts,
8 when you put all these, amalgamate them all together,
9 Judge.

10 163 Q. Garda Keogh, can we take the question of perception 11:45
11 again. That's the perception you've outlined
12 repeatedly to the Chairman. But looking at the
13 reality, the two documents we have looked at, 8683 and
14 8684, represent basic communication between a guard and
15 a response from a chief superintendent. There's 11:45
16 nothing wrong with those communications, is there?

17 A. There's not -- em, Like it's not as simple as a guard
18 responding to a chief superintendent, even the question
19 is inaccurate. It goes through the guard, to the
20 sergeant, to the inspector, the super, to the chief. 11:46

21 164 Q. Would you agree, even taking this circumstance away and
22 saying you weren't involved in this at all, and let's
23 say this wasn't in Athlone, if an ordinary Garda member
24 reported to her superior that something which may have
25 revealed coaching by another member to a civilian 11:46
26 witness had taken place, would you agree with me that
27 as a matter of policing that would need to be
28 investigated, checked out to see whether it was correct
29 or not?

1 A. Yeah, of course. How could anyone say otherwise?

2 165 Q. Well, thank you. So, I am just simply saying, applying
3 that to the present case, that's what happened here.
4 Now, I know that you take exception to the fact that
5 there were further enquiries, but can we deal with that 11:46
6 now. Could you be shown volume 3, please?

7 A. Just the page, please?

8 166 Q. Page 487, please.

9 A. It's the statement of Inspector Curley.

10 167 Q. Again, this is a document we saw last week? 11:47

11 A. Yes.

12 168 Q. To try and shorten matters, can I just say that in
13 relation to this statement, if you turn to page 488,
14 please. On the second paragraph, can I draw your
15 attention to the fact that this is Inspector Curley's 11:48
16 statement and he says that he was assigned the task to
17 interview Olivia O'Neill regarding information divulged
18 by her to Garda Stephanie Treacy. That on 30th March
19 2014, he says:

20 11:48

21 "I met with Olivia O'Neill. I invited her to make a
22 statement outlining the details of the information
23 divulged and she declined. I was aware that such
24 information was divulged. I was asked for a copy of
25 the report of Garda Stephanie Treacy." 11:48

26

27 Just taking that paragraph, would you agree with me
28 that indicates that Inspector Curley was directed to
29 take a statement?

1 A. He was directed, I accept he was directed to take a
2 statement.

3 169 Q. And would you agree there is nothing in that statement
4 to indicate he was directed to take a statement that
5 was hostile to you? 11:48

6 A. I don't know what -- was there a statement taken? I
7 don't think there was a statement taken.

8 170 Q. No, here we have the situation, in terms of the
9 invitation to Ms. O'Neill, the invitation was declined?

10 A. Yes. So he couldn't have taken a hostile statement to 11:49
11 me if he --

12 171 Q. Again, Garda Keogh, can we stop for a moment. I have
13 to suggest to you, you have no evidence to suggest that
14 Inspector Curley was told to go and get a hostile
15 statement, a statement hostile to you. Instead, he was 11:49
16 told to invite Ms. O'Neill to make a statement and she
17 declined to do so. That's what actually happened.

18 A. Judge, em, I'm not sure. Like, the question is
19 confusing, in that it has, you know that he was sent
20 tout take a hostile statement, or took a hostile 11:49
21 statement when there's no statement taken at all.
22 So...

23 172 Q. CHAIRMAN: Counsel is suggesting, Mr. Murphy is
24 suggesting that the approach here was reasonable and
25 proper and not wrongful or targeting. In other 11:49
26 words --

27 A. Again --

28 173 Q. CHAIRMAN: No, hold on, listen to me for a second. I'm
29 sorry. That is what he is suggesting. And he says,

1 look, Garda Treacy made a statement, in light of that
2 statement the chief superintendent said, follow it up,
3 get a statement from Ms. O'Neill. Inspector Curley
4 went out and Ms. O'Neill didn't want to make a
5 statement. End of story. So, Mr. Murphy is asking 11:50
6 you, was that not reasonable?

7 A. Judge, it's some period of time, I've already written
8 on this and I have clearly set out what I have given in
9 evidence that -- I didn't word it as this, just may
10 perhaps -- 11:50

11 174 Q. CHAIRMAN: Take your time.

12 A. -- a misunderstanding or something, but, you know, I
13 have written on this at some point.

14 175 Q. CHAIRMAN: I understand. My recollection of your
15 evidence is that you drew a distinction between this 11:51
16 case and the Liam McHugh case?

17 A. Oh major.

18 176 Q. CHAIRMAN: And you were careful to say, as I recall,
19 but I may be wrong and I don't want to be giving
20 evidence, but I recall that you said you could put all 11:51
21 this down to a misunderstanding. In other words, that
22 Olivia O'Neill, with knowledge that she may have --
23 sorry, with opinions, beliefs, suspicions or knowledge
24 that she may have possessed, may have interpreted what
25 you said in a way that you didn't intend to say and so 11:51
26 she made a statement and that the whole thing could
27 well be a misunderstanding. That's is my understanding
28 that you said. But Mr. Murphy is asking you, would you
29 agree, he is asking you to agree that the steps that

1 were taken by the gardaí, including Chief
2 Superintendent Curran, were reasonable?

3 A. Again, on the first attempt or first approach I'd say,
4 yes. Again, on the first attempt were reasonable.

5 177 Q. CHAIRMAN: Tell me more about that. 11:52

6 A. I understand there was a second then. I write at some
7 point on this and I say -- I can't remember what I
8 wrote but I wrote, I addressed this in writing. But my
9 understanding is then there was a second attempt to
10 take statements from Ms. O'Neill. 11:52

11 178 Q. CHAIRMAN: So as far as this went with Inspector Curley
12 going out, you are happy enough, you're not complaining
13 about that?

14 A. The first part of it.

15 179 Q. CHAIRMAN: Okay. But you think that there may have 11:52
16 been a second approach to Ms. O'Neill and if and
17 insofar as there was a second attempt, you say that
18 goes beyond the line?

19 A. Yes.

20 CHAIRMAN: Okay. 11:52

21 180 Q. MR. MURPHY: And again I have to suggest to you --
22 MR. KELLY: Judge, I should just say, that as I read
23 the papers, I note that, if one is looking at the
24 statement, I think what's missing from the question,
25 with respect, is, on the face of it there does not seem 11:53
26 to be anything hostile. Then you had raised, Judge,
27 the question of misunderstanding. One of the issues
28 for the Tribunal may be whose misunderstanding.

29 CHAIRMAN: Mr. Kelly, I understand, I am trying to

1 remember the evidence from last week and the evidence
2 given by Garda Keogh. If I am wrong, please point out
3 that I am wrong or anybody will point out that I am
4 wrong, but my memory was that he -- Garda Keogh, my
5 memory was that you were looking at this and saying, 11:53
6 the whole thing could well have been a
7 misunderstanding, based on Ms. O'Neill's beliefs,
8 opinions or suspicions about what was going on and
9 something she interpreted in what you said, so she may
10 have understood -- that's what I thought you said. But 11:54
11 I mean, I am not even saying that that's right.

12 A. No, it's even more simple I think, in that it's --
13 Judge, just if I can just try, it'll only take a minute
14 to explain.

15 181 Q. CHAIRMAN: Take a minute, yes, it's your evidence we 11:54
16 are concerned about, not mine.

17 A. Judge, Ms. O'Neill comes to the -- as I said, there's
18 an incident up there, she's sent down by whatever
19 guards that are at the scene.

20 182 Q. CHAIRMAN: Yes. 11:54

21 A. She arrives to me, she's talking about Ms. B and then
22 she goes -- she lives up beside Ms. B, so whatever she
23 knows, she knows. She then veers off in the
24 conversation. At some -- I say -- the crux of this
25 particular thing is, I say to her, name names and name 11:54
26 guards. So she goes in to give her statement to Garda
27 Treacy and she obviously names names and names a guard
28 and when she names the guard, Garda Treacy obviously
29 said, who told you to say that, and she said, Garda

1 Keogh, or whatever she said. which all is actually --

2 183 Q. CHAIRMAN: I understand.

3 A. which all is true in a sense. I just didn't tell her

4 the name of the guard, which is the matter they --

5 184 Q. CHAIRMAN: That's what I am understanding. Anyway, you 11:55

6 say up to the point, as far as you're concerned, of

7 Inspector Curley going out and speaking to Ms. O'Neill,

8 you say that's all right, but any further pursuit of

9 Ms. O'Neill you would consider unreasonable and

10 targeting? 11:55

11 A. And I am now aware there was a second time, Judge.

12 CHAIRMAN: Very good. That's what he says, Mr. Murphy.

13 185 Q. MR. MURPHY: Again, I have to suggest to you, Garda

14 Keogh, that anything that was done in relation to this

15 matter was purely with a view to clarifying, if 11:55

16 possible, exactly what had taken place. If I can ask

17 you to turn to volume 21, page 6254, please. Do you

18 have page 6253, please?

19 A. 6253?

20 186 Q. Yes, please. This is a statement of Superintendent 11:56

21 Noreen McBrien made to the Tribunal, do you understand

22 that?

23 A. Yes, yeah.

24 187 Q. Now, she says she wasn't in Athlone on 28/5 /2014, but

25 nothing turns on that? 11:56

26 A. No.

27 188 Q. But on the second page, she says:

28

29 "From my understanding, the purpose of the enquiries

1 was to establish what happened. My concern would be to
2 ensure that everything was being done right for
3 everyone in the station and for Olivia O'Neill and for
4 her daughter."

11:57

6 So that's Superintendent McBrien speaking, a person
7 against whom you make no complaint?

8 A. And that would be her style.

9 189 Q. Yes.

10 A. Yeah.

11:57

11 190 Q. So again, the further enquiries are reasonable in her
12 mind and I have to suggest they are reasonable
13 objectively as well. Then she says:

14

15 "I was directed by Chief Superintendent Curran to find
16 out what happened."

11:57

17

18 Again, I have to suggest to you that was reasonable?

19 A. Okay.

20 191 Q. Then she says she made contact to ask you for a report.
21 And I have suggest that was reasonable?

11:57

22 A. Okay.

23 192 Q. She will say, at line 756, that she rang you with a
24 view to meeting you before you went on leave and that
25 you were in great form. Do you see that?

11:57

26 A. Yeah.

27 193 Q. Effectively, she then went on to say in the course that
28 conversation, she talked to you, I think it was about
29 Assistant Commissioner Ó Cualáin, in general terms?

1 A. Okay.

2 194 Q. Yes. And then further down, she says on the 10th June
3 she received correspondence from Chief Superintendent
4 Curran looking for a report and met with you on the 9th
5 June. Do you see that? 11:58

6 A. I see that.

7 195 Q. There's no dispute there?

8 A. No, there's no dispute.

9 196 Q. No. And then she will say that on the 9th June she
10 outlined to you her role as manager of the district and 11:58
11 whilst supporting you she had to know what was
12 happening. That she had your safety and the safety of
13 the public as paramount priority and she says you told
14 her that you appreciated her position; is that correct?

15 A. Oh yeah. 11:58

16 197 Q. Fine. Then she advised you to address any residual
17 concerns you had with Assistant Commissioner Ó Cualáin
18 and you said you heard that members were asking people
19 to make complaints against you?

20 A. Mm-hmm. 11:58

21 198 Q. Do you see that at line 768?

22 A. Yeah.

23 199 Q. Do you see her response to you, she said:
24
25 "I outlined to him that asking somebody if they wanted 11:58
26 to make a statement was different to a person making a
27 complaint and that he shouldn't confuse these two."
28

29 A. Yes. So we are still on -- are we still on the first

1 approach to Ms. O'Neill?

2 200 Q. We are still on 6254?

3 A. Just for clarification, is that the first approach to
4 Ms. O'Neill.

5 201 Q. This, as I understand it, appears to everything, this 11:59
6 appears to her superintendents on the issue.

7 A. Okay.

8 202 Q. She is saying that all the personnel were a concern to
9 her as manager of the district, she was only trying to
10 establish what happened in the Olivia O'Neill incident, 11:59
11 rather than aiming it at a particular outcome. Because
12 if an issue was brought to her attention, she had to
13 look into it. I think she then records, just the next
14 line, 772, she said, I understand she will say that you
15 replied that you totally understood? 11:59

16 A. Yeah, yes. And just for clarification, Judge, in
17 relation to this in comparison to the last two things,
18 where they're a bit more complicated, in this and the
19 next one, Ms. O'Neill and the next matter have nothing
20 to do -- those persons have nothing to do with the main 11:59
21 investigation. So I am obliged to comply with
22 management in that.

23 203 Q. CHAIRMAN: I understand?

24 A. So I fully, in relation to these, do comply and tell
25 them everything that I know and my version or whatever 12:00
26 way you want to put it.

27 CHAIRMAN: Okay.

28 204 Q. MR. MURPHY: I think finally, she indicated that she
29 was concerned for your safety and she didn't want to

1 pry into your confidential report. I think you said
2 that you would give any information to the assistant
3 commissioner; is that right?

4 A. That would be correct. But again, I mean, whatever
5 the -- can we go to the date of the conversation, so I 12:00
6 can just refresh my mind?

7 205 Q. Sure. Just before you do that, can you just turn to
8 the next page, page 6255, just to finish on this point.
9 what she will say is:

10 12:00
11 "I was cognisant of my obligations as district officer
12 and the need to bring the Olivia O'Neill matter to a
13 conclusion."

14
15 So she confirmed to you that no one under her control 12:01
16 was trying to get people to make statements against
17 you, they were simply trying to confirm what had taken
18 place. Do you remember her saying that to you?

19 A. I can't remember it, but I am not disputing that.

20 206 Q. Okay. So again, in fairness to you, if you are not 12:01
21 disputing it, then I have to suggest to you that in
22 effect this particular episode is one where you may
23 have misunderstood what was being said by various
24 people but in effect there was no attempt to target
25 you, no attempt to damage you, no attempt to get a 12:01
26 statement made hostile to you by any member of An Garda
27 Síochána under the control of Superintendent McBrien?

28 A. In relation to this, this is the first attempt to
29 obtain -- in the first attempt, again I say that's fair

1 enough, no problem. I write on it myself. I give
2 Superintendent McBrien my version of whatever happened.
3 But then I understand there's a second attempt to
4 obtain statements from Ms. O'Neill.

5 MR. KELLY: Chairman, I just point out that the witness 12:02
6 had a few minutes ago asked to refer to his diary.

7 CHAIRMAN: Yes.

8 MR. KELLY: Mr. Murphy moved on.

9 CHAIRMAN: Do you want to refer to your diary?

10 MR. KELLY: Perhaps he would like to refer to his 12:02
11 diary.

12 207 Q. CHAIRMAN: Just to confirm this, you say you believe
13 there was a second attempt to get a statement from
14 Ms. O'Neill and that is something that you regard as
15 objectionable and representing targeting? 12:02

16 A. Yes, Judge. And, Judge, just to back there, during the
17 second attempt, they roll the Olivia O'Neill thing and
18 the Liam McHugh into -- it comes down on the one sheet
19 of paper as well at some stage. I remember seeing it
20 last week, on the one document, where they roll a 12:02
21 couple of these into the one thing.

22 208 Q. CHAIRMAN: Okay. So we have to put an asterisk beside
23 this question because at some point you would like to
24 return to that question and to have that explored
25 because you're saying there was a second attempt, a 12:03
26 second approach to Olivia O'Neill to get a statement
27 from her?

28 A. Yes. And I understand, you see, it was because the two
29 incidents happened in the same week, the second

1 attempt, from my recollection, they go -- when they --
2 it's the same scenario at the start, let's say, for the
3 Liam McHugh as well, where I would say, yeah, fair
4 enough to the first attempt, but I understand they then
5 go on with a second attempt with him also. But on the 12:03
6 Olivia O'Neill matter, there's a second attempt. And,
7 Judge, I have already, you see, written on this,
8 because it does emanate from something very simple in
9 this particular matter.

10 209 Q. CHAIRMAN: I follow. So up to this point you don't 12:03
11 have a complaint, except for the fact that you say
12 there was a second attempt and that is across the line
13 of targeting and is not just investigation, that's your
14 case?

15 A. Yeah. And, Judge, bear in mind, I have already 12:04
16 written, like I am writing to Superintendent McBrien, I
17 can't remember what I wrote but I have written whatever
18 I have written.

19 210 Q. CHAIRMAN: Explaining the Olivia O'Neill situation, is 12:04
20 that what you mean?

21 A. I think so.

22 211 Q. CHAIRMAN: Okay.
23 A. I don't want to say anything incorrect because I just
24 can't recollect what I wrote.

25 212 Q. CHAIRMAN: Okay. We now know have that situation. Now 12:04
26 there is a point that Mr. Kelly has reminded us about,
27 and that is that you wanted to check something in your
28 diary to come back to Mr. Murphy. Can you remember
29 what it was that you wanted to check in your diary?

1 A. It was to do with a conversation with Superintendent
2 McBrien, but I can't --
3 MR. KELLY: The date mentioned was 9th June.
4 213 Q. CHAIRMAN: Thank you very much. 2014.
5 A. Okay. what I have written on this is: 12:05
6
7 "9-10pm meet with Super McBrien. Conversation informs
8 me that another complaint, Liam McHugh to be approached
9 to take statements. Inform her was..."
10 12:05
11 The rest -- no, there's another -- there's another -- I
12 think it's further on, Judge, this crops up again.
13 Because there's phone calls then also with myself
14 and -- yeah. Okay, Judge, the 8th July. If I can read
15 it first, I don't want to have people bringing stuff up 12:05
16 on screens if they're not relevant. It will only take
17 a second.
18 214 Q. CHAIRMAN: If you would like to just read it for the
19 moment, we can understand. 8th July 2014.
20 A. My note is on the 8th July 2014, 9pm: 12:06
21
22 "Met with super, who informed me she is sending people
23 out again to try get statements from OON..."
24
25 olivia O'Neill. 12:06
26
27 "...and LMH."
28
29 Liam McHugh.

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

12:06

That's the note I have.

215 Q. CHAIRMAN: Okay. So this is relating to a conversation you say you had with Superintendent McBrien at 9pm on the 8th July. Which leads you to suppose that there was a second attempt to approach -- there was a second approach, I should say.

12:06

A. Yes.

CHAIRMAN: Not a second attempt. A second approach to Olivia O'Neill. Okay. Mr. Murphy, you may or may not wish to explore that or you may wish to return to that.

12:07

MR. MURPHY: Yes. Perhaps this might be an opportune moment for the Tribunal to rise briefly.

CHAIRMAN: Certainly. You don't have to return to it this moment.

MR. MURPHY: Yes.

12:07

CHAIRMAN: You can leave it for the moment. I think if that comes as something that Mr. Murphy may not have anticipated, then he may want to check it out and see what his position is in relation to it. Okay.

MR. MURPHY: Yes. I think the position is that I don't represent Superintendent McBrien.

12:07

CHAIRMAN: I follow.

MR. MURPHY: And that's the issue that --

CHAIRMAN: I follow.

1 MR. MURPHY: Yes.

2 CHAIRMAN: which is a bit -- anyway, there it is. who
3 represents --

4 MR. CARROLL: I do, Chairman.

5 CHAIRMAN: Oh, yes, thanks very much. Obviously that's 12:07
6 something that we may have to check out and return to.
7 Okay. So what are suggesting now, you're going on
8 to --

9 MR. MURPHY: Chairman, I am going to move on to issue
10 number 4. 12:08

11 CHAIRMAN: All right. I was wondering, depending on
12 how you're feeling, I am quite happy to carry on and
13 maybe break about 12:40, something like that, it's
14 probably more continuous and easier, given that we had
15 a slow start. But if that changes and you feel things 12:08
16 are a bit confusing, let me know, okay.

17 WITNESS: Thank you, Judge.

18 CHAIRMAN: All right. we will break at about 12:40.
19 Okay.

20 MR. MURPHY: Thank you. 12:08

21 CHAIRMAN: Now issue number 4.

22 216 Q. MR. MURPHY: Issue number 4. In relation to issue
23 number 4, relating to the investigation into Liam
24 McHugh's complaint to Garda Aidan Lyons on the
25 31/5/2014. Can I ask you to look at volume 5, page 12:08
26 1029, please?

27 CHAIRMAN: Just while we are getting that.
28 Mr. Carroll, you may wish to have a look at that and
29 then make an application at some point. But it doesn't

1 have to be even today, we can come back to that
2 question and we will consider any issues and probably
3 have a word with Mr. McGuinness.
4 MR. CARROLL: It may clarify itself in
5 cross-examination. 12:09
6 CHAIRMAN: Okay.
7 MR. CARROLL: If it doesn't clarify itself, I can
8 address it.
9 CHAIRMAN: Thanks very much. Now, 1029. Thanks very
10 much. 12:09
11 217 Q. MR. MURPHY: This is document that have you seen
12 before, given to you by Mr. McGuinness, it's a report
13 from Garda Aidan Lyons. I think you have read through
14 this report and you are familiar with it?
15 A. Yes. 12:09
16 218 Q. Can you just turn over to the next page, which is in
17 volume 30, page 8712, please?
18 A. Sorry, excuse me, the page.
19 219 Q. I am going to ask you to be give answer different
20 volume? 12:10
21 A. Sorry.
22 220 Q. Now, in terms of the documentation, do you see there
23 that it indicates the letter of 23rd July 2014?
24 A. Yes.
25 221 Q. Again to summarise, that's Superintendent McBrien 12:10
26 looking for a report outlining your contact with Liam
27 McHugh?
28 A. Yes.
29 222 Q. And at the end there is the report. It says:

1
2 "I wish to report I met Liam McHugh at 21:50, 19/7/14,
3 Church Street, Athlone, while on the beat. Prior to
4 that I had no contact or dealings with Liam McHugh over
5 the past three months." 12:11
6
7 Then your text, which is page 8713, you refer to.
8 A. Mm-hmm.
9 223 Q. And then volume 5, please, page 1157?
10 A. Okay. 12:11
11 224 Q. So, just before we proceed into dealing with this, we
12 have communication between you and your superintendent.
13 Thus far, would you agree that that's entirely normal
14 communication between you and your superior?
15 A. Sorry? 12:12
16 225 Q. Would you agree with me that it's reasonable for her,
17 that is to say Superintendent McBrien, to ask you to
18 indicate what your response was to the references to
19 Mr. McHugh?
20 A. Sorry, Judge, I'm at 1157 and it is in relation to -- 12:12
21 it starts -- sorry, I'm confused.
22 226 Q. 1157?
23 A. 1157, okay.
24 227 Q. And 1158, do you have that?
25 A. Yes. 12:12
26 228 Q. So this is a letter of Superintendent Noreen McBrien?
27 A. Yes.
28 229 Q. It's 5th August 2014?
29 A. Mm-hmm.

1 230 Q. Do you see under the heading "conversation with Liam
2 McHugh"?

3 A. Yes.

4 231 Q. She is sending this up to the line to the chief
5 superintendent, addressed in the top left-hand side? 12:12

6 A. Yes.

7 232 Q. In that paragraph she is giving an explanation for what
8 you had said to her?

9 A. Yes.

10 233 Q. Over the page, you will see that she records that you 12:13
11 said you knew nothing about this. Then, at the end of
12 the letter, she says that your assertion that you had
13 not been in contact with Liam McHugh was consistent
14 with your conversation with her on 9th June 2014, which
15 is covered in previous correspondence. 12:13

16 A. Okay.

17 234 Q. Yes. Just in terms of your response, going back, if
18 you would please, to volume 30, page 8712?

19 A. Yes.

20 235 Q. Okay. So your response at that stage is: 12:14
21
22 "I wish to report I met Liam McHugh."
23
24 A factual response, do you see that?

25 A. Yes. 12:14

26 236 Q. In your handwriting?

27 A. Oh yeah, yeah.

28 237 Q. So, would you agree with me at that stage you never say
29 this is an outrage or this is something improper or

1 this is something unnecessary or this is trumped up or
2 bogus, isn't that right?

3 A. Judge, I don't know what the Liam McHugh allegation is
4 about. I have been called up: what's your interaction
5 was Liam McHugh, and all the rest. And I haven't a 12:14
6 clue what it's about. I am actually trying to find out
7 internally in the station, through the other guards in
8 there, lads, do any of you know what's going on,
9 anything, are you hearing anything about this Liam
10 McHugh craic? I don't have a clue what this is about, 12:14
11 because there's no actual -- the allegation is not put
12 to me until, I can't remember the date, but it's a good
13 while after. It's the date where Superintendent
14 McBrien actually shows me the allegation with the name
15 of Aidan Lyons withheld from me. That's actually the 12:15
16 day that I find out what all this is about. Up to this
17 then I don't know.

18 238 Q. You see again, Garda Keogh, I have to suggest you that
19 here is another example where something is effectively
20 reported through the system and there is a legitimate 12:15
21 response and I have to suggest to you that the response
22 of your superiors to this was that it had to be checked
23 out, and that was reasonable?

24 A. Yeah, checked out, to check it out being reasonable, I
25 understand that part, but this becomes very different. 12:15
26 I mean, this is -- there'll be a clash now on this one,
27 Judge.

28 239 Q. Again, you see, Garda Keogh, I think this becomes very
29 different, because as with some of the other positions

1 and the other issues, you begin to inflate things as
2 time goes by and to read into them things which are
3 simply not present at all.

4 A. Oh, I don't -- I mean -- hang on, in the same week with
5 the Olivia O'Neill thing and where they're sending 12:16
6 people out later on, twice, and then there's this Liam
7 McHugh thing, which I know nothing about. The way it
8 is -- the whole way that this Liam McHugh thing is
9 done, the fact that they don't even take into account
10 that Garda Lyons is Garda A's partner, the fact they 12:16
11 don't go down the road of looking for a statement from
12 Garda A about his interaction with McHugh, which they
13 were obliged to do, I would argue, the fact they
14 don't -- I don't think they write anywhere, can you
15 find out who these other two guards are. It is 12:16
16 solely -- the maddest part of this complaint, Judge,
17 is, from my reading of what I have read, it's not
18 whether me and three guards committed a crime, it's
19 actually whether I told McHugh to report the crime.
20 This is -- this whole thing is bizarre. The way Garda 12:16
21 management deal with this is also very bizarre. They
22 deal with this in a very unusual manner, Judge, and on
23 this one --

24 240 Q. You see, I have to suggest to you, Garda Keogh, that
25 you're wrong and what's happening here is what's 12:17
26 happening, as we have seen over the past couple of
27 days, that are you adding together different things and
28 forming your own subjective conclusion, which is in
29 fact not a reality but just your perception?

1 A. Oh, I dispute that completely.

2 241 Q. Can I ask you, please, to be shown volume 7, page 1789?
3 Do you have page 1789, please?

4 A. Yes.

5 242 Q. They're can I address you to and an extract from the 12:17
6 statement of Chief Superintendent Curran, made to the
7 Tribunal. The first point I want to make is that he
8 will say that the enquiries necessary to test the
9 veracity of the intelligence were twofold, in that the
10 Gardaí had to account for their actions with Liam 12:18
11 McHugh and in addition a statement was sought from Liam
12 McHugh to outline his recollection of events. Now:
13
14 "There was no further information to substantiate the
15 information contained in the report, following further 12:18
16 enquiries with Garda members and Liam McHugh declined
17 to make a statement on the matter."
18
19 That's where the matter ended, isn't it?

20 A. Oh, Judge, no, it's not as simple as that, because I -- 12:18
21 I didn't just say, when I was called up to the office
22 about this, that this never happened or something. I
23 can't remember the word -- I would have left it in no
24 doubt that this is actually -- I wouldn't have used the
25 word vindictive or something, but this is -- there's 12:18
26 something sinister going on here. It's not even as
27 simple as I've just said, you know. I don't know
28 anything about this.

29 243 Q. Garda Keogh, do you agree that you have no evidence to

1 show anything was sinister going on here. what you are
2 saying to the Tribunal is, you thought or believed that
3 this was sinister?

4 A. No, no, no. Now, the evidence is in the way Garda
5 management actually deal with the particular matter. 12:19
6 The evidence is there. I dispute that.

7 244 Q. How can you say that, Garda Keogh? When Garda
8 management investigate, nothing is found and the matter
9 is closed?

10 A. Where three guards are involved in such a serious thing 12:19
11 and they don't take statements, they don't -- they're
12 obliged to look for a statement from Garda Lyons.
13 Garda Lyons -- a guard does not have the same right to
14 silence as a normal civilian. Garda Lyons is obliged
15 to give them a statement. No, no, this is a different 12:19
16 scenario, Judge.

17 245 Q. You see, I again suggest to you that what you are doing
18 here is inflating something to a level of importance
19 that it's not. But also he will say that in addition
20 to that, that from his perspective it was necessary and 12:20
21 incumbent upon him to cause enquiries to be carried out
22 in respect of this matter.

23 A. Again, like the previous two or three matters, Judge,
24 on the first round, first round, fair enough, he'd be
25 entitled, yes, of course the chief is entitled to carry 12:20
26 out these enquiries, but equally, the way this is done,
27 they do the digging on this before they even put the
28 allegation to me and the way even it's done, where I
29 don't get to see the author of the report, which is

1 Garda Lyons, I don't find that out until years
2 afterwards. Judge, the whole way this is dealt with is
3 not normal Garda policy. It's not the way things are
4 normally dealt with and I will dispute -- I am standing
5 my ground fully on this one, Judge. 12:20

6 246 Q. You see, Garda Keogh, I suggest to you that you are
7 wrong and that this will fit into a number of your
8 other complaints. Because here we have an example of
9 information coming to the Gardaí, a query being raised
10 and the matter being investigated and finalised. You 12:21
11 seem to have a problem in some cases with matters being
12 finalised, like crime files, for example, which we will
13 come to later on. But I have to suggest to you, all
14 that occurred here was standard, normal policing.

15 A. No. 12:21

16 247 Q. And the matter ended at that point.

17 A. I dispute this. What was investigated? The crime
18 wasn't investigated -- sorry, the alleged crime wasn't
19 investigated. The only thing that was investigated was
20 whether I went out to tell this guy to report the 12:21
21 matter. And again, this guy is not -- we heard
22 yesterday, I think, that this is a guy that walks
23 around and sells the Big Issue. Like, this guy is not
24 a criminal. He's not in -- he's not involved in
25 anything. This is different. The whole way, the whole 12:21
26 approach from Garda management in relation to this is
27 not normal, what they did.

28 248 Q. Are you suggesting to the Chairman that if an
29 allegation was made about somebody else, not you, that

1 a person, a civilian being searched by a number of
2 gardaí, who seize money from him, that this is
3 something which the Guards shouldn't investigate?
4 A. Did they actually investigate that? My reading --
5 what's written -- the first thing, what I view on this 12:22
6 is, where it's put to me in writing is to do with my
7 interactions and eventually, did you say to Mr. McHugh
8 to report it, and I'll back you up, is essentially I
9 think the allegation. Did you tell Mr. McHugh to
10 report this and that I allegedly said, and I'll back 12:22
11 you up.

12 249 Q. Garda Keogh, at the end of the Garda investigation,
13 would you agree with me, there was no evidence to
14 support any further enquiries?

15 A. There was no evidence because it didn't happen. 12:22

16 250 Q. There was no evidence because they enquired into it and
17 discovered that the person from who allegedly the
18 information had come, wouldn't make a statement. So
19 there was no evidence?

20 A. Excuse me, sorry, can you just repeat that question 12:23
21 again.

22 251 Q. Yes. There was an investigation which resulted in no
23 statement and, therefore, no evidence.

24 A. But no statement from the guard who alleged it, no
25 statement from Mr. McHugh because my understanding is 12:23
26 that Mr. McHugh hadn't a clue what was going on either.

27 252 Q. But from the point of view of the Gardaí, would you
28 accept they would have to investigate Mr. McHugh, who
29 didn't wish to be interviewed?

1 A. Initially.

2 253 Q. At all.

3 A. As I said, the first strike on this one, they're
4 entitled, of course, they're obliged to find out what's
5 going on. But, again this is -- this is where it 12:23
6 becomes sinister. They send people out again a second
7 time for statements in relation to this, and as I said
8 now, I do bump into Mr. McHugh, of course, on the
9 street. I mean, obviously, as I have said, Judge, I
10 was trying to find out in the station, what's all this 12:23
11 about. But Mr. McHugh, when he came over to me, he's
12 mentioning something about the guards looking to take a
13 statement from him and I obviously -- obviously I ask
14 what, do you know what it's about. But he doesn't
15 appear to know what it's about either. 12:24

16 254 Q. I have to suggest to you, Garda Keogh, that this is
17 another example of an incident which ended after a very
18 simple investigation, which you're seeking to convert
19 into something that it's not?

20 A. But sure there was no investigation into this alleged 12:24
21 theft whatsoever.

22 255 Q. Again, Garda Keogh, I have to suggest to you that's
23 incorrect.

24 A. Judge, they never even took a statement or asked for a
25 statement from the guard that reported this, who was 12:24
26 also Garda A's partner.

27 256 Q. Garda Keogh, I think that you said and understood a few
28 moments ago that you hadn't been told anything about
29 the conversation with Liam McHugh, is that right?

1 CHAIRMAN: Say that again, Mr. Murphy.

2 257 Q. MR. MURPHY: As I understood it, you said you weren't
3 given any indication as to what was the allegation
4 contained in the statement of Mr. McHugh. Did I
5 understand you to say that? 12:25

6 A. Yeah, I don't find out -- .

7 258 Q. CHAIRMAN: He says the first time he was merely asked
8 for his interactions over the previous three months.
9 He responded to that, and when he was told by
10 Superintendent McBrien, he wasn't told the name of the 12:25
11 person and he only learned that some years later?

12 259 Q. MR. MURPHY: But I think in terms of the content of
13 what was content in the report, you were given that
14 information, were you not?

15 A. Sorry? 12:25

16 260 Q. In terms of the report that was provided by Garda
17 Lyons, that was read over to you, was it not?

18 A. The report was read over by Superintendent McBrien but
19 the name of the author was concealed.

20 261 Q. Yes. That took place on 19th July 2014? 12:25

21 A. Just one moment, please.

22 262 Q. Sorry, the 2nd June?

23 A. Sorry.

24 263 Q. I beg your pardon, this is the 2nd June.

25 CHAIRMAN: Sorry, don't say anything for the moment. 12:25
26 Mr. Murphy, you want to clarify the date on which you
27 suggest Superintendent McBrien informed Garda Keogh of
28 the nature of the allegation?

29 MR. MURPHY: It may assist if the Tribunal could please

1 put on the screen page 1157.

2 CHAIRMAN: 1157. Okay, thank you very much. Very
3 good.

4 264 Q. MR. MURPHY: That is volume 5, please.

5 A. Sorry, just the page number, please? 12:26

6 265 Q. Yes, sorry, page 1157, please. This is from the
7 statement of Noreen McBrien.

8 A. This is a report to --

9 CHAIRMAN: Not what it looks like.

10 266 Q. MR. MURPHY: Do you see the heading "conversation with 12:27
11 Liam McHugh" please.

12 A. Yes.

13 267 Q. And she says --

14 CHAIRMAN: Just go down a bit.

15 268 Q. MR. MURPHY: This is Noreen McBrien reporting to her 12:27
16 superior and she says:

17

18 "I attach for your information correspondence received
19 from Garda Nicholas Keogh dated the 27th July regarding
20 Liam McHugh. He states that apart from meeting Liam 12:27
21 McHugh on the 19th July on the beat, he had not met him
22 in the past three months. On the 19th July, Garda
23 Keogh sent me a text message to say he was on the beat
24 and McHugh came over to me."

25 12:27

26 You have given evidence about that before.

27

28 "In addition, I met with Garda Keogh by arrangement on
29 this date. This is the earliest opportunity we could

1 meet. I read out the allegation as outlined in the
2 report of Garda Lyons dated 2nd June 2014. He
3 requested to view the allegation. I allowed him to do
4 so without disclosing the identity of the member making
5 the complaint. He was informed it was a member in the 12:28
6 Athlone Garda Station."

7
8 So you don't dispute that that is what occurred on that
9 day, do you?

10 A. No, no. 12:28

11 CHAIRMAN: The date of that, Mr. Murphy.

12 WITNESS: Yes.

13 CHAIRMAN: Can you scroll down.

14 MR. CARROLL: The 5th August, is my understanding.

15 CHAIRMAN: well, we will see the date of the letter. 12:28
16 5th August 2014.

17 WITNESS: The 5th August is in my diary also, Judge.

18 269 Q. CHAIRMAN: Okay. The superintendent, as I understand
19 it, says that she met you on that date?

20 A. Mm-hmm. 12:28

21 270 Q. CHAIRMAN: when this conversation took place, when this
22 interaction took place, when she showed you the
23 statement, but not the name.

24 A. That's correct, yes.

25 CHAIRMAN: Okay. Thank you. 12:29

26 271 Q. MR. MURPHY: And I think as of that date, Garda Keogh,
27 far from containing any targeting of you, her report
28 ends with the conclusion, which is page 1158, where she
29 said that your assertion that you had not been in

1 contact with Liam McHugh is consistent with your
2 conversation with her on 9th June 2014, covered in
3 correspondence. That is how she signed off on that.
4 Do you accept that?

5 A. Yes. 12:29

6 272 Q. Yes. Thank you.

7 A. Just my note, Judge, just in relation to that is, like,
8 this is going on from -- where are we? This allegation
9 I think starts in May, the month of May, and here we
10 are -- there I am writing, to-ing and fro-ing with this 12:29
11 conversation and then it gets rolled in with the Olivia
12 O'Neill thing and all the rest. And I mean, this
13 allegation is not put to me -- at this stage they've
14 sent guards out twice, to my knowledge, to both
15 Ms. O'Neill and -- 12:30

16 273 Q. CHAIRMAN: Your complaint is not that this was
17 investigated, your complaint is that it wasn't
18 investigated. That's your complaint?

19 A. Judge, it's even worse.

20 274 Q. CHAIRMAN: I mean, rather, it wasn't investigated to 12:30
21 the extent that the allegation warranted. That's your
22 case.

23 A. And I write a letter, Judge --

24 275 Q. CHAIRMAN: Is that right?

25 A. At the end to -- 12:30

26 276 Q. CHAIRMAN: I don't know whether Garda Keogh agrees, but
27 that's his case.

28 A. Sorry, sorry.

29 277 Q. CHAIRMAN: As I understand, your case is, look, all the

1 features of this, you say indicate a sinister element?

2 A. Yes.

3 278 Q. CHAIRMAN: Mr. Murphy doesn't agree. Mr. Murphy says
4 it was a standard relatively -- I won't say routine,
5 because clearly that wouldn't be routine, but it was a 12:30
6 standard response in the mode of investigation and you
7 say, no, it wasn't because other issues were revealed
8 that should have alerted the authorities to a more
9 serious element or elements. There's the debate.
10 Mr. Murphy says they went and tried to get a statement 12:31
11 from Mr. McHugh, he wouldn't give them a statement and
12 that's the end of the matter, they couldn't progress
13 any further. That's the case he is putting to you?

14 A. Judge, my understanding is Mr. McHugh didn't give them
15 a statement or couldn't give them a statement, I don't 12:31
16 think he knew what it was about either. That's my
17 understanding.

18 279 Q. CHAIRMAN: But whether he did or he didn't --

19 A. I certainly didn't.

20 280 Q. CHAIRMAN: whether he did or he didn't, Mr. Murphy is 12:31
21 putting to you that the Gardaí approached Mr. McHugh
22 for a statement, he declined or refused. They
23 considered that was the end of the matter. And
24 Mr. Murphy says that is a reasonable and proper
25 approach and you say oh no, it isn't. That's what you 12:31
26 say.

27 A. Judge, they went again a second time to Mr. McHugh to
28 try and get statements.

29 281 Q. CHAIRMAN: I am torn between thinking whether that was

1 reasonable or unreasonable, because if I understand
2 your case, it might have been perfectly reasonable of
3 them to go back to Mr. McHugh and say, come on, give us
4 more information about this. Do you understand me?
5 But I mean, the basic point you are making, the 12:32
6 difference between the two sides, Mr. Murphy has
7 identified and he has put to you that it's a proper and
8 reasonable investigation and you say, for the reasons
9 that you outlined to Mr. McGuinness and here, you say,
10 no, it wasn't. That goes beyond that, you say, that's 12:32
11 something sinister. That's what you say.
12 A. Judge, even the facts as we established -
13 282 Q. CHAIRMAN: Is that right?
14 A. - like this is a serious complaint, three guards are
15 involved in a theft. 12:32
16 283 Q. CHAIRMAN: I am not missing any of that.
17 A. Oh yeah, and the date. Yeah. Okay. Like, it's not
18 reported for, is it, two days later.
19 284 Q. CHAIRMAN: well, we don't need to go back over it.
20 A. Sorry. 12:33
21 CHAIRMAN: There's the distinction.
22 MR. MURPHY: Yes. And that's response to my question.
23 CHAIRMAN: That's fine, thank you very much. So we
24 know where we are going, we know where the dispute
25 arises. Thank you. 12:33
26 285 Q. MR. MURPHY: The next issue, Chairman, is issue number
27 5.
28 CHAIRMAN: We're now on to Superintendent Murray.
29 MR. MURPHY: Yes.

1 CHAIRMAN: Isn't that right? This is the beginning of
2 Superintendent Murray.

3 MR. MURPHY: In relation to number 5, there was one
4 issue which I was going to address to Mr. McGuinness
5 perhaps before we began the questioning, which is the 12:33
6 extent to which this issue remains live and current.

7 CHAIRMAN: Yes.

8 MR. MURPHY: Perhaps Mr. Kelly and I will talk about
9 it.

10 CHAIRMAN: I was going to say that it would be fair and 12:33
11 reasonable to take a break at this point because we're
12 moving on not only to a new issue but to a new phase of
13 issues. In other words, all the questions, which will
14 take us some considerable time, which is the matters
15 involving Superintendent Murray. 12:33

16 MR. MURPHY: Yes.

17 CHAIRMAN: Okay. Because they fit into a category of
18 their own. Okay. So we will take a break then and we
19 will take it up, since we didn't have a break, we will
20 take it up at two o'clock. All right. Thank you very 12:34
21 much.

22

23 THE HEARING THEN ADJOURNED FOR LUNCH AND RESUMED, AS
24 FOLLOWS:

25

12:34

26 CHAIRMAN: Now, thanks very much. Yes.

27 286 Q. MR. MURPHY: Chairman, Garda Keogh, I think the
28 position is that the next issue relating to the alleged
29 micro supervision of Garda Keogh by Sergeant Yvonne

1 Martin, Sergeant Cormac Moylan and Sergeant Aidan
2 Haran. Just to see if we can shorten this in the light
3 of your previous evidence, garda, I think that in the
4 course of your evidence on Day 100, at page 113, in the
5 first line you were asked by Mr. McGuinness about the 14:02
6 assignment of Sergeant Haran, to which you had no
7 objection. Mr. McGuinness put it to you that you wrote
8 negatively about Sergeant Martin to the Minister for
9 Justice in 2017 out of some suspicion, and you replied:

10
11 "That's correct. In hindsight I should not have --
12 there was an incident to do with what was dealt with in
13 the previous module of the Tribunal." 14:02

14
15 And further down, at line 18, you said:

16
17 ". "

18
19 Further down at line 18 you said:

20
21 "In fairness to her she didn't bother me, kind of." 14:02

22
23 And line 21, you said -- sorry the question was asked:

24
25 "She wasn't micromanaging you then." 14:02

26
27 You said:

28
29 "No, she wasn't no. No, no. The sergeants, as I said,

1 were okay. But Superintendent Murray was trying to get
2 them to micromanage me."
3
4 So, just at the outset, can I ask you to confirm, you
5 are making no complaint against any of the three 14:02
6 sergeants?
7 A. That's correct.
8 287 Q. You also accept that you should not have written to the
9 Minister for Justice about Sergeant Martin in the terms
10 in which you did? 14:03
11 A. I fully accept that, Judge, I stated that if there were
12 certain things, if I could back in time, you know, what
13 I know now and that. Look, I totally, fully accept
14 that. And I apologise as well to Sergeant Martin also
15 for any distress that I caused her, because I know she 14:03
16 had been through a lot in all of this as well.
17 288 Q. I think in substance and, in fact, therefore, you can
18 confirm to the Tribunal that you were not micromanaged
19 by any of these three sergeants?
20 A. That's correct. 14:03
21 289 Q. Yes. So if we can come then please to your first
22 meeting with Superintendent Pat Murray. I wonder if
23 you could be given Volume 8, page 2187, please. Now,
24 if you have that?
25 A. Page 2187? 14:04
26 290 Q. Yes, please.
27 A. Yes.
28 291 Q. This is a note taken by Superintendent Murray following
29 your meeting on the 26/3/2015, when you met between 4

1 and 5:50pm. Do you recall last week you had given
2 evidence about the first meeting?

3 A. Yes. Just one moment. 26th March, yeah.

4 292 Q. You reminded Superintendent Murray that you had been in
5 Bray or in Wicklow in the past on duty? 14:04

6 A. Yes.

7 293 Q. I think you were saying that you were reticent to
8 discuss the ongoing investigation which inspector
9 Ó Cualáin was dealing with and your role in that
10 investigation. Do you recall that? 14:05

11 A. Yes. Well, he shouldn't have been asking me about the
12 investigation.

13 294 Q. Well again, I have to suggest to you there is nothing
14 improper about him asking you that. But insofar as he
15 did, he will say that he then explained to you that he 14:05
16 was anxious about your in and out sick days since he
17 had arrived in Athlone?

18 A. Yes. And just back to the first part, I dispute that,
19 I shouldn't have been asked. Under the protected
20 disclosures, I don't agree that he should have been 14:05
21 asking me about the investigation.

22 295 Q. Again, we disagree on that. But can I ask you to
23 confirm that he did indicate to you that he was anxious
24 about your in and out sick days?

25 A. Just one moment, until I just -- yes, he did, yes. 14:05

26 296 Q. Yes. And there had been in and out sick days on your
27 part, had there not?

28 A. Yes.

29 297 Q. And again, would you confirm for the Tribunal that this

1 was sick days in which you had been affected by
2 alcohol?

3 A. Yes. Well, yes, but I mean, my sick certs say work
4 related stress, Judge, and at this time I am being
5 marked out with the flu. 14:06

6 298 Q. In terms of what was actually happening on the ground,
7 the position was, you were drinking to excess?

8 A. Well, they were marking me out with the flu.

9 299 Q. I am just asking you what you were doing, Garda Keogh.
10 I think you were drinking to excess; isn't that 14:06
11 correct?

12 A. Judge, I have already stated I did use alcohol as a
13 crutch and I haven't denied that.

14 300 Q. And were you taking Xanax with the alcohol during that
15 time? 14:06

16 A. Not all the time, Judge.

17 301 Q. Not all the time?

18 A. No, no.

19 302 Q. So, for example, if I could go to your diary for a
20 moment. would you please go to page 13303, which is 14:06
21 diary for 2nd March 2015.

22 A. Excuse me, for clarification, is this the 2nd March?

23 303 Q. Yes, please.

24 A. 2015?

25 304 Q. Please. If I can ask you to confirm that on the 2nd 14:07
26 and the 3rd and the 4th and the 5th and the 6th and the
27 7th and the 8th, you yourself recorded that you were
28 sick?

29 A. Yes.

1 305 Q. And that was from drinking?
2 A. Em, Judge, I don't have drink written in this part.
3 Normally I write in when I go drinking, I write it into
4 the diary. I just don't --
5 306 Q. The same applies I think for the next week, the 9th and 14:08
6 the 10th and the 12th, 13th, and the 14th. Were these
7 days where you were otherwise meant to be on duty?
8 They're not marked down as rest days. RD is what you
9 normally put down when you're having a rest, is that
10 right? 14:08
11 A. Yes. The 9th and 10th, I think they're marked down as
12 rest days, they're rest days.
13 307 Q. If we look, please, forward to 13304, on 24th March and
14 the 23rd March, which are Mondays and Tuesdays, you
15 were sick as well? 14:08
16 A. Yes.
17 308 Q. So I think you will agree with me that Superintendent
18 Murray wasn't imagining that there was a difficulty
19 that you were experiencing or suffering at that time,
20 because your work record was clearly indicative of 14:08
21 being out sick over the previous two weeks
22 substantially?
23 A. Yes. Well, I mean, I am under a lot of stress. As I
24 said, Judge, earlier in my evidence, I am still working
25 alongside Garda A during this period. 14:09
26 309 Q. Did he ask you what exactly was the problem?
27 A. Judge, I told him. Judge, I told him I was under a lot
28 of stress and I think I said work related stress, but
29 he replied twice to me, you're under no stress.

1 310 Q. Superintendent Pat Murray will say that that's
2 incorrect, that he never said those words to you and
3 that, in fact, he recorded in his notes afterwards that
4 he considered that you were effectively under pressure
5 and that he discussed work related stress with you? 14:09

6 A. Judge, I have read stuff in those volumes, I just can't
7 think of them off hand, where he questions -- in
8 relation to stress.

9 311 Q. Let's just look at what he wrote down. Can we take it,
10 you didn't write a note just after this meeting, did 14:09
11 you?

12 A. This is, which date?

13 312 Q. This is the date of your meeting on 26th March 2015?

14 A. Yes, I did, yeah.

15 313 Q. Okay. In terms of that particular discussion, can I 14:10
16 bring you back to Superintendent Murray's note?

17 A. This is page 2187?

18 314 Q. That's right.

19 A. Okay.

20 315 Q. And he said: 14:10
21
22 "I discussed work related stress in terms of you're
23 coming to work today, if work related stress was the
24 issue."
25
26 And that you said you had certs from your doctor. Did
27 he ask you or did he not ask you about your claim of
28 work related stress?

29 A. There was no question, he said: You're under no

1 stress. And then, to reinforce it, he said it again.
2 when I tried to answer, he said, you're under no
3 stress.

4 316 Q. Again I have to suggest to you, your recollection is
5 wrong in that regard, he is absolutely clear he did not 14:10
6 say that?

7 A. I dispute that.

8 317 Q. He will say he asked you had you been to the CMO, do
9 you remember that?

10 A. The CMO did crop up. 14:10

11 318 Q. Right. You told him that you hadn't been to the CMO?

12 A. No, I wouldn't have said that, because I would have
13 been with the CMO before.

14 319 Q. When was the last time you went to the CMO, before that
15 date? 14:11

16 A. Oh, I haven't a clue, I don't know.

17 320 Q. So you hadn't been to the CMO in relation to 2015
18 difficulties that you experienced, had you?

19 A. I just can't remember.

20 321 Q. Well, I can suggest to you that it is clear that you 14:11
21 hadn't. Then he will say you told him that, no, you
22 hadn't been to the CMO and he said that he will send
23 you to assess the stress because the in and out
24 appearances did not, in his view, support what you were
25 saying and what was causing it? 14:11

26 A. Well, when I was with the CMO in December 2015, the CMO
27 wasn't aware of work related stress. All the CMO had
28 was that I was out with viral flu. Because it was the
29 CMO then, when I discussed my work related stress, that

1 actually went -- he got the records, he showed me that
2 I was marked out with the flu and then he said is work
3 related stress on your sick certs and I said, yes, it
4 is, and he said, since when. That's when he then
5 started -- I don't know started rooting in files or 14:12
6 something, I don't know what he found but he said, this
7 is very serious and I am going to talk to someone high
8 up about this. And bear in mind, Judge, they had a
9 case conference I think a week before in relation to me
10 about that and for some reason the CMO was kept in the 14:12
11 dark, that work related stress was on my certs.

12 322 Q. In terms of the position here, I have to suggest to you
13 that you hadn't been to the CMO in the recent past and
14 you told him that you hadn't been and he told you that
15 he would send you there so that your issue of alleged 14:12
16 stress could be dealt with because the way in which you
17 were coming in and out of work didn't seem to support
18 what you were saying about the causes of stress. And
19 he will say that you declined answering the questions
20 and instead you asked him to contact Detective 14:13
21 Superintendent Mulcahy and Superintendent McBrien.

22 A. That part is true. Just the last part, contacting
23 Detective Superintendent Mulcahy and Superintendent
24 McBrien.

25 323 Q. He said he wouldn't contact anyone for anecdotal 14:13
26 information but he would ask him, it's up to him to
27 answer or not. Do you remember him asking you were you
28 doing any work at the time?

29 A. I do, he did say that, yes.

1 324 Q. Do you remember that you replied, what do you mean? He
2 asked you were you getting wages? Were you doing
3 garden work? Were you doing enforcement? Were you
4 doing investigations? Community engagement, and the
5 like? 14:13

6 A. I recall that.

7 325 Q. I think he records that you said that you told him that
8 you were doing very little?

9 A. I just can't remember that part.

10 326 Q. He then said to you that he couldn't condone that and 14:13
11 asked you what you were doing and were you following up
12 on incidents that had been reported to you?

13 A. Well, I would have been following up on all incidents
14 that would have been reported to me.

15 327 Q. Do you recall that he mentioned an assault or 14:14
16 harassment case?

17 A. No, that's not correct. What happened there is not
18 correct, Judge. It was me. Judge, he asked me was
19 there any investigations that are difficult, something
20 to do with, have you any difficulty with any 14:14
21 investigations. I told him there's no difficulty with
22 investigations but I said, there's one awkward
23 investigation to do with a harassment case. I think I
24 explained it, Judge, it was just where -- it was to do
25 with a lady and her partner and there had been previous 14:14
26 complaints made before of a similar nature and this
27 lady always withdrew her statement. It wasn't -- like
28 I had no difficulty in dealing with it, Judge.

29 328 Q. He will say that he noted that you said that you had

1 been neglecting the investigation?

2 A. That's false.

3 329 Q. And that you agreed that that wasn't fair to the
4 victim?

5 A. That's absolutely false. Both of what has just been 14:15
6 said there is completely false.

7 330 Q. I again suggest to you that it's true, but also he then
8 recorded, if there was a sergeant available for you to
9 link into, but you didn't really answer that question?

10 A. I don't recall that part of it. 14:15

11 331 Q. So that could have happened, could it?

12 A. Just, can you give me --

13 332 Q. He asked you was there was a sergeant available for you
14 to link into, and you didn't really answer?

15 A. Sure he would have known that there was two sergeants 14:15
16 that I could have linked in with.

17 333 Q. But he was asking you the question and you didn't
18 really answer?

19 A. I mean, I can't recall that. I don't -- I don't think
20 this is correct, because this was my first meeting with 14:16
21 Superintendent Murray and at the time, like, I would
22 have given him the benefit of the doubt. Like, you
23 know, I would have --

24 334 Q. That was very generous of you, Garda Keogh, but can we
25 move on to what actually happened here. I think in 14:16
26 those circumstances he said, I was asking Sergeant
27 Yvonne Murphy to link in with you in relation to all
28 workplace issues and you asked why her and you didn't
29 know her, do you remember that?

1 A. I don't think that's the case.

2 335 Q. Just have a look, if you would please, at page 2188?

3 A. Sorry, excuse me, you said -- sorry, just two

4 clarifications. One, you did say Sergeant Yvonne

5 Murphy. 14:16

6 336 Q. Sorry, Martin?

7 A. Yeah, Sergeant Martin. I have a note here:

8

9 "Sergeant Martin to liaise with me."

10 14:16

11 Then he asked me who my solicitor was and I told him

12 that was private.

13 337 Q. In response to Sergeant Martin, that he said the very

14 reason that she was new and that she would be a support

15 to you to allow you to attend work regularly? 14:17

16 A. You see, I can't -- I just -- I'm not sure about that,

17 Judge.

18 338 Q. Can you recall, and he will say that you could discuss

19 any difficulties with the assault and harassment case

20 with her and that she would put supports in place to 14:17

21 ensure thoroughness in the investigation and that you

22 agreed with that?

23 A. No.

24 339 Q. You that agreed to avail of help from Sergeant Martin?

25 A. No, definitely not, in that because the way -- what 14:17

26 happened there, I explained in that, the harassment

27 case was very a simple thing and I have read some of

28 the stuff in the volumes where he makes it out that I

29 kind of go to him to say, oh, there's a desperate,

1 terrible problem with this case that I can't deal with
2 and I need help. It was nothing like that, Judge.

3 340 Q. So in those circumstances, I think even looking back at
4 your note from your diary, you accept that the CMO was
5 mentioned, don't you? 14:18

6 A. Yes.

7 341 Q. You accept that the appointment of Sergeant Martin was
8 mentioned?

9 A. Yes.

10 342 Q. Yes. In both of those issues, Superintendent Murray 14:18
11 will say these were his response to his concern for
12 what appeared to be your difficulties and the welfare
13 issues which your behaviour was showing to him. This
14 was something he saw as being assistance to you and for
15 your welfare? 14:18

16 A. That is kind of a statement you've made, it's not a
17 question.

18 343 Q. Do you agree with him? I am putting to you what he
19 will say?

20 A. Sorry? 14:18

21 344 Q. I am putting to you what he will say and asking you do
22 you agree or disagree with that?

23 A. That's his version, Judge. Parts of it are correct,
24 Judge, in relation to the CMO and Sergeant Martin and
25 that, there are certain parts that are accurate. 14:19

26 345 Q. Okay, let's come back to that again in a different way.
27 I think the next thing that was spoken of was in
28 relation to travel claims?

29 A. Yes.

1 346 Q. He will say that when he raised this issue with you,
2 that up got, in his words, slightly annoyed; would that
3 be right?

4 A. Not -- I don't -- I'm not sure, Judge. I know he
5 brought up the thing, the issue with the tax. 14:19

6 347 Q. Did he tell you that he had been onto the tax office?

7 A. He did, yes.

8 348 Q. And that he wanted to be sure that the vehicle wasn't
9 wrongly taxed?

10 A. Sorry? Excuse me? 14:19

11 349 Q. He has recorded down in the note that he has, that you
12 admitted it was taxed as goods and shouldn't be but you
13 just kept on doing it. Is that the explanation you
14 gave?

15 A. I said it was -- what I had was a vehicle with two 14:20
16 seats, it was a commercial vehicle, and it was taxed as
17 a commercial. And as I said earlier, Judge, it was one
18 of the first things, when I did make my disclosure, I
19 had everything right in my car, I recall getting new
20 tyres and everything on it, so everything -- being a 14:20
21 policeman, I would know if there is something going to,
22 let's say, look at the car -- there's always something
23 wrong with a car, an older car, with the exception of
24 one you would drive out of a garage from buying it
25 brand new, there's always -- you'll always find a 14:20
26 problem with a car.

27 350 Q. Garda Keogh, wasn't the facts that the car was taxed
28 incorrectly and subsequently you did tax it correctly,
29 is that a fact?

1 A. Yes. That's -- you see, Judge, that is correct, but
2 the car was commercial and should I have argued my case
3 in court or that? I'm not sure if I would have
4 accepted the discipline that was to come after in
5 relation to that. 14:21

6 351 Q. But you told him that you would do that and you would
7 you produce evidence of the taxation within one week?

8 A. I did say I would sort it out, I recall that, yes.

9 352 Q. And you told him -- sorry, he told you that he would
10 deal with you. In the circumstances he would 14:21
11 effectively deal with anybody else in the same way and
12 that ultimately you then became annoyed and then you
13 began to become them, but you wouldn't say who you
14 meant by the word "them". Do you remember blaming --

15 A. Sorry? 14:21

16 353 Q. Do you remember blaming third parties?

17 A. I may have.

18 354 Q. Do you remember being annoyed?

19 A. I mean, I could have been. This is on the backdrop of
20 the whole episodes that we have heard earlier with 14:21
21 Olivia O'Neill and Liam McHugh. You know, as I tried
22 to explain, Liam McHugh, I believe him being set up,
23 and Garda management are completely ignoring that
24 factor.

25 355 Q. You see what he recorded at page 2188, he said that you 14:22
26 criticised Chief Superintendent Curran for trying to
27 create complaints against you. Middle of the page?

28 A. Which paragraph?

29 356 Q. 2188, middle of the page, last line in the second

1 paragraph.

2 A. That's possibly, yeah, that -- I mean, I don't remember
3 it, but I'd say that part is -- that would have been my
4 mindset at the time. So I can't dispute that part.

5 357 Q. Okay. You will see he also recorded next and what you 14:22
6 told him afterwards was that you hadn't thought what
7 was for you in the organisation but that you could stay
8 out sick long-term. Did you say that?

9 A. I have to read this first, sorry, one second.

10 358 Q. Please. 14:23

11 A. He may have said that, I don't recollect, but that
12 would sound fair enough.

13 359 Q. Okay. would you say that it's also likely that you
14 said to him that you hadn't thought about your future
15 and that you told him you joined the force in 1999 and 14:23
16 that you had served in Bray, Ballynacargy and Athlone?

17 A. I'd accept that, because during the thing in Bray, I
18 think I reminded him of an incident where we briefly
19 met for a couple of seconds, I think down in Wicklow
20 Circuit Court at some stage. 14:23

21 360 Q. Then at the end he just says that he went over three
22 issues to discuss again and he says one, your ad hoc
23 appearances at work and referral to the CMO, as he was
24 sceptical about your excuse and he felt that the CMO
25 could put supports in place for you? 14:24

26 A. Well now, Judge --

27 361 Q. Do you recall him saying that?

28 A. Sorry, that answers what was put to me earlier on in
29 relation to the work related stress, where he says he

1 was sceptical re his excuse.

2 362 Q. Well ultimately we know, in relation to the CMO, that
3 the treatment that you had received both before this
4 date and after this date was alcoholism, isn't that
5 right? 14:24

6 A. Equally Judge, I'm marked out with the flu.

7 363 Q. Garda Keogh, yesterday it was clear as day and you
8 admitted it.

9 A. Sorry.

10 364 Q. It has been as clear as day from yesterday and before, 14:24
11 and you admitted that the treatment that you received
12 both before 2015 and after 2015 was in relation to
13 alcoholism?

14 A. Oh yes.

15 365 Q. Yes. That's what he is obviously concerned about it. 14:24
16 The second point, he confirmed to you that Sergeant
17 Martin was to be your contact in relation to workplace
18 issues, to support your renewed attendance at work.
19 This is something to help you to come to work and to
20 work more happily in the future? 14:25

21 A. That part, I mean, I would read into that a different
22 way, when the letter comes out to me.

23 366 Q. Okay. would you just please turn over the next page.
24 He will say that the correction of your tax on the car
25 and the payment of yours claims, it would be dealt with 14:25
26 together and that he would deal with you himself using
27 regulation 10.

28 A. The first part is true and the second part is
29 completely false.

1 367 Q. Again I have put it to you that he will say that he did
2 mention regulation 10 at that time?
3 A. Absolutely did not.
4 368 Q. And he will say that you said to him, look, other
5 members had issues with cars, and you told him not to 14:25
6 worry, that he was going to have everyone checked, do
7 you remember that?
8 A. I pointed out I wasn't the only one, I wasn't the only
9 one that had the car, commercial, taxed as commercial.
10 That's all I think I said. I wasn't the only one that 14:26
11 had it. Something to that effect.
12 369 Q. Then he will say that you withdrew your allegation,
13 saying that you didn't want that as people would know
14 about your tax and they would blame him for any wider
15 search? 14:26
16 A. I don't recall that at all.
17 370 Q. Would that have been your sentiment at the time; that
18 you would prefer this to be a matter between -- not to
19 trigger a wider assessment of all of the members?
20 A. Well, I mean obviously I wouldn't have wanted any 14:26
21 overspill from what was happening, let's say, with what
22 is now becoming a conflict with me and management, to
23 overspill to other members in the station in Athlone.
24 A lot of them are already under enough pressure between
25 this, what we're dealing -- what we're dealing with now 14:26
26 and other issues that were going on in Athlone at the
27 time.
28 371 Q. Do you recall he told you that he would make a decision
29 taking your views on board but he would treat everyone

1 the same and fairly and that you shook hands and left?
2 A. That's correct.
3 372 Q. He also noted in the course of his statement that he
4 saw Garda A in the station throughout that evening, up
5 to the time he left at 7pm, and he just noted that, and 14:27
6 this is his note, the presence of Garda A, great
7 skepticism about your excuse of work related stress as
8 explained by you to him.
9 A. Judge, my reading into that line is -- perhaps I am
10 reading that line completely wrong, but, I don't know 14:27
11 how to answer. Like, I would say that that backs up
12 what I am saying, what we earlier pointed out, that
13 he's questioning my -- he's basically implying that I
14 wasn't under any stress. That's the way I read it.
15 But perhaps -- 14:28
16 373 Q. Garda Keogh, can we pause there for a moment and
17 perhaps look at it a different way. Superintendent
18 Murray's view is that there was clearly something wrong
19 and that he wanted to find a cause. That's where the
20 CMO came in; to try and find out the cause. And we 14:28
21 know that months later the cause was confirmed beyond
22 doubt. So, insofar as he is looking for a cause, can I
23 suggest to you what this note and what his evidence
24 confirms is that he was concerned about your welfare,
25 he wasn't trying to target you or to discriminate 14:28
26 against you, he was trying to assist you?
27 A. No, I dispute all that. I mean that last line, just
28 again, perhaps I am reading it wrong, but:
29

1 "His presence creates skepticism re Garda Keogh's
2 excuse of work related stress as explained by him."
3
4 I don't think I can explain it any better.

5 374 Q. And in terms of the position, we know also that after 14:28
6 that, at page 2190, volume 8, you have seen this
7 document before?

8 A. Yes.

9 375 Q. This was the authorisation being put into place, the
10 measures that were decided by him? 14:29

11 A. Yes.

12 376 Q. Here we have the presence of the three sergeants and I
13 think you've indicated they did nothing wrong to you,
14 is that right?

15 A. That's correct. 14:29

16 377 Q. And they didn't micromanage you?

17 A. Correct.

18 378 Q. They're all three experienced sergeants?

19 A. Yes.

20 379 Q. They were people who showed you friendship, kindness 14:29
21 and assistance?

22 A. Yes.

23 380 Q. I have to suggest to you in those circumstances,
24 Superintendent Murray did nothing wrong by asking him
25 to assist you, as his letter clearly indicates, in 14:29
26 relation to any issues that might arise?

27 A. Judge, that's not a fair question because I didn't
28 really know Sergeant Martin. Sergeant Haran and
29 Sergeant Moylan, we already would have had a good

1 relationship anyway prior to meeting Superintendent
2 Murray.

3 381 Q. At the end of the note, Sergeant Moylan, the person
4 with whom you had the very good relationship, is the
5 very person who he directs, Superintendent Murray 14:30
6 directs to sit down with you to go through your
7 notebook, Pulse, the DPP, the crime file lists and to
8 see if you need any help in relation to the harassment
9 case. So, in fact, he takes into account what you say
10 about Sergeant Martin and he delegates the experienced 14:30
11 Sergeant Haran, who is known to you, to deal with you
12 and to help you in that regard. It was Sergeant Haran
13 who went to help you?

14 A. Sorry?

15 382 Q. Sergeant Moylan, I beg your pardon? 14:30

16 A. Judge, just for clarification as well. This report,
17 like I know it's marked confidential, this was in every
18 pigeonhole in the station for everybody to say.
19 Everyone got to see this in the station, this, what's
20 marked down as confidential. 14:30

21 383 Q. Sorry, this is marked for the attention of the
22 sergeants, is it not?

23 A. Well, look...

24 384 Q. It's marked for the attention -- let's be clear, for
25 Inspector Farrell, sergeant in charge and the three 14:30
26 sergeants?

27 385 Q. CHAIRMAN: Sorry, go back up. Inspector Farrell. What
28 do you say to that? It's directed to Inspector Farrell
29 and the sergeant in charge.

1 A. Judge, I don't know. Oh, on that, okay, there was
2 sergeant -- Inspector Farrell, there was the sergeant
3 in charge and then there was -- I may be incorrect,
4 then there was those three sergeants who had to have
5 got a copy of this. So we have four sergeants and the 14:31
6 inspector that would have had.

7 386 Q. CHAIRMAN: Yes.

8 A. But there's pigeonholes, what I am calling pigeonholes,
9 Judge.

10 387 Q. CHAIRMAN: Of course. 14:31

11 A. And they throw in the sheets of paper. So like any --
12 they're unit pigeonholes, so the sergeant of each --
13 what would go into this unit pigeonhole would be for
14 the sergeant and all the guards on the unit. So
15 Sergeant Moylan was the sergeant in charge of unit C, 14:31
16 that was my unit; Sergeant Haran is community policing;
17 Sergeant Martin is in charge of a different unit. So
18 every guard in those three units would have been able
19 to see this, along with the sergeant in charge that
20 would have a -- the sergeant in charge didn't have a 14:32
21 pigeonhole, they had a tray on their desk where you'd
22 leave those documents up. This was -- a lot of people
23 could see this confidential report.

24 388 Q. CHAIRMAN: Basically everybody could see it, according
25 to you, is that right? 14:32

26 A. Well not everyone. Technically not everyone but a lot
27 of people. Any of the guards.

28 389 Q. CHAIRMAN: Mr. Murphy is shaking his head. I am just
29 thinking, your contention is that this was left where

1 everybody could see it?

2 A. where half the station could see it.

3 CHAIRMAN: Okay, half the station could see it.

4 390 Q. MR. MURPHY: I have to suggest to you, on my 14:32

5 instructions that's wrong because it's clearly

6 addressed to a select number of middle ranking officers

7 who have an interest in managing gardaí of ordinary

8 rank. It's not put on Pulse, for example.

9 A. There is nothing to put on Pulse in relation to this.

10 391 Q. The point I wish to make in that regard, in terms of 14:33

11 the micromanaging issue, I have to suggest to you that

12 you that the complaint you have made has no foundation

13 whatsoever, because there wasn't any micromanaging?

14 A. There wasn't any micromanaging because the sergeants

15 didn't go down that road. But I mean, it's very clear 14:33

16 on the last three lines:

17

18 "Go through his notebook, Pulse, the DPP and crime file

19 lists and ascertain if he requires help with any

20 ongoing cases as he mentioned." 14:33

21

22 Judge, I'd replace that with -- you know, that word is

23 stuck in there to make it appear that -- as things

24 progress, Judge, it was to find fault with anything. I

25 had never -- I had never been scrutinised in any way at 14:33

26 this level ever before in An Garda Síochána. I mean,

27 okay, when you're in your probation, Judge, a probation

28 guard would have their notebook examined by a

29 superintendent or a sergeant or something. Like I'm

1 years out of probation at this stage and have all this,
2 everything, everything basically, all my work is
3 micromanaged. Well, the order is there essentially for
4 it to be micromanaged

5 392 Q. You see, Garda Keogh, you're retreating back to your 14:34
6 original complaint. I have to suggest to you what you
7 are ignoring is the evidence, which you yourself
8 accept, that at the time you had been drinking, you did
9 have issues. We will go very briefly to see what the
10 sergeants say, because they don't say the same as you 14:34
11 at all. If, for example, you look at page 590 of
12 volume 3, Sergeant Haran. I just want to match this
13 against your perception that everything was fine.

14 A. Sorry, I didn't say -- I don't think I said everything
15 was fine. 14:35

16 CHAIRMAN: You didn't say everything was fine.

17 WITNESS: Did I?

18 CHAIRMAN: No.

19 393 Q. MR. MURPHY: No, but I am suggesting there was a reason
20 why you needed to be scrutinised. This will evident 14:35
21 from these extracts. So, page 590, volume 3.

22 A. Yeah.

23 394 Q. An extract from Sergeant Haran's statement, he will
24 say, paragraph 3.15:

25 14:35
26 "In general terms, I was glad to assist Garda Keogh in
27 doing files and reports. He readily admitted it was a
28 weakness on his part. On occasion I would sit down
29 with him and he would literally empty out his post

1 Locker and between us we would tidy it up. I advised
2 him on how he might deal with some files in order to
3 clear his desk."

4
5 4.3, please, down at the end of the page:

14:35

6
7 "Following his disclosure, I continued in my role and
8 on occasions I supervised Garda Keogh. He struggled at
9 times to keep things going and would speak to me about
10 his drinking being a problem and his preferences for
11 working nights when the authorities were not working. 14:35
12 I did not witness any bullying or overt or, indeed, any
13 underhand behaviour directed towards Garda Keogh by any
14 management in Athlone."

14:36

15
16 So, would you agree with me that his evidence suggests
17 that he thought you needed help and he readily and
18 willingly gave that help?

19 A. What jumps out at me is the line:

14:36

20
21 "His preference for working nights when the authorities
22 were not working."

23
24 395 Q. If you just turn over, please, to the following page,
25 591, just commenting on Superintendent Murray's style,
26 this witness will say that Superintendent Murray
27 introduced stricter practices and regimes.

14:36

28 CHAIRMAN: I think it's 5.1; is that right?

29 MR. MURPHY: 4.5, page 591.

1 CHAIRMAN: Sorry, I just I misheard, sorry.

2 MR. MURPHY: 4.5, that Superintendent Murray introduced
3 some stricter practices in Athlone regarding the
4 creation of a robust system, a management system,
5 including a new crime file: 14:36

6
7 "This and other oversights were for all members to
8 follow and I can say they were excellent in reinforcing
9 good practices. "

10 14:36

11 Just based on that, can I suggest to you that the
12 evidence indicates that Sergeant Haran thought that
13 these work practices were good, they were an
14 improvement, they were new and they were excellent in
15 reinforcing good practice. They may not have happened 14:37
16 before, but they were practices which actually
17 increased the standard. would you agree with that
18 assessment?

19 A. Judge, this is -- I can't comment on it, Judge. This
20 is what Sergeant Haran has to say. 14:37

21 396 Q. CHAIRMAN: He says that Superintendent Murray was
22 stricter. He was a new broom and he introduced
23 stricter practices and he says they were better, but
24 stricter practices than were there before. He doesn't
25 mean the ones before were wrong, but that's what he 14:37
26 says. Was that your impression?

27 A. You see, unfortunately, Judge, I have that much going
28 on with the investigation and all the rest, that I
29 don't witness -- and my dealings with Superintendent

1 Murray, I have a different viewpoint to probably
2 Sergeant Haran would have had.

3 397 Q. CHAIRMAN: Explain that to me a bit more.

4 A. Yes, sorry. Like, I had that much going on in relation
5 to the disclosure and the investigation that was going 14:38
6 on, because at the time it would have been one of the
7 biggest internal investigations in the country within
8 An Garda Síochána.

9 398 Q. CHAIRMAN: Okay. So as of the time of your first
10 meeting with Superintendent Murray, are you saying that 14:38
11 you were sort of distracted?

12 A. Judge, I mean --

13 399 Q. CHAIRMAN: Do you know what I mean?

14 A. Yes, I do know what you mean. And, Judge, obviously,
15 yes -- that's what I am trying to say. I would have -- 14:38
16 all the stuff that's going on in the background, the
17 elephant in the room and the heroin in the
18 investigation and all that, that side of things.

19 400 Q. MR. MURPHY: You see, Garda Keogh, you make a heavy
20 point of saying to the Chairman that this kind of thing 14:39
21 hadn't happened before, and I am putting it to you that
22 this was happening right across the station, because
23 these were new practices with a new emphasis on a new
24 crime files system, which we will come to later on.
25 But could I ask you just to look back at paragraph -- 14:39
26 CHAIRMAN: I think he said it hadn't happened to him
27 before.

28 MR. MURPHY: Yes.

29 401 Q. CHAIRMAN: He hadn't been questioned, is that right?

1 A. Yes.

2 402 Q. CHAIRMAN: But just before you leave that, Mr. Murphy,
3 sorry, my understanding is that you say the three
4 sergeants didn't in fact do anything. However they
5 helped or didn't help, they didn't do anything that you 14:39
6 considered unreasonable or targeting or, you know,
7 getting at you?

8 A. Yes, Judge. That is correct.

9 403 Q. CHAIRMAN: Yes. So whatever instruction Superintendent
10 Murray gave, it didn't result in any trouble to you? 14:39

11 A. That is correct, but, Judge, it's the motive.

12 404 Q. CHAIRMAN: Yes.

13 A. Judge, the motive. -

14 405 Q. CHAIRMAN: But as I understood from when you were
15 answering Mr. McGuinness, I understood you to say, 14:40
16 whatever the kind words that Superintendent Murray was
17 writing, he actually meant the opposite, number one,
18 and (b), the sergeants either understood or didn't
19 understand but the sergeants didn't carry out what he
20 wanted to do, which was that he wanted to get at you? 14:40

21 A. Judge, yes.

22 406 Q. CHAIRMAN: Now, maybe I put it crudely but that's
23 essentially the point?

24 A. Yes, Judge. Look, Judge, Superintendent Murray is not
25 going to write a report like this and use the words go 14:40
26 after this fella and find every mistake you can find so
27 we can hammer him. They're not going -- he's not going
28 to write a report like that.

29 407 Q. MR. MURPHY: And he didn't either, did he?

1 A. Well, he didn't word it --

2 408 Q. He didn't write one either. I mean it simply didn't
3 exist. If I can ask you to look at page 591, please,
4 at paragraph 4.4.

5 A. Sorry? 14:41

6 409 Q. It's on the screen that have you in front of you. It's
7 volume 3. I think you have that.

8 MR. KELLY: I think he is referring to 591 in that, the
9 paper copy, you can look at that.

10 WITNESS: I have 591 here, yeah. 14:41

11 410 Q. MR. MURPHY: You see at paragraph 4.4, Sergeant Haran
12 again will say that Inspector Farrell and he spoke
13 about you on occasion and:
14

15 "Inspector Farrell always spoke in a way about anything 14:41
16 we could do to assist Garda Keogh in reducing his
17 problems, but unfortunately Garda Keogh was not
18 perceptive at that time. I spoke about Garda Keogh to
19 various managers over time, including Superintendent
20 McBrien and Superintendent Murray, neither spoke in any 14:41
21 way that suggested ill feeling..."

22

23 Towards you.

24 A. Yes. Just for clarification, Judge, in relation to the
25 thing with Inspector Farrell, I think I addressed it 14:41
26 yesterday, it's the same thing, it wasn't anything
27 personally with Inspector Farrell, it was do with his
28 friendship with another guard. -

29 CHAIRMAN: Yes, I understand.

1 A. Yeah.

2 411 Q. CHAIRMAN: That was why you were brusque, if you like,
3 and rejecting when he spoke to you?

4 A. Yes.

5 412 Q. CHAIRMAN: I understand that, yes. 14:42

6 A. But not -- just that, the way it is worded there, it's
7 worded as if I wasn't cooperating.

8 CHAIRMAN: Receptive. Not cooperative is another way
9 of putting it.

10 A. Sorry, yeah. 14:42

11 413 Q. CHAIRMAN: That is what he is saying. That's exactly
12 what he's saying?

13 A. That I wasn't --

14 414 Q. CHAIRMAN: They were trying to help you and you
15 wouldn't accept the help, that's what he is saying. 14:42

16 A. Well, I am very -- I'm confused here on this, Judge,
17 I'm sorry.

18 415 Q. CHAIRMAN: Calm down for a moment.

19 A. Yeah.

20 416 Q. CHAIRMAN: Let's stop. Mr. Murphy is quizzing you
21 about your contention about Superintendent Murray
22 having it in for you? 14:42

23 A. Yes.

24 417 Q. CHAIRMAN: Okay. That's what he is saying. He is
25 citing this instance from the report of - 14:43

26 A. Sergeant Haran.

27 418 Q. CHAIRMAN: - Sergeant Haran, to say, here is evidence
28 to show willingness to help, no ill feelings towards
29 you, that is what he is suggesting, as a result of

1 this.

2 A. Yes.

3 419 Q. CHAIRMAN: This paragraph says they were willing to
4 help you, although you weren't willing to accept the
5 help, that's what he's saying. It doesn't mean it's 14:43
6 right but that's what he is saying. And that's what
7 the paragraph says?

8 A. Yes. Judge, just for clarification, I have explained
9 the thing with Inspector Farrell, I had a good working
10 relationship still with Sergeant Haran. 14:43

11 420 Q. CHAIRMAN: Yes.

12 A. I just wanted to clarify it.

13 421 Q. CHAIRMAN: Thanks very much.

14 A. To me it reads that I was totally blanking Sergeant
15 Haran and Inspector Farrell, which wasn't the case, 14:44
16 let's say.

17 CHAIRMAN: All right.

18 422 Q. MR. MURPHY: Just in terms of Sergeant Moylan, can I
19 ask you to turn to page 606, please, the same volume,
20 at paragraph 3.3. And he refers to the request from 14:44
21 Superintendent Murray to assist you. And he says:
22

23 "I did go through Garda Keogh's Pulse, crime file, DPP
24 lists. I don't recall going through his notebook. I
25 believe I was satisfied that all relevant incidents 14:44
26 were covered in the areas gone through. When I was
27 going through the lists or issues in relation to Garda
28 Keogh, I was showing him what I was submitting before
29 submitting the same to ensure he was satisfied with the

1 line being taken."
2
3 So again, I have to suggest to you, that is further
4 indication of a collaborative effort by people working
5 with you to help you improve your work 14:45
6 A. I accept everything that is in that part there from
7 Sergeant -- is this Sergeant Moylan, yeah?
8 423 Q. Moylan.
9 A. Yeah, I have no issue with that, I accept that.
10 424 Q. Can I ask you then, please, to turn to Volume 4, at 14:45
11 page 695?
12 A. 695?
13 425 Q. Please, in the middle of the page. This Inspector
14 Minnock's statement. He notes your complaint about
15 three sergeants supervising you, but he actually says, 14:45
16 in his evidence he says, this is what he will say, this
17 was not the position. Do you want to take a minute to
18 read the paragraph?
19 A. It starts on page 13.
20 426 Q. On page 13, yes, please. 14:46
21 A. Yes, I have no issue with that paragraph, Judge.
22 427 Q. Okay. Would you just go over to the next page, please,
23 for a second, to the first paragraph at the top of the
24 next page?
25 A. Down to the words "constant contact". 14:46
26 428 Q. Yes, please.
27 A. I have read that.
28 429 Q. Just in summary, would you agree with me that
29 superintendent Minnock's assessment is that your view

1 of three people supervising you wasn't correct, that
2 Sergeant Haran linked in, in an unofficial capacity to
3 provide welfare and supports, that he thought Sergeant
4 Martin was a good person to assist you. And the last
5 part, at the top of page 696, he says:

14:47

6
7 "This provided a distinction in the role of
8 supervisors, allowing Sergeant Moylan to perform his
9 role as supervising sergeant and a separation of the
10 role Sergeant Martin providing welfare and support
11 structures."

14:47

12
13 And that you also had support from Garda Mick Quinn,
14 the welfare officer, with whom you had constant
15 contact?

14:47

16 A. I have no issue with that.

17 430 Q. Here are three other officers against who you are not
18 making any complaints. They are saying, look, what was
19 taking place here was prudent management, reforming
20 management, all calculated to help you and not to hurt
21 you, not to target you, not to discredit you, but to
22 help you?

14:47

23 A. Judge, the report -- I mean, to go through my
24 notebooks, my crime files, my -- to go through
25 everything, my reading in that is to find mistakes and,
26 of course, as we go on into things I think it becomes
27 evident later on, but this is just the start of, I
28 suppose, Superintendent Murray's tenure in Athlone.

14:48

29 431 Q. But, Garda Keogh, you have admitted that paperwork

1 wasn't your strong point, haven't you?

2 A. Yeah, but for clarification, Judge, I never -- I never
3 had an issue. Like I never had a problem in court to
4 do with files or anything like that. I was, I suppose,
5 motivation to sit down, I would want to procrastinate, 14:48
6 try and put off doing a file and stuff like that. But
7 I always got -- I always had my files in on time and
8 there was never -- there was never any major issue with
9 my paperwork. There would have been minor, minor
10 things. Like I don't dispute what Sergeant Haran has 14:49
11 said. And also, it does obviously become an awful lot
12 tougher on me as a guard after I made my protected
13 disclosure. Then, of course, I'm working alongside
14 Garda A for 18 months.

15 432 Q. Garda Keogh, just in terms of what you said about the 14:49
16 protected disclosure, is it the case that you were
17 annoyed with this type of intervention by
18 Superintendent Murray because you considered that your
19 role as a whistleblower was leading you to engage in
20 much more important work in conjunction with the 14:49
21 Ó Cualáin investigation?

22 A. Judge, there was problems with the investigation at the
23 time. As I've said, some parts are very thorough and
24 some parts were -- there was serious problems with
25 other parts of the investigation and they were -- they 14:50
26 would have been probably a priority on my mind. But
27 that doesn't mean that I was neglecting in any way
28 injured parties or anything like that. We have gone
29 into the evidence last week of injured parties, where

1 I'm bringing them in and they're actually witnessing --
2 they take part in the investigations themselves, in
3 fact, to do with CCTV. They know there's stuff is
4 being investigated.

5 433 Q. Garda Keogh, the reason I ask the question is because 14:50
6 on Day 100, at page 24 of the transcript, if it is
7 possible to see that, please. Thanks. Page 24. Do
8 you see at line 13 you said:

9
10 "So all this stuff, you know it's just stuff, they kept
11 firing down all this Mickey Mouse paperwork at me, when
12 I was already fully complying with the investigation
13 team."

14
15 You've used that phrase several times since you gave 14:51
16 evidence. Did you regard these paperwork tasks, which
17 the superintendent was seeking to provide you with
18 assistance on, as Mickey Mouse activity compared to
19 what you were doing as a whistleblower?

20 A. Judge, again, it's easy for -- as I said last week, 14:51
21 they just change the hands here. They have a new set
22 of -- a new superintendent, a new chief. So I'm still
23 the same person, having gone through the previous year
24 with all this, writing on this Olivia O'Neill, the Liam
25 McHugh and all this, all of these other matters. So 14:51
26 for me it's a continuous thing, Judge. What I am
27 trying to say is, to be in my shoes, I would view
28 things differently from, you know, the way where a new
29 superintendent would come in and they just -- they

1 don't take that into account, that there's been a lot
2 of stuff already gone in, going on.

3 434 Q. Can I ask you to go to Day 100 at page 131 please, of
4 the transcript?

5 A. Page 131.

14:52

6 435 Q. Please.

7 A. Yes.

8 436 Q. I think that this dealt with your evidence about
9 bringing in the documentation to show the tax disk had
10 been paid, do you remember that?

14:52

11 A. Again, the question is not -- the question is not quite
12 the way it happened, Judge. I was asked to get the
13 documentation. Because I recall going down -- when
14 Superintendent Murray asked me, he asked me -- he never
15 mentioned discipline or anything the first day and
16 then, when he said, did you get the tax, this is, from
17 recollection, on the second meeting, and he said, did
18 you get your tax sorted, something to that effect, and
19 I said, yes. He said, can you get the documents? I
20 went down the stairs. They were in the car, because I
21 keep all my tax and insurance documents in the car. So
22 when I got whatever documents, that's when he took them
23 and he ran straight to the photocopy and then he said,
24 I'm going to discipline you. That was the first I knew
25 about discipline.

14:52

14:53

14:53

26 437 Q. Now, again I have to suggest to you, it wasn't the
27 first you knew about this, because Superintendent
28 Murray will say he did speak to you about regulation
29 10, as he recorded in his note. But could I ask you to

1 go back to page 117 of the same transcript, this is Day
2 100. 117, please?

3 A. 117?

4 438 Q. 117, please. I think this is where you describe in
5 your evidence that you met Superintendent Murray, you 14:54
6 said, the first thing he did, instead of just taking my
7 word, he said, can I see them.

8

9 "The minute he had them, ran over to the photocopier,
10 and that's when I knew this boy -- what he's up to." 14:54
11

12 Do you remember you said those words?

13 A. Just where is this.

14 439 Q. The top of the page, if you start at line 2, page 117?

15 A. Okay. 14:54

16 440 Q. Please take a moment just to read that paragraph.

17 A. Yeah.

18 441 Q. Superintendent Murray will say that he was actually on
19 his way out of the office when you approached him.
20 That he turned around and went back in, made use of the 14:54
21 photocopier and I think he provided with you a copy as
22 well, did he, or the original?

23 A. No, no. I remember, I had to go down the stairs to the
24 car to get the documents and that's when I remember,
25 like, you know, can you not just take my word, I got 14:55
26 the tax sorted. I told him I got it sorted and what
27 does he want the -- does he not believe me, kind of,
28 that I didn't get it sorted. That was -- no, no.

29 442 Q. I have to suggest to you that the way you describe

1 Superintendent Murray's activity there, the steam at
2 which he used the photocopy, from which you induce the
3 fact that he was up to something, is paranoid in its
4 approach, that's simply reading far too much into a
5 situation where he will simply say he simply took a 14:55
6 photocopy and went on about his business?
7 A. That's his version.
8 443 Q. Did you time him taking photocopies on the photocopier?
9 A. Sorry.
10 444 Q. Did you time him taking the photocopies on the 14:55
11 photocopier? What point were you trying to make?
12 CHAIRMAN: It wasn't the speed of the photocopying, it
13 was his thirst to get them photocopied. He says he ran
14 to the photocopier. So it's the speed in getting to
15 the photocopier. 14:56
16 MR. MURPHY: Yes. He will say he was on his way out of
17 the premises.
18 CHAIRMAN: I understand.
19 MR. MURPHY: went back in to do this task and went back
20 out again. 14:56
21 CHAIRMAN: And what Garda Keogh is saying is that when
22 the superintendent was given the documents into his
23 hand, he ran to the photocopier. In the whole
24 circumstances, he deduced or inferred that this was not
25 a friendly copying act. 14:56
26 MR. MURPHY: Yes. And again on behalf of
27 Superintendent Murray, I have to say there is simply no
28 basis for that, Judge.
29 CHAIRMAN: Yes, you disagree with that.

1 WITNESS: Just for clarification, Judge. I used the
2 words he ran to the photocopier, I didn't mean he
3 literally ran to the photocopier.
4 CHAIRMAN: That is what you did say.
5 WITNESS: Obviously he walked towards it, walked 14:56
6 briskly towards the photocopier.
7 445 Q. CHAIRMAN: You say the fact that he photocopied them,
8 is that right, was a straw in the wind?
9 A. I was wondering what -- I mean what's the --
10 446 Q. CHAIRMAN: If he raised the issue, would it not be 14:57
11 normal for him to check it out, to say, show me the
12 documents?
13 A. Yes.
14 447 Q. Nobody was accusing anybody of, you know, lying. Would 14:57
15 it be enough to say, I've sorted that out, don't worry
16 about it. Oh, very good, thanks very much, off we go.
17 Even when they raised an issue about it, if somebody
18 said that, would you not have photocopied the
19 documents?
20 A. Well firstly, it would be a very serious thing for a 14:57
21 guard to lie to a superintendent.
22 448 Q. CHAIRMAN: But you are suggesting something that
23 strikes me as being altogether a bit casual. That you
24 meet him and you say, oh, I sorted that out, and that
25 he should accept it and if he doesn't accept it, that's 14:57
26 an indication of some hostility. I am finding that
27 hard to believe, to be honest?
28 A. Yeah, I understand.
29 449 Q. CHAIRMAN: I see your point about, okay, taking them

1 and photocopying them, you might say, well, maybe if he
2 looked at them and satisfied himself that might be --
3 okay.

4 A. Yes. Judge, again, when he has the copies, I think
5 then it goes -- he then proceeds with the discipline 14:58
6 then. I didn't know anything, like he never mentioned
7 the discipline the first day.

8 450 Q. CHAIRMAN: So you didn't think that disciplinary
9 proceedings were a reasonable response, that's
10 really it? 14:58

11 A. Yes, Judge. In relation to this incident, for
12 continued -- from the very start, this is where I
13 understand now that it was Detective Superintendent
14 Mulcahy and the investigation team that notices there
15 is an issue with my car tax. Obviously this is known 14:58
16 to Garda management for what, approximately a year at
17 this stage.

18 451 Q. CHAIRMAN: Apparently, I don't know, my guess is, until
19 I hear something different, that casually he is walking
20 with Superintendent McBrien and he notices, being of a 14:59
21 noticing sort of person, they notice your car and he
22 says, by the way, look, that's commercial. Something
23 like that.

24 A. Judge, well what I --

25 452 Q. CHAIRMAN: We will hear all about that. You say they 14:59
26 had it for a long time, they knew it for a long time?

27 A. Yes.

28 453 Q. CHAIRMAN: That indicates that it wasn't so serious a
29 matter that it called for (a) immediate attention,

1 because it didn't get immediate attention and it was
2 unreasonable to make a disciplinary issue out of it?

3 A. Judge, at any period of time while they knew, they
4 could have said, listen, Nick, can you just get --
5 there is a problem with the your car tax, can you get 14:59
6 it sorted. Judge, that was it. If, let's say, it was
7 a completely illegal thing, they knew --

8 454 Q. CHAIRMAN: I understand.
9 A. And they let me, you know.
10 CHAIRMAN: Right. 15:00

11 455 Q. MR. MURPHY: Garda Keogh, you do understand that
12 regulation 10 is perhaps at the lowest level of
13 informal resolution of a disciplinary issue, by
14 caution, by warning or by advice?

15 A. I understand that now. As I said, I was never 15:00
16 disciplined before. I didn't know anything about
17 discipline.

18 456 Q. My understanding is this doesn't leave a mark on your
19 disciplinary record. But insofar as this transaction
20 was concerned, this meeting at the photocopier, isn't 15:00
21 it the case that finalising this matter made provision
22 for the allowance of your travel claims to be
23 processed?

24 A. Yes.

25 457 Q. So there was a benefit to you of getting this done 15:00
26 efficiently and, I have to suggest to you, that's all
27 Superintendent Murray was doing?

28 A. There's very little shortfall, like it wasn't to do
29 with the money or anything like that, we're talking

1 about €50 or something in the difference.

2 458 Q. CHAIRMAN: of which?

3 A. Between car tax and the allowances that was to be paid,
4 like, it was a tiny, it was small, roughly €50 or
5 something was the difference. If it's implied that I 15:01
6 only did it to get the payment for the subsistence
7 allowances, if that's what is being implied, I am not
8 sure, in the question.

9 459 Q. CHAIRMAN: The amount owed to you for expenses compared
10 with the deficiency in tax between the commercial and 15:01
11 ordinary, that's what you're referring to?

12 A. That's what I am trying to explain.

13 CHAIRMAN: Thank you.

14 460 Q. MR. MURPHY: I think if you look, please, at volume 4,
15 page 682? 15:01

16 MR. KELLY: Judge, I wonder whether that would be a
17 convenient moment for the garda to have a break.

18 CHAIRMAN: Sure, yes.

19 MR. MURPHY: I only have a few more questions on this
20 issue, I have five minutes on this issue? 15:01

21 CHAIRMAN: You can finish on this issue in five
22 minutes, perfect, we will take the five minutes and
23 then we will have a break because you didn't have one
24 this morning. Okay.

25 MR. MURPHY: volume 4, page 682. 15:01

26 CHAIRMAN: Yes.

27 461 Q. MR. MURPHY: Statement of inspector Minnock. Can I ask
28 you to look at the second last paragraph on that page,
29 682.

1 A. It starts with "I relayed".

2 462 Q. Yes, please. Prior to that, we know from previous
3 evidence that has been given, Superintendent Minnock
4 made an enquiry of Offaly County Council in relation to
5 your car. He relayed this information to 15:02
6 Superintendent Murray. Superintendent Murray says in
7 his evidence, appeared to be anxious to deal
8 appropriately, swiftly and fairly with the matter.
9 Thereafter, he was advised that the tax classification
10 had been rectified. He says this and will say in his 15:02
11 evidence:
12
13 "I am aware that your claims were paid, that you
14 received a regulation 10 for using a vehicle which was
15 incorrectly taxed. This was consistent with matters of 15:03
16 this nature coming to the attention of a district
17 management team and to my attention."
18
19 So he's saying that what occurred here was consistent
20 with practice that he had seen at that time. It was 15:03
21 not something that was special to you only.

22 A. Oh, I dispute that. Because he then -- you see, he
23 gives an amnesty to every other garda in the station,
24 member of the Garda Síochána in the station, he gives
25 an amnesty in relation to two months for them. Bear in 15:03
26 mind, Judge, they're aware for about a year there's a
27 problem, a minor problem with my car tax and everybody
28 else then gets an amnesty for two months to get
29 problems with their vehicles in order. And like, one

1 of the issues is that Superintendent Murray says he's
2 aware that there's basically members of An Garda
3 Síochána driving with no insurance on this. And they
4 get an amnesty I would argue that was completely
5 illegal.

15:04

6 463 Q. Garda Keogh, don't you know this from reading the
7 statement before, but if you turn over the page to 683,
8 you will see that Superintendent Murray will say this
9 was consistent practice, that Superintendent Murray
10 initiated a certification process for driving licence,
11 tax and insurance for all members.

15:04

12 A. Yes, but --

13 464 Q. Sorry, I think you acknowledge that took place. Just
14 look at the end of that paragraph, he says:

15
16 "I believe another garda member had to regularise the
17 tax classification on his vehicle following this
18 process and that a regulation 10 was also recommended
19 for this situation."

15:04

20
21 A. Judge, I know --

22 MR. McGUINESS: Chairman, may I just intervene on that
23 point. We sought to clarify that matter and we haven't
24 yet been provided with any such regulation 10 notice
25 for another member.

15:04

26 CHAIRMAN: Okay.

27 MR. McGUINESS: It has been confirmed that there is no
28 such one in the Athlone district.

29 CHAIRMAN: It's been confirmed?

1 MR. McGUI NNESS: That there is no such one in the
2 Athlone district.

3 CHAIRMAN: Okay.

4 WITNESS: Judge, if I can be of assistance here.

5 CHAIRMAN: Yes. 15:05

6 WITNESS: There was another member in a sub-district
7 outside of Athlone that did get a regulation 10 but
8 months after these events.

9 CHAIRMAN: Okay.

10 WITNESS: So they're not -- 15:05

11 CHAIRMAN: So we have a question mark over whether
12 somebody else was in the same position as you. It
13 looks as if in Athlone there wasn't some such person
14 and your real point is, irrespective of that -- let me
15 finish for a second. Irrespective of that, your point 15:05
16 is that all the others were given, I don't know that
17 amnesty is the correct word, but they were given the
18 opportunity of two months in which to put their things
19 right without any question of a regulation 10?

20 A. Yes. And my understanding is that months afterwards, 15:06
21 one of these -- a garda didn't avail of the
22 opportunity.

23 465 Q. CHAIRMAN: Very good. You say it's a different
24 situation entirely?

25 A. Correct, Judge. 15:06

26 CHAIRMAN: All right.

27 466 Q. MR. MURPHY: Isn't it the case that the regulation 10
28 can be used informally, in a non-documentary way?

29 A. Sorry?

1 467 Q. Isn't it the case that the regulation 10 process can be
2 used informally?
3 CHAIRMAN: Can be used informally?
4 MR. MURPHY: Informally, that it's an informal process.
5 CHAIRMAN: But in his case was it used. He was given a 15:06
6 notice.
7 MR. MURPHY: Yes, absolutely, but I'm saying in
8 relation to the other --
9 CHAIRMAN: I'm sorry. So it could happen that there
10 isn't a notice about it. Anyway, I think we have the 15:06
11 point. But Garda Keogh's point essentially is, look, I
12 was treated differently because the others were given
13 the opportunity of doing it. That's his point.
14 MR. MURPHY: Then finally, can I ask you just before
15 the break, volume 8, page 2196. 15:06
16 CHAIRMAN: 2196. Thank you. Okay.
17 468 Q. MR. MURPHY: Just to confirm the finalisation of this
18 process, because we went through this last week and I
19 won't waste time on it, but I think you accepted when
20 it was put to you last week that it was Superintendent 15:07
21 McBrien who actually initiated this whole question of
22 travel and tax compliance. So this was a legacy issue
23 that was left over to Superintendent Murray. You will
24 see that in this letter, page 2195, he writes to the
25 chief superintendent Mullingar, he indicates what steps 15:07
26 he has taken, he has indicated that:
27
28 "As a result, a loss of revenue to the State of €377
29 resulted each year."

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That he met you. That you admitted tax on the vehicle in that class. That he gave you a chance to correct this. That he dealt with you by way of regulation 10. Then the final sentence:

15:07

"The matter is now closed."

would you agree with me, at the end of the process that matter was closed as far as An Garda Síochána were concerned and you were left without any serious disciplinary mark on your character?

15:08

A. I'm not so sure about the €377, Judge. I am not sure about that. But it's not an issue anyway, there was a shortfall. The matter with the car tax, yes, it was closed, Judge.

15:08

469 Q. Superintendent Murray will say that from his point of view that was finished, you were free to receive your allowances, the tax had been paid, the matter was closed?

15:08

A. Ultimately that was the end.

470 Q. Sure.

A. But bear in mind, Judge, if I had been served -- I didn't know anything about discipline, if I knew about it I would have perhaps contested that, but ultimately --

15:08

471 Q. CHAIRMAN: Contested what?

A. Contested the thing in relation to the thing with the issue with the commercial, the fact that you couldn't

1 actually -- I couldn't -- I could not tax the car in --
2 sorry, I couldn't put the car -- the car was
3 commercial, it only had two seats, the actual vehicle
4 was a commercial vehicle.

5 472 Q. CHAIRMAN: Hold on a second. If I buy a car that used 15:09
6 to be a van, however it is, do you say I'm entitled to
7 tax it as a commercial vehicle?

8 A. Sorry?

9 473 Q. CHAIRMAN: If somebody buys a van, some shop owns a van 15:09
10 and somebody buys it when it's secondhand, are they
11 entitled to use -- if I bought it, am I entitled to use
12 it as a commercial vehicle? Say look, you know, it
13 has, whatever it has, Tesco on the side, and it used to
14 be commercial.

15 A. I'm not sure, Judge. I have been trying to find out 15:09
16 the law.

17 474 Q. CHAIRMAN: Listen, you're a guard, we've both been at
18 this business for long enough. It sounds a bit iffy to
19 me.

20 MR. KELLY: Judge, with respect, I think there might be 15:09
21 a difference of legal opinion on that. If the question
22 is, at what point does a van become a car, I think it
23 might actually -- a lot of courts spend a lot of
24 time --

25 CHAIRMAN: well, Mr. Kelly, hum hum, is what I say to 15:10
26 that.

27 MR. KELLY: Yes, but another court may say something
28 different.

29 CHAIRMAN: Very good. We don't have to worry about it.

1 But you took the view that, look, whatever it was and
2 you paid up the tax. We don't have to worry too much
3 about that particular little issue. I can't say I came
4 across it much in the course of my career, Mr. Kelly,
5 no more than I expect have you come across it that
6 much. 15:10

7 MR. KELLY: well, I think we're both lucky in that.

8 CHAIRMAN: I think so. Thank you very much. We will
9 take a little break okay. Okay, thanks very much.

10
11 THE HEARING THEN ADJOURNED BRIEFLY AND RESUMED AS
12 FOLLOWS: 15:10

13
14 MR. MURPHY: Chairman, I wonder if Garda Keogh could be
15 shown his diaries, please. 15:22

16 CHAIRMAN: Yes, of course.

17 MR. MURPHY: For the balance of the Tribunal, it's page
18 13318, it's in volume 47/48?

19 CHAIRMAN: You have it in front of you. The date?

20 MR. MURPHY: The date, if I can ask you to move to the
21 date of 8th July 2015. 15:23

22 CHAIRMAN: Thank you.

23 MR. MURPHY: This, Chairman, is to deal with issue
24 number 7.

25 CHAIRMAN: Thank you very much. 15:23

26 475 Q. MR. MURPHY: which deals with the disciplinary
27 investigation in relation to the sick leave of Garda
28 Nicholas Keogh during July of 2015.

29 CHAIRMAN: Yes.

1 476 Q. MR. MURPHY: Garda Keogh, do you have that passage?
2 A. Yeah.

3 477 Q. Thank you. I think under the 6th July, it was a rest
4 day for you, is that correct?
5 A. Yes. 15:24

6 478 Q. Then there seems to be a reference to the next day, at
7 10:15 you note that you rang Mick Quinn and told him
8 that you were going drinking?
9 A. Yes.

10 479 Q. I think, as we know, Sergeant Quinn is somebody who 15:24
11 dealt with you quite extensively and done his very
12 best, as you very fairly acknowledged, to help you with
13 your welfare issues?
14 A. Yes. He is the welfare officer, Judge, that deals with
15 me, yes. 15:24

16 480 Q. Was it your practice to tell him that you intended to
17 go drinking?
18 A. Em...

19 481 Q. Or would that suggest that you were intending to go
20 drinking for a long time? 15:24
21 A. Sorry?

22 482 Q. Did that indicate to him that you were to go drinking
23 for several days?
24 A. You see, unfortunately, Judge, when I go drinking, it's
25 a bit like a car with no brakes. I might intend to go 15:24
26 drinking for one night or whatever but sometimes it's
27 to hard to -- stopping is the problem, Judge.

28 483 Q. Just looking at that page, which deals with the week,
29 we can see that Monday is a rest day. Can we take it

1 from that, that the rest of the days of that week were
2 in principle days where you were meant to be working?
3 A. I see Tuesday is a rest day as well.
4 484 Q. I see, thank you. So, just looking at the entries and
5 again, I think you can confirm, from that date onwards, 15:25
6 we have entries on that date for drink, the next day
7 for drink, Thursday drink and sick, Friday sick, then
8 it says:
9
10 "Friday, off sick while drinking, didn't remember. 15:25
11 Thought I was still okay."
12
13 Did you write that in after that date?
14 A. I would have had to, Judge.
15 485 Q. Then, I think the next day you have, AWOL drink, AWOL 15:25
16 drink. And then the 13th July, AWOL drinking. There
17 is a reference there to "trial starts" can I ask you to
18 help me define what that is, please?
19 A. I just see I have "[blank] trial starts" I think. It's
20 nothing to do with this. 15:26
21 486 Q. Was it a trial in which you had a part as a witness or
22 were you organising?
23 A. No, I don't think so.
24 487 Q. Okay. I just wasn't sure why it was there?
25 A. I don't know why, I just can't -- I don't know why I 15:26
26 have it in.
27 488 Q. Then on the 14th there's the AWOL also mentioned.
28 A. Sorry?
29 489 Q. On Tuesday, the 14th, you also have the letters AWOL

1 entered?

2 A. I see that, yes.

3 490 Q. If you could be shown Volume 1, page 135. This was a
4 statement which you made to the Tribunal. If I could
5 refer you to paragraph 14, please, in the middle of the 15:27
6 page? I just want to deal with this for a moment
7 because this is how you characterised your complaint at
8 the earliest stage of the Tribunal process. You're
9 were saying:

10
11 "There was an issue of a mix-up about my signing off 15:27
12 sick and then not reporting for duty.

13
14 I had apparently rung in off sick. I was on the
15 contrary sick. It was at most a mistake. The medical 15:27
16 certificate materialised retrospectively to certify my
17 sickness during the period. In any case, this
18 medically certified absence was irrationally turned by
19 Superintendent Murray into a charge of being absent
20 without leave. 15:28

21
22 I was fined €300. Superintendent Pat Murray, in breach
23 of fair procedures, acted as witness, prosecutor and
24 enforcer in this case. Superintendent Pat Murray was
25 wrong at least about the date on which he alleged he 15:28
26 had telephoned me."

27
28 So, I think that's a fair gist of the complaint that
29 you made at the outset?

1 A. Judge, I clarified this last week and I clarified this
2 as quick as I could with the Tribunal, when I made my
3 statement to the Tribunal, and I did explain, in this
4 particular statement, we dealt with this, where I
5 believed at the time there was a deadline for the 13th 15:28
6 March to have the documents in. This particular
7 statement, it was a very rushed thing, and there are
8 this and there's a couple of other things that are just
9 not correct.

10 491 Q. CHAIRMAN: I thought this was the statement you made to 15:28
11 the Tribunal.

12 A. No, this was the statement I sent in to the Tribunal.

13 492 Q. CHAIRMAN: Yes.

14 A. That I believed there was a deadline.

15 493 Q. CHAIRMAN: Anyway, we have been over that and you agree 15:29
16 that it was incorrect?

17 A. Yes.

18 494 Q. MR. MURPHY: I think that corrective statement was made
19 by you on 9/8/2018 to the Tribunal investigators.

20 CHAIRMAN: That's what I thought. 15:29

21 495 Q. MR. MURPHY: Just to go back for a moment to the
22 original statement, can I ask you to turn to page 136.
23 Do you see there in the third paragraph it says:
24
25 "Pat Murray then vindictively requested an 15:29
26 acknowledgment of this finding to him, in circumstances
27 where it was a contest between my version and that of
28 Pat Murray. He acted as formulator of the charge,
29 judge, witness, giving untrue testimony and now

1 enforcer of a cap in hand acknowledgment."

2
3 So I think you would agree, the acquisition that you
4 were putting at the beginning to the Tribunal was
5 against Pat Murray and was put as an example that he 15:30
6 was unfair, loquacious and that he was lying in terms
7 of the testimony he had given, isn't that so?

8 A. Judge, as I said, this is linked to what I previously
9 said. There are a couple of issues, not just with this
10 part, in this particular statement. I explained all 15:30
11 this. Just the issue there was, I think where he sent
12 an acknowledgment out to acknowledge that I had been
13 disciplined. As if I didn't know I had been
14 disciplined.

15 496 Q. Can you explain to the Chairman how it took you so long 15:30
16 to correct such a glaring error?

17 A. I mean, Judge, there was so much going on between this
18 and the Tribunal and even whenever I read this
19 statement, I didn't -- I was wrecked the evening we got
20 that statement in on the 13th, I think of March. Am I 15:30
21 correct? 2018? I mean, I remember, I didn't really
22 read over that statement that night. I don't even know
23 when I read over it. I would have been way -- it would
24 have been afterwards I read over the statement. I saw
25 a lot of problems in that. I just said, look, I will 15:31
26 deal with all them when I am meeting the Tribunal
27 thing. Also, in that period then, I think is there the
28 Finn investigation, and then there's also the McMahon
29 investigation going on and all that.

1 497 Q. But, Garda Keogh, I have to put it to you, you knew
2 both Pat Murray and Alan Murray to see, didn't you?
3 A. Yes.

4 498 Q. You could have been under no doubt that they were two
5 separate people. At the same time, in this situation 15:31
6 you instructed your own advisers to put forward this
7 complaint in relation to Pat Murray, with the added
8 detail that this was irrational, untrue and unfair. I
9 have to ask you, how can you have made a mistake
10 between those two? Or are you saying that you were so 15:32
11 careless that you were willing to throw out an
12 allegation against Pat Murray without even reading it?
13 A. Judge, I have explained that in relation to this
14 particular statement, I think I even said it at the end
15 of last week, I said there are problems with this 15:32
16 statement. No, I don't think I even got -- as far as I
17 can remember, I didn't even read over it that night,
18 because I believed there was a deadline and it had to
19 be in. I have explained all this.

20 499 Q. Again, Garda Keogh, you have emphasised many times and 15:32
21 you have protested that you weren't treated fairly.
22 Would you agree that it was unfair of you at the very
23 least to allow this statement be issued in your name,
24 to stay on the record until 2018, and only correct it
25 when the investigators showed you what they believed to 15:32
26 be a dichotomy between what you were saying and what
27 the evidence demonstrated?
28 A. I don't know if that's correct. I don't know. I know
29 I corrected it. I think the bottom line on this is,

1 that I did correct it, Judge. I corrected the
2 statement when I met the Tribunal investigators.

3 500 Q. When it was brought to your attention but not before,
4 isn't that so?

5 A. Sorry. 15:33

6 501 Q. When it was brought to your attention by the
7 investigators and not before?

8 A. Oh listen, I just cannot remember, I can't -- I just
9 can't remember that.

10 502 Q. I see. In terms of can't remember, do you have a lot 15:33
11 of memory difficulties? Because you used that phrase a
12 lot during the course of your testimony. Do you find
13 that as a result of your alcohol consumption and Xanax
14 that your memory has suffered over time?

15 A. Well, Judge, a lot of stuff I have to rely on goes back 15:33
16 as far as 2008 and we're now in 2019. There's so many
17 investigations and I am only human and there's certain
18 things I remember because they take priority and
19 there's lesser things that, over time, I forget, even
20 certain things in the diary notes, you know, this is 15:33
21 going on years, Judge.

22 503 Q. Again, this could be of assistance to the Tribunal and
23 its assessment of your ability to give evidence
24 accurately. Is it your evidence to the Chairman that
25 you forgot the difference between Pat Murray and Alan 15:34
26 Murray until 2018?

27 A. Judge, I have explained this. I know the difference
28 between Pat Murray and Alan Murray, there's a very big
29 difference between both of those gentlemen.

1 504 Q. Can we just move on for a moment then, and I will
2 perhaps return to that point, to page 606 of volume 3
3 please. Could you please turn over to page 607? I
4 think you have seen this document before, it was shown
5 to you by Mr. McGuinness, it's the extract from 15:35
6 Sergeant Moylan's statement. Do you see that?
7 A. Just sorry, which number?
8 505 Q. 4.1, please.
9 A. Okay. Just 4.1?
10 506 Q. From 4.1 down. Just take a moment, please, just to 15:35
11 read from 4.1 down to 4.5, as the Chairman suggested,
12 and then I will ask you a question. So, Garda Keogh,
13 can I ask you, do you accept that that recitation of
14 fact is outlined by the sergeant?
15 A. Yes. 15:36
16 507 Q. So there can be no doubt but that you were missing for
17 the days that he mentioned?
18 A. I am not disputing that.
19 508 Q. Just leaving the dates out of it for the moment, I
20 think you would accept that the circumstances of this 15:37
21 withdrawal meant that your colleagues had to find
22 replacement for you and to fill the gap left by your
23 absence during those days?
24 A. I would have to accept that, Judge.
25 509 Q. Would you agree with me that that would have left them 15:37
26 having to perhaps work harder than normal or to be left
27 with a difficulty which they weren't aware of in
28 advance?
29 A. Judge, look, I recall because at some stage it was one

1 of my colleagues that said -- at some stage they had
2 made contact with me and they said, whatever you do,
3 make sure and get in contact with Cormac, Sergeant
4 Cormac Moylan. My colleagues were looking out for me.
5 You see, I had no credit in my phone, that's why I 15:37
6 didn't even think of the texting him on Facebook and
7 then eventually I think one of them actually said,
8 look, just send him a text on Facebook. And that's
9 ultimately what I did.

10 510 Q. Can we try and keep this part simple, Garda Keogh. 15:38
11 There is no dispute but that you pleaded guilty to
12 being absent without leave during these days?
13 A. I did.

14 511 Q. Isn't that right?
15 A. I did. 15:38

16 512 Q. Yes. So, in terms of the impact on your colleagues,
17 all of what occurred there is I think clearly
18 established. Can I just move please, to volume 8, page
19 2220. If we just take that document. First of all, I
20 think this is a note taken by Superintendent Pat Murray 15:38
21 of a conversation with you on 14/7/15. We will come
22 back to that date in a moment. That conversation did
23 take place insofar as he says that there was a report
24 to him by Sergeant Moylan that you had been AWOL for
25 four days, from 11th to 14th and that he phoned you at 15:39
26 12 noon.
27 A. He says he phoned me at 12 noon on the 14th.

28 513 Q. I will come back to the date, Garda Keogh, but I think
29 the date is largely irrelevant to this?

1 A. Well, look, I would dispute the date is irrelevant on
2 this particular thing. That's part of the issue in
3 relation to the appeal mechanism in relation to this
4 part of it.

5 514 Q. It's my understanding that the superintendent will say 15:39
6 it was the 15th, we can clarify that point. But
7 insofar as that's concerned, you had a conversation, of
8 that there is no doubt.

9 A. On the 15th I had a conversation with Superintendent
10 Murray. 15:39

11 515 Q. You told him that admitted to being AWOL; isn't that
12 right?

13 A. I put my hands up straightaway, Judge.

14 516 Q. You also said to him that you had reported off sick
15 from 10th July, a fit of drinking, after drinking for a 15:40
16 few days, and then you said that you had forgotten and
17 had reported off sick, so you didn't go to work. You
18 admitted to Chief Superintendent Murray that you had a
19 drink problem and that you had stopped going to AA, do
20 you recall that? 15:40

21 A. Judge, I'm not disputing -- the only thing I'm
22 disputing really is the date.

23 517 Q. I think you told him that you still find it hard to
24 sleep before earlies, that you drank beer and wine,
25 mostly cans of beer. You brought up your whistleblower 15:40
26 case and you said you were worried about Garda A and
27 that they would get him?

28 A. Garda A and another guard who Superintendent Murray
29 subsequently later puts on the same unit as me, after

1 Garda A is suspended, Judge.

2 518 Q. You have no answer when challenged and you talk about
3 that issue. I think Chief Superintendent Murray then
4 says to you, asked you why you didn't answer the
5 sergeant who was trying to contact you over the AWOL 15:41
6 weekend and you say that you had no credit. But you
7 agreed that credit was not required to answer a call.

8 A. Judge, I have answered this last week. The fact of the
9 matter is, here I am answering the superintendent on
10 the phone. And I have a great working re relationship 15:41
11 with the sergeant. It wasn't that -- it wasn't that I
12 typically didn't answer the sergeant. I mean, Judge, I
13 have said this, I have answered this question last
14 week.

15 519 Q. Garda Keogh, he will also say that you then said to 15:41
16 him, you indicated that you would continue going sick
17 at will?

18 A. I don't know, I don't know what --

19 520 Q. Is it possible you did say those words?

20 A. I don't know if I would have said -- 15:41

21 521 Q. It will be his evidence that he recorded that as what
22 you said?

23 A. You see, I mean, I am trying to think here on the spot
24 and to give the most factual answer. I mean, I don't
25 remember, like I don't remember everything in the 15:42
26 conversation back in 2015 of one phone call.

27 522 Q. Can I suggest to you that it's more likely to be true
28 in the sense that he hadn't been on a binge for four or
29 five days and he took a note, isn't that correct?

1 A. I don't dispute I was on a binge.

2 523 Q. Yes.

3 A. I think I have it marked in my diary sure I was
4 drinking. Like I'm not -- it comes back to the earlier
5 incident to do with where I was sick, where it wasn't 15:42
6 marked in my diaries that I was drinking. Judge, I
7 have clearly marked in my diaries -- I suppose, look,
8 isn't it handy for the whole Tribunal, the fact I've
9 marked in my diaries when I was drinking and not.

10 524 Q. Isn't it the case that later you admitted to the CMO 15:42
11 that you had been drinking and taking Xanax during that
12 time, during those days?

13 A. I can't --

14 525 Q. Okay.

15 A. I'm not sure if -- I think I have a note whenever I 15:43
16 took -- so that could be the case. Just...

17 526 Q. Just for the sake of completeness, can I ask you be to
18 shown 3791, please? Just so we can be absolutely clear
19 about this, I think this is a note, an OHP consultation
20 note dated 18th December 2015. A statement from the 15:43
21 CMO. There's just one part I'd like to refer to for
22 this purpose. Can I ask you to look at first starred
23 bullet-point, just near the top. It says:
24

25 "Since last seen, further periods of short-term 15:43
26 absences. Some of concern highlighted (4/7 in July -
27 had forgotten he was after calling off sick on
28 10/7/2015; attributes this to drinking while off and
29 taking Xanax with alcohol on 9/7/2015)."

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That will be Dr. Oghuvbu's evidence, that that's what you told him at the time, would that be fair?

A. Yes, that's correct. I think that's the date that I find out that they are marking me with the flu. During all of this -- 15:44

527 Q. Leaving the classification to one side, it's irrelevant for the purposes of this issue. What's relevant is, you admitted to him you had been drinking excessively and taking Xanax during the period where you were AWOL. You admit that? 15:44

A. Doesn't it show I wasn't lying to the doctor.

528 Q. So, can I ask you, please, to go back to volume 8, page 2220?

A. I wasn't lying to the doctor but somebody withheld information to the same doctor in relation to what was on my sick certs at this time, Judge. 15:44

529 Q. I'm not saying anyone was lying to the doctor. In this case you were telling the doctor the truth. We will deal with the other separately, which is irrelevant to this question. So, going back to 2220, Chief Superintendent Murray will say that he told you that he was going to request a case conference for you and was considering discipline for AWOL and would seek an explanation in writing from you. Do you remember that? 15:45

A. Sorry, I didn't get a chance just there. Can you --

530 Q. Just look at the end of 2220, the last three lines?

A. Yeah.

531 Q. He said he was going to request a case conference and

1 was considering discipline for AWOL and would seek an
2 explanation in writing from you?

3 A. Yes.

4 532 Q. And that's what happened?

5 A. Yeah. Well, Judge, my recollection from reading 15:45
6 through documents there, is that Superintendent Murray
7 I think wrote two reports and there's something to do
8 with discipline in one of them and there isn't
9 something -- there's no mention of discipline in the
10 other report, Judge. Just from reading the documents. 15:46

11 533 Q. Well, the position, Garda Keogh, that's of central
12 relevance here to this issue, is that you were referred
13 for a disciplinary process, isn't that right?

14 A. That's correct.

15 534 Q. Now, the first point I want to put to you, going back 15:46
16 to your earlier criticism, I have to suggest to you
17 that the position that Superintendent Murray found
18 himself in was one in which he responded rationally and
19 reasonably to what he perceived to be a breakdown of
20 discipline? 15:46

21 A. Judge, I am -- Judge, my certs are to do with work
22 related stress. I am under serious work related
23 stress. I have already heard-- from the very start
24 Superintendent Murray is questioning the stress levels
25 that I am under. I am being marked out with the flu. 15:46

26 535 Q. I would have to suggest to you that any senior officer
27 of his rank would have had to do the same as
28 Superintendent Murray, when confronted with a position
29 where a person such as yourself had been off duty for a

1 number of days and had, on his notes, said that you
2 were going to continue going sick at will. That wasn't
3 irrational, was it?

4 A. Judge, I put my hands up straightaway. I mean, the
5 thing about not answering the phone to Sergeant Moylan 15:47
6 and then I answer Superintendent Murray and I put my
7 hands up straightaway to Superintendent Murray.

8 536 Q. would you agree with me that you put your hands up
9 because you knew that your colleagues and your friends
10 had had to fill the gap that you left. This wasn't the 15:47
11 way things should be, was it?

12 A. Like, that's sort of a twisted question there. I mean
13 -- I just -- no naturally, naturally I would have put
14 my hands up. It's not that, you know, I had any
15 ulterior motive for putting my hands up. 15:47

16 537 Q. Isn't it the position, Garda Keogh, that a sergeant who
17 you respected had filled out the form saying dead pan,
18 this is what happened and you didn't dispute that?

19 A. I didn't dispute that.

20 538 Q. would you agree with me that if everybody in the 15:48
21 station was to do that or even if the majority of
22 people were to do that in the station, discipline would
23 break down entirely in the force?

24 A. I understand.

25 539 Q. Yes. So, all I am trying to say there is not to in any 15:48
26 way demonise you, but to say that in the circumstances,
27 on my instructions, Superintendent Murray will say he
28 had to do what he had to do to maintain discipline, he
29 wasn't trying to target you, he wasn't trying to hurt

1 you, but he was trying to effectively assist you, to
2 regain discipline in your engagement with the force?
3 A. It's not as simple as that, Judge, because there's the
4 issue of the date from the 14th to the 15th, which has
5 relevance in relation to the appeal and it implies, of 15:48
6 course, that I refused to answer my sergeant, which I
7 take issue with on that. That's the way -- there was
8 an appeal --
9 540 Q. Garda Keogh, can I ask you just to confront something I
10 asked you to confront yesterday as well on a couple of 15:49
11 occasions, reality and perception. The reality is that
12 you let your colleagues down, that you were AWOL. You
13 admitted it, and you were drunk and you were on Xanax,
14 and you were in breach of the disciplinary code. The
15 perception you're putting on top of that is completely 15:49
16 ignoring that fact and trying to work out dates and
17 irrelevant factors. Do you understand now with the
18 benefit of hindsight that this disciplinary breach was
19 a significant matter, that the dates are irrelevant?
20 A. No, I don't think the dates are irrelevant on that. 15:49
21 541 Q. CHAIRMAN: Tell me the relevance of the date?
22 A. The date was to do with the phone call, because the
23 date was -- when -- during the disciplinary thing
24 Superintendent Murray said he phone called me often the
25 14/7. 15:49
26 542 Q. CHAIRMAN: Yes.
27 A. He's saying I wouldn't answer the sergeant or I
28 wouldn't, whatever, contact the sergeant.
29 543 Q. CHAIRMAN: Yes.

1 A. You see, I had texted the sergeant later on.

2 544 Q. CHAIRMAN: Yes, the Facebook.

3 A. Yes. And, you see, my note was that the call was on

4 the 15th.

5 545 Q. CHAIRMAN: Yes. 15:50

6 A. Now, although I was the one, when it was a question of

7 perception and reality, that had been on the beer, my

8 note is correct, Judge, and Superintendent Murray was

9 incorrect on this issue.

10 546 Q. CHAIRMAN: Okay. So, what difference does that make? 15:50

11 A. Well, that was to do with the -- in relation to the

12 appeal part of the process.

13 547 Q. CHAIRMAN: Okay. Still, what difference does it make?

14 A. Well, look, in relation to the first part, I put my

15 hands up, totally. 15:50

16 548 Q. CHAIRMAN: But in relation to any part. What

17 difference does it make? The appeal or the first

18 thing?

19 A. It's to do with the sergeant that --

20 549 Q. CHAIRMAN: No, it's to do with you being AWOL. That's 15:50

21 what Mr. Murphy is saying. It sounds right to me. But

22 tell me where it's wrong. What difference does it make

23 if it was the 15th or the 14th, when you had the phone

24 call with Superintendent Murray?

25 A. It's to do with where he implies that I wasn't making 15:50

26 contact or answering, deliberately not answering the

27 sergeant.

28 550 Q. CHAIRMAN: So he was wrong, you were still AWOL?

29 A. Yeah.

1 551 Q. CHAIRMAN: Do you know what I mean?
2 A. Yes, I do of course, yes.
3 552 Q. CHAIRMAN: I mean, don't just agree with me, and you
4 can come back to this if you want to, if you still
5 think the date is relevant, come back to me. Do you 15:51
6 understand me?
7 A. Yes, Judge.
8 553 Q. CHAIRMAN: If, having thought about it overnight or at
9 the end or whatever it is, if you still think, because
10 I am not understanding why, assuming he is wrong about 15:51
11 the date, which I do, which seems to be accepted, that
12 he is wrong about the date, it leaves you off the hook
13 for not answering -- I don't mean -- sorry, that's too
14 casual a way of phrasing it. It leaves you not to
15 blame. I have the point about the Facebook. But I am 15:51
16 still not understanding. But if you want to come back
17 to me and tell me, having thought about it, why the
18 date is still important, feel free to do it. Is that
19 okay?
20 A. Yes. 15:51
21 554 Q. CHAIRMAN: Because just so you know, at this moment I
22 am not understanding how the date is relevant, because
23 I think you came along, you pleaded guilty. As you
24 say, you put your hands up, you appealed, okay. Now, I
25 have the point about the date, having thought about it, 15:52
26 feel free to come back on that. But as of now, I am
27 thinking that the date is not relevant. Okay, that's
28 my present state of mind, but if you can say why it is,
29 be my guest. Do you understand me?

1 A. Judge, if we leave out the date, Judge, I put my hands
2 up straightaway.

3 555 Q. CHAIRMAN: That is what I understand.

4 A. I've answered the phone call to Superintendent Murray,
5 it wasn't a deliberate thing that I wasn't answering 15:52
6 Sergeant Moylan, I have explained that last week. I
7 put my hands up, I didn't try and give any sort of
8 nonsense excuse.

9 556 Q. CHAIRMAN: No, I understand that. Because you have
10 mentioned the date a number of times last week and you 15:52
11 have mentioned it here, now we can leave the date, if
12 you don't come back to me, that is all right. You know
13 what I am thinking about the date --

14 A. I do.

15 557 Q. CHAIRMAN: -- and you equally know that you are free to 15:53
16 come back to me to say, hold on, the date is of more
17 importance than you think it is. All right.

18 A. Yeah.

19 CHAIRMAN: Okay thank you.

20 558 Q. MR. MURPHY: Garda Keogh, just short matters. That 15:53
21 process continued, you pleaded guilty to one charge,
22 you were found not guilty of the second, the only
23 charge that was the subject-matter of the appeal was
24 the first charge, you appealed that and there was no
25 change. One issue you raised when you gave evidence 15:53
26 last week which I think would seem to be in dispute, is
27 whether you received a copy of the statement when the
28 report of the interview was served on you. And you
29 seemed to feel that you had not. I have to put it to

1 you that on my instructions you were, when the
2 documents were served on you.

3 A. No, Judge.

4 559 Q. And insofar as you are maintaining that they weren't
5 served on you, you are incorrect? 15:53

6 A. Judge, I don't ever remember reading that statement
7 until it was in the volumes there. And in fact, like,
8 I have made an issue out of it, I wrote to Chief
9 Superintendent wheatley and, you know -- so...

10 CHAIRMAN: Okay. 15:54

11 A. Just in relation to that part.

12 560 Q. MR. MURPHY: Can I ask you to be shown volume 8, page
13 2045 please.

14 A. Sorry, the number?

15 561 Q. volume 8, page 2405 please. So this is a statement, an 15:54
16 extract from a statement of Pat Murray in relation to
17 these matters. Could I draw your attention just to the
18 last paragraph? And he says:

19

20 "On Sunday, 30th August 2015 at approximately 9pm I met 15:54
21 Garda Keogh at my office to serve the Form 1A12 on him
22 on behalf and at the request of the superintendent
23 Mullingar who had been appointed by the chief
24 superintendent Westmeath to inquire into Garda Keogh's
25 absence without leave." 15:55

26

27 He says that you acknowledged receipt of that Form
28 1A12.

29 A. Yeah.

1 562 Q. And I think it is during that process that that bundle
2 of documents would have incorporated the statement that
3 you say you didn't receive?
4 A. Yeah, but there was a bundle of documents, Judge, and I
5 had to sign to receive the bundle. I didn't go through 15:55
6 every page.
7 563 Q. CHAIRMAN: And you think that the statement was not in
8 the bundle of documents?
9 A. Well, Judge, if it was I certainly didn't see it.
10 Because -- 15:55
11 564 Q. MR. MURPHY: Did you ring back the next day saying I
12 haven't got the statement?
13 A. No, but I wrote -- I wrote --
14 565 Q. No.
15 A. At different points I wrote, I wrote to the Chief 15:55
16 Superintendent wheatley looking for that statement.
17 566 Q. But can I just suggest to you, as I already have, it is
18 irrelevant in our submission, I will come back to it
19 later on, but I am just saying as a matter of fact
20 Superintendent Murray will say that was served on you. 15:55
21 A. No.
22 567 Q. He will say also that it was clear to him that you were
23 annoyed with him, would that be correct?
24 A. That's possible. That's possible. And, Judge, in
25 relation to that statement, you see in that statement I 15:56
26 explained to Superintendent Alan Murray, you know I say
27 look, I'm under an awful lot of stress here with
28 everything that is going on and I put my hands up there
29 with Superintendent Alan Murray.

1 568 Q. He will also say that you were reluctant to talk about
2 your alcohol dependencies or welfare with him on that
3 date, would that be correct?

4 A. Em, I suppose trust breaks down or trust is broken
5 pretty much at this stage or whenever. There is, 15:56
6 there's trust -- there's no -- no trust, I suppose,
7 between myself and Superintendent Murray I think is the
8 fairest thing at this, around this period or whenever.

9 569 Q. He will say that based on what he was looking at,
10 looking at your condition, looking at your actions, 15:56
11 that he was becoming more and more concerned, that he
12 worked your work standard with you and he also, if you
13 just please turn over the page, he will say that he
14 indicated that if your drinking was going to continue
15 impacting on your work that he might have to consider 15:57
16 taking you off outdoor duty. Do you remember that?

17 A. I think, yeah, he may -- I think I recall something on
18 those lines. But I mean if he was so concerned about
19 me, you know, would he not have taken into
20 consideration the fact of my sick certs had work 15:57
21 related stress and they're still marking me out with
22 the flu on this and the CMO is not informed of work
23 related stress. It's kept -- he is kept in the dark
24 from this.

25 570 Q. Garda Keogh, I am going to come back to those at a 15:57
26 later stage, but here you are, here is a classic
27 example: You're obsessed by the label of the
28 designation of the form, but Chief Superintendent
29 Murray is concerned about the sickness which is

1 affecting you tragically, the alcoholic sickness that
2 is affecting you, that is interfering with your work,
3 he is trying to get to the heart of the matter and you
4 want to talk about forms. Do you see a difference of
5 perspective? One is seeking to try and address the 15:58
6 problem, fix it and the other is a bureaucratic answer:
7 Is it the right form? Is it the right document? Is
8 the T crossed? Do you see what I mean? Even at this
9 stage with the benefit of hindsight can you see that
10 Chief Superintendent Murray was trying to get you to 15:58
11 address this real problem in your life?

12 A. Judge, if he was he would have addressed -- someone
13 would have informed the CMO that there's other issues
14 in the background here. The CMO is kept in the dark of
15 the other issues, of the other matters, investigations, 15:58
16 the fact I'm working in the same station as Garda A,
17 all this stuff, and the fact it's dragging on so long
18 as well, Judge. I mean it's only human -- I can only
19 take so much, Judge, as well, as a person.

20 571 Q. Garda Keogh, can I just suggest to you that in this 15:58
21 situation that he will say that he said that if you
22 have any issues -- sorry, that you effectively, you
23 replied to him that if he, Superintendent Murray, had
24 any issues that he should send them to you in writing
25 and in the meantime, he, Superintendent Murray, could 15:59
26 do what he liked. Do you remember saying that?

27 A. I mean, I don't remember saying he could do -- I don't
28 remember saying that. I don't know. Is this on the
29 phone call, the phone call? Is this to do with --

1 572 Q. This is a meeting.
2 A. Oh right. Okay.
3 573 Q. This is face-to-face. And what he will say is that
4 ultimately at this stage your response to his outreach
5 was to say effectively that he could do what he liked, 15:59
6 that you would do what you liked and that you weren't
7 prepared to deal with the issues at that time?
8 A. Just, sorry, what date is this meeting, please?
9 574 Q. This is the date of the 30th August 2015 at 9pm.
10 A. I just have the note. 16:00
11 CHAIRMAN: Okay. Go on.
12 A. Just a short note:
13
14 "Sunday 9pm
15 Superintendent Murray arrives to station to serve 16:00
16 regulation 15 papers on me."
17
18 That is all I have.
19 575 Q. CHAIRMAN: Is that the regulation 14 that I am talking
20 about the -- 16:00
21 A. This is -- yeah.
22 576 Q. CHAIRMAN: I think there was a regulation -- maybe it
23 is regulation 15, but whatever it was, those were the
24 papers we're talking about, that you said didn't
25 include the statement that you were looking for? 16:00
26 A. Must be. I can't even recollect, Judge. I just see I
27 have a note of it here.
28 577 Q. CHAIRMAN: That seems to fit in, does it?
29 A. It does, yes, Judge.

1 CHAIRMAN: So the meeting took place and then
2 Mr. Murphy has put to you this account.

3 578 Q. MR. MURPHY: Yes. Chairman, I don't mean to dwell on
4 the Alan Murray investigation, but I think that it is
5 accepted as a matter of fact it took place, there was a 16:01
6 plea of guilty and finding of not guilty. Thereafter I
7 think you made a complaint that this was affirmed on
8 appeal, but do I understand your primary criticism to
9 be that you say you didn't receive the statement?
10 Apart from that, it seems to be nothing else is in 16:01
11 dispute.

12 A. Curiously, Judge, that statement relates to work
13 related stress, is the only state -- like, it's the
14 only thing that I did. It wasn't -- I didn't see it.
15 I have say, I don't believe it was in those documents 16:01
16 and I don't read that statement until I get the
17 documentation from the Tribunal and it is a statement
18 that I had requested from Chief Superintendent Wheatley
19 in order for my own, in relation to the appeal on the
20 matter and that's... 16:01

21 579 Q. CHAIRMAN: So this concerns the appeal to Chief
22 Superintendent Wheatley, is that correct?

23 A. Yes, Judge. And in the statement, you see, I had
24 explained to Alan Murray about my work related stress,
25 that was the relevance of that statement. That 16:02
26 statement is -- and of course they are marking me out
27 with the flu all along, Judge. And in fact, from
28 recollection --

29 580 Q. CHAIRMAN: But stick to Superintendent Alan Murray.

1 A. Yeah.

2 581 Q. CHAIRMAN: You're explain to him what?

3 A. I explained, I just put my hand up --

4 582 Q. CHAIRMAN: I thought you pleaded guilty to this?

5 A. I did. 16:02

6 583 Q. CHAIRMAN: You challenged the other one. There was
7 another somewhat complicated charge, but I think we
8 know what it meant.

9 A. Yeah.

10 584 Q. CHAIRMAN: we don't have to worry about that, because 16:02
11 he found you not guilty of that, isn't that right?

12 A. That's correct.

13 585 Q. CHAIRMAN: So, okay. So does that mean you have any
14 complaint about Superintendent Alan Murray?

15 A. Oh no, no, no, no. 16:02

16 586 Q. CHAIRMAN: That is okay. I just want to clear that up.

17 A. No, no, no.

18 587 Q. CHAIRMAN: But your complaint is in respect of the
19 appeal that you made after that?

20 A. Yes. And in relation to this question is, where it was 16:03
21 put to me that I received this statement --

22 588 Q. CHAIRMAN: wait now, we don't have to go back to that
23 just for a minute. But just, your appeal, nothing
24 against Alan Murray, but yes, now we're on to the
25 appeal and there I think we will leave it and we will 16:03
26 move to the appeal in the morning, if that is all
27 right. And bear in mind at some point think about the
28 date, the 15th/14th, and if you think it is relevant
29 come back to me. You don't have to come back to me

1 tomorrow but at some point, okay.

2 WITNESS: Thank you.

3 CHAIRMAN: Thank you very much. All right. Thank you
4 very much.

5

16:03

6 THE HEARING THEN ADJOURNED UNTIL THURSDAY, 24TH OCTOBER

7 2019 AT 10:30AM

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