

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 THURSDAY, 24TH OCTOBER 2019 - DAY 107

107

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

GWEN MALONE STENOGRAPHY
SERVICES

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I N D E X

W I T N E S S

P A G E

GARDA NICHOLAS KEOGH

CROSS-EXAMINED BY MR. MURPHY 6

1 THE HEARING RESUMED, AS FOLLOWS, ON THURSDAY, 24TH
2 OCTOBER 2019:

3
4 GARDA NICHOLAS KEOGH CONTINUED TO BE CROSS-EXAMINED BY
5 MR. MURPHY, AS FOLLOWS:

10:28

6
7 MR. MURPHY: Chairman, good morning. Garda Keogh, good
8 morning.

9 A. Good morning.

10 1 Q. Just before we pass on to the issue of the appeal and
11 the input of Chief Superintendent Wheatley, I wonder
12 could I just clarify one point from yesterday, it comes
13 from a question I asked, which may have caused
14 confusion both to the witness and to you, Chairman, as
15 well.

10:32

10:32

16
17 At page 145 yesterday, which is Day 106, I put a
18 document to Garda Keogh, which was volume 8, page 2405.
19 In fact, I ought to have put a different document to
20 him. I wonder, with your permission, Chairman, could I
21 do that now? The document I put to him was actually an
22 earlier than the one that is relevant to the
23 conversation about whether Garda Keogh was served with
24 the form of report or not.

10:32

10:33

25
26 First of all, can I ask you to place on the screen
27 document number 24804, which is dated 24th September
28 2015. Garda Keogh, if you see, this is a document
29 dated 24th September 2015.

1 A. Yes.

2 2 Q. About seven pages further on, 2807, you will see it's
3 signed by Alan Murray, superintendent.

4 A. Yes.

5 3 Q. Just to assist you, this is effectively entitled: 10:33
6
7 "Breach of Garda discipline regulations, internal
8 discipline, Garda Nicholas Keogh."
9

10 Do you see that? 10:34

11 A. Yes.

12 4 Q. In the pages which follow, there is just a recitation
13 of the background, which we dealt with yesterday, and
14 the relevant service of forms. If I can just turn to
15 page 2806. In the second paragraph, I draw your 10:34
16 attention to the fact that it says:
17
18 "Form LA12 was served personally on Garda Keogh and he
19 acknowledged receipt dated 30th August 2015."
20 10:34

21 Do you see that?

22 A. What paragraph.

23 5 Q. The second paragraph of 2806?

24 A. Yes.

25 6 Q. Yes. That says that you were served with form LA12 on 10:34
26 30th August 2015 and that you acknowledged receipt of
27 that?

28 A. Yes.

29 7 Q. Then the next step is on the next paragraph, that on

1 18th September 2015, Superintendent Alan Murray met
2 with you at Athlone Garda Station and on that date you
3 told him that you were pleading guilty to breach number
4 1 but were denying breach number 2?
5 A. Correct. 10:35
6 8 Q. Then moving down the page, I think you will see that at
7 the end of that process, you will see the two
8 paragraphs further down it says:
9
10 "On the termination of the interview, Superintendent 10:35
11 Alan Murray, as deciding officer, found that Garda
12 Keogh was in breach in respect of breach number 1 and
13 not in breach in respect of breach number 2."
14
15 Do you see that? 10:35
16 A. Yes.
17 9 Q. Then thereafter, I think the indication is that in
18 mitigation you said that you suffered from work related
19 stress, you were drinking heavily and when questioned
20 by Superintendent Alan Murray, you admitted your 10:35
21 mistake?
22 A. Yes.
23 10 Q. And you were fined €300?
24 A. Correct.
25 11 Q. The point I would like to draw your attention to is 10:35
26 just in the next part, you will see:
27
28 "Please find attached..."
29

1 And there is a series of forms, 1 through 11. Just
2 turning over the page, please, to page 2807, can I just
3 draw your attention to number 10, that is:

4
5 "Memo of interview of Garda Keogh. "

10:36

6
7 with yourself and Alan Murray.

8 A. I see that. But, Judge, that wasn't what was served on
9 me. As I said, I have no recollection of seeing that
10 until in the Tribunal documents. And I had been
11 writing to Chief Superintendent Wheatley at some point,
12 looking for that particular document in relation to the
13 appeal.

10:36

14 12 Q. Yes.

15 A. As it was a document where I described that I was under
16 a lot of stress.

10:36

17 13 Q. Insofar as the evidence is concerned coming from
18 Superintendent Alan Murray, he will indicate in his
19 evidence that he sent that documentation, as it were,
20 up the line. Can I ask you to be shown page 3178,
21 please?

10:36

22 A. Judge, just there, I have no dispute that
23 Superintendent Alan Murray would have sent that
24 document up the line.

25 14 Q. Yes. I just seek to assist the Chairman to correct the
26 chronology. So, the next document I would ask you to
27 be shown is 3178. So, the next document in sequence is
28 the report, 3178. You have seen that before. And
29 that's a document which you signed?

10:36

1 A. Yes. It was in hand, it was in longhand, Judge,
2 when --

3 15 Q. And that's a typed copy of the document that you
4 signed?

5 A. No, that's a typed copy of the document I've seen in 10:37
6 the Tribunal documents.

7 16 Q. In terms of the next stage, can I ask you to be given
8 volume 8, page 2256? In terms of this document, this
9 document is a document prepared by Superintendent Pat
10 Murray and it's dated 22nd October 2015. This is a 10:38
11 document I had intended but didn't show to you
12 yesterday. What he will say is that he met you in his
13 office in order to serve an IA14 form on behalf of
14 Chief Superintendent Wheatley as a result of the
15 disciplinary inquiry on you, and you acknowledged that. 10:38
16 Do you remember that?

17 A. I don't dispute -- just one second. Can I check my
18 notes, Judge, in relation to this?

19 17 Q. Just to help you, Garda Keogh, can I just show you the
20 document first before you go to your notes, because it 10:38
21 will be easier for you to see. Could you please turn
22 to 2258, which is a form IA14, reporting the appointing
23 officer to the member concerned, dated 22/10/2015.

24 A. Yes.

25 18 Q. That date is written in by Superintendent Pat Murray, 10:39
26 but can I ask you to confirm, is that your signature in
27 the line above that?

28 A. Yes.

29 19 Q. Does that help you to remember the fact that you met on

1 that date with him?

2 A. Oh, I'm not disputing, I just asked to check, could I
3 refer to my diary, that was it. I'm not disputing that
4 there was a meeting.

5 20 Q. In terms of the documentation that you received at that 10:39
6 time, he refers to the fact in the course of the cover
7 documentation, he will say he served the documentation
8 as he had been requested, that he noted that your hands
9 were shaking a lot, to the extent that you couldn't
10 write properly, and that he discussed your sickness at 10:39
11 that time?

12 A. Certainly, Judge, he made no reference to hands
13 shaking. I am looking at my signature there and I
14 don't see anything wrong, that's my normal signature.
15 What was the third part of that question? 10:40

16 21 Q. Yes. He ultimately discussed your sickness with you?

17 A. We're on the 22nd October.

18 22 Q. Of October, yes.

19 A. Just a moment, please. Yeah, that's correct.

20 23 Q. Okay. He also said that he explained to you that he 10:40
21 felt it was a risk having you go to incidents as he
22 wasn't around to follow up because of your sickness?

23 A. I don't recall that part of it.

24 24 Q. Okay.

25 A. I have no note as to that part of it. It was more to 10:40
26 do with --

27

28 "Said he was having a case conference re my sick and
29 putting me permanent PO. "

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That's public officer, Judge

25 Q. I will come back to this perhaps later on when we deal with a different issue, but I just wanted to confirm that along with the IA14, Superintendent Pat Murray will say that he served the remaining papers which had been sent to him from Alan Murray, which included the report?

10:41

A. Judge, I accept I received everything with the exception of, was it, item number 10 on the list, that statement.

10:41

26 Q. Again, that will be a matter for the Chairman to assess. Thank you. Chairman, I hope that clarifies the sequence arising from the questions which I asked yesterday.

10:41

Garda Keogh, if we go back to where we finished yesterday. I think at that stage you had effectively filed your appeal and Chief Superintendent Wheatley was in a position to assess the issues involved. She will say in her evidence that she believed that you were provided with a copy of your statement when the report of interview was served on you.

10:41

A. No. Judge, I recall writing to Chief Superintendent Wheatley in relation -- looking for that actual statement in order to prepare my defence for the appeal. Because I do recall when Superintendent Alan Murray recorded the statement in his handwriting, I recall I was trying to read what he was writing, even

10:42

1 though it was the other, previous -- across the desk
2 from me, but I couldn't actually, I couldn't read, I
3 just couldn't -- I couldn't read the writing. Not that
4 my writing is great. My writing is not. I don't mean
5 it in a bad way. His writing -- he just has a 10:42
6 different style of writing and I couldn't read it. But
7 in hindsight, if I was to have know, again I would just
8 ask Superintendent Alan Murray for a copy of the
9 statement and I'm sure he would have given it to me,
10 but I didn't even think of that at the time. 10:43
11 27 Q. Could I ask you to be shown volume 20 please, page
12 6112? This is part of the statement of Chief
13 Superintendent wheatley given to the Tribunal
14 investigators. It's page 37 of that. Can I just draw
15 your attention to the first and second lines of that 10:43
16 statement. I think I dealt with the first one already,
17 but on the second one, in relation to the phone
18 records, Chief Superintendent wheatley will say that
19 she believed that nothing turned on them in relation to
20 the core issues under consideration in the appeal? 10:43
21 A. Judge, just in relation to the issue over the phone.
22 This is the first direct challenge ever on my
23 credibility from within An Garda Síochána to do with
24 the date of that phone call. It's the first. I am not
25 sure if the court accepts my version was correct. I 10:44
26 don't know, that is in your hands, Judge, but I have
27 complained all along, it was on 15th and not 14th of,
28 is it July?
29 28 Q. And again, I am just putting it to you that she

1 obviously disagrees with you on that point, but it's a
2 matter for the Chair to assess later on. Could I ask
3 you to turn back to page 6107, please, in the same
4 book? This is part again of her statement. And she
5 will say in her evidence, if I can draw your attention 10:44
6 to line 485, she will say that she received a report
7 back from Superintendent Murray and she found his
8 rationale for decision sound. Then she said that she
9 considered the submissions made by you. She notes that
10 you raised several issues, including the date of the 10:45
11 phone call, but she will say that in her view nothing
12 turned on the date of the phone call.

13 A. Judge, just there, "he raised several issues". Judge,
14 from my recollection there's two issues; the date of
15 the phone call and the statement to Alan Murray. 10:45

16 29 Q. In terms of the appeal, I have to say to you, having
17 pleaded guilty of the first charge and being acquitted
18 of the second charge, the second charge you realised
19 was gone, do you understand that?

20 A. Sorry. 10:45

21 30 Q. Do you know understand when you were found not guilty
22 by Superintendent Alan Murray of that second charge,
23 that that was gone?

24 A. I accept that.

25 31 Q. Right. Chief Superintendent wheatley will say that you 10:45
26 didn't provide any phone records, but you considered
27 the report of Superintendent Alan Murray and that she
28 felt that had taken into account all of the relevant
29 points, and she believed that your behaviour merited a

1 sanction and that she had no grounds for disagreeing
2 with Superintendent Alan Murray decision?

3 A. Judge, just in relation to -- I didn't provide any
4 phone records, Judge. Firstly, I don't recollect being
5 asked. Secondly, it would have been very easy for the 10:46
6 chief superintendent just to say to one of the clerks
7 in the office, listen, there's an issue here arising,
8 where there's a difference in relation to a guard and a
9 superintendent on a date. I want to clarify it, can
10 you just get the phone records? It's an internal 10:46
11 matter, can you get the phone records and sort it out?
12 It could have been dealt with that way.

13 32 Q. She will say that in terms of her position, she
14 believes she has a duty to you, to the members on your
15 unit and the division, and to the public. In the light 10:46
16 of your behaviour, to affirm the decision that she did?

17 A. In that duty she could have just got the phone records.
18 It's not a huge task.

19 33 Q. I think she will say in her evidence that she had to
20 consider that your behaviour was not acceptable and the 10:47
21 consumption of alcohol didn't justify your behaviour
22 and that she considered, looking at all the
23 circumstances of the case, that the penalty imposed was
24 at the lower end of the scale. Would you agree with
25 that? 10:47

26 A. Judge, I'm not -- I am not disputing that part of it.

27 34 Q. And she will say that she believed that Superintendent
28 Alan Murray's rationale was sound and that there had to
29 be a sanction imposed. She understood that her

1 decision was final.

2 A. Judge, on that part, I'm not -- I'm not disputing.

3 35 Q. She will also say, if I can ask you to turn forward to
4 page 6111, at line 536?

5 A. Sorry, excuse me, line? 10:47

6 36 Q. 6111. would you please just have a look at the very
7 first line, line 536, please. There again, Chief
8 Superintendent wheatley will say that she was satisfied
9 that Superintendent Alan Murray had considered all the
10 mitigating factors but she considered that any other 10:48
11 member in your position would have been dealt with in
12 the same fashion. would you agree with that
13 proposition?

14 A. Well, you have to bear in mind that I was -- I had gone
15 in in relation to the amount of stress I was under and 10:48
16 as part of that disciplinary -- the earlier forms that
17 were served on me, my certificates, doctor
18 certificates, which clearly stated work related stress,
19 was on them and I was being marked out with the flu, so
20 there's a slight issue with that, Judge. 10:48

21 37 Q. Again, I think we touched on this yesterday, this comes
22 back to the labelling as opposed to the substance.
23 Again, I think you and I discussed that yesterday for
24 the assistance of the Chair. But just in terms of line
25 538, and I will just perhaps finish on this point, she 10:49
26 will say in evidence that she is always conscious when
27 making a decision of this kind, to try and separate the
28 behaviour from the person but that in this case she
29 felt that, objectively speaking, she had to apply a

1 sanction to uphold the decision that had been made by
2 Superintendent Alan Murray. And she will say that that
3 was not in any way an attempt to target you or to
4 discredit you or to attack you in any way, she merely
5 did her duty?

10:49

6 A. Judge, I am in your hands on that. I can't comment
7 really in relation to that.

8 38 Q. Again, just finally on this point, just to help you
9 understand and the Tribunal to understand Chief
10 Superintendent Wheatley's mindset at the time. Do you
11 see there on the second line, she said, in her
12 experience discipline is about learning, it's nothing
13 personal. And she will say in her evidence that was
14 her approach towards you in relation to that particular
15 decision.

10:49

16 A. Judge, again, I can't comment on that.

17 39 Q. Thank you, Garda Keogh. Could we move, Chairman, now,
18 with your permission to do so, to issue number 9.
19 Issue number 9 deals with the criticism of criminal
20 investigations conducted by you, Garda Keogh, during
21 2015. I think there are four in total. And
22 Mr. McGuinness has asked you questions about these and
23 perhaps I should take each one in sequence, if that is
24 convenient.

10:49

10:50

25
26 So, first of all, can we deal with the theft at Custume
27 Place in Athlone on the 4/7/2015. I wonder if you
28 could be given volume 1, please, at page 129. Garda
29 Keogh, I think the position is that this is an

10:50

1 indication of a statement, I think made by you,
2 indicating the background, outlining initial
3 complaints. You see there at number 9, you refer to
4 the theft at Custume Place on the 4th July, during the
5 triathlon event.

10:51

6 A. Yes.

7 40 Q. Thereafter, I think you outline the complaint that you
8 have given in your evidence, and I think we don't need
9 to dwell on that particular point. But insofar as your
10 criticism is concerned, do I understand it to be that
11 you considered that Superintendent Pat Murray asked
12 what you consider to be unnecessary questions about the
13 file?

10:51

14 A. Yes, this is in relation to the taking of the
15 statements on the C8 forms. Am I correct on that?

10:51

16 41 Q. Yes.

17 A. Yes.

18 42 Q. Insofar as that is concerned, I think you've indicated
19 that you felt that in those circumstances, when he
20 asked you questions, you refer to them at last part of
21 page 129, he wrote back saying:

10:52

22
23 "A suspect has been identified in both cases, what
24 efforts have been made to deal with him?"

10:52

25
26 It was clearly stated that you say there was a possible
27 suspect only but that the statement was further
28 qualified by the writer that there was no evidence to
29 link the suspect to the crime. He raised a number of

1 questions at that time. Can I just ask you, garda,
2 what's your objection to him raising those questions,
3 which on their face seem to be questions looking for
4 reasonable detail about the files themselves?

5 A. Judge, it was me that nominated the suspect and during 10:52
6 the investigation with the injured party beside me, it
7 was me that then had to exclude the suspect.

8 43 Q. But insofar as the intervention by your superior in
9 this regard is concerned, all he is doing is
10 effectively asking for clarification about matters 10:53
11 connected to the investigation?

12 A. Judge, I'd have to see the longhand version of
13 correspondence in relation to this, because --

14 44 Q. Would you turn then please to volume 1, I think it
15 should be at page 208. Sorry, perhaps 201 to start 10:53
16 with, please. 201. Just to put this in perspective,
17 you're responding here to the questions raised at page
18 197, you might just turn back for a moment.

19 A. Judge, no issue really with the first question. The
20 second question now, the second question is one that I 10:54
21 would never have seen before for anything similar.

22 45 Q. Well, would you agree with me that it is considered
23 best practice in relation to taking statements that the
24 investigating member takes down the statement?

25 A. I don't know if I would use the term best practice. It 10:54
26 would be the normal practice. I would accept it's the
27 normal practice that a guard would take a statement in
28 the -- a guard would, in their own writing, write down
29 what someone is saying. Whether it's best practice, I

1 don't think I could go that far.

2 46 Q. You see again, Chief Superintendent Pat Murray will say
3 that the reason it's recommended is that it is the
4 proven and tested best means of taking a statement from
5 a witness in a thorough fashion, to ensure that all 10:55
6 relevant details are gathered in the presence of the
7 investigating member?

8 A. Judge, my answer last week is the same as this one. In
9 that, over the years, how many times have people in
10 court cases said, I never said that in my statement, 10:55
11 the guard put that in, you know, and issues arising out
12 of that. Here there isn't that issue, so...

13 47 Q. If could I ask you to turn forward to page 202, please,
14 in the book? This is a letter of 3rd September 2015.
15 In the course of this, perhaps it will become slightly 10:56
16 clearer, a bit more clear what Superintendent Murray is
17 saying. He says in the second line that he considered
18 that he appears to need advice in relation to purpose
19 and scope of interviewing witnesses and that regard
20 should be advised in relation to the existing 10:56
21 instructions of chapter 3 of the crime investigations
22 manual.

23 A. Yes, that's under the line where he goes further than
24 that, he says "I see a laissez faire".

25 48 Q. Yes. Can I help you to understand what he is saying 10:56
26 there. What he is saying is, there is a crime
27 investigation manual and it's the standard recommended
28 practice, and that if you depart from that, that's
29 laissez faire?

1 A. And, no, Judge, at the bottom of that crime, that CIT
2 manual, it facilitates where a person is entitled to
3 make their own statement, provided it is read back over
4 to them and then where they -- the individual will sign
5 it in the presence of a member of An Garda Síochána, 10:57
6 who will then witnesses their statement. And actually,
7 if you look at both those, copies of those statements,
8 that's what I do. I actually, in my own handwriting,
9 at the bottom of both of those statements, from
10 recollection, "this statement has been read over and is 10:57
11 correct" or something to that effect on the copies of
12 those statements.

13 49 Q. So again here, Garda Keogh, is it the case that your
14 evidence to the Chairman is that although there is a
15 recommended practice in the crime manual, that you 10:57
16 think or thought at the time that you were free to
17 depart from that?

18 A. Judge, that's not the case, because I explained last
19 week the scenario where the two people arrived in, it
20 was essentially the one incident, but there were two 10:58
21 separate crimes and I was in the public office
22 answering phones, and because they had two separate
23 crimes to report, it wasn't as simple as just to put on
24 Pulse one crime. I had to do essentially two. And
25 that was -- I have explained this last week, Judge. 10:58
26 That's is why I gave one person -- where I gave each of
27 the injured parties the statement and forms, the C8s, I
28 was there like in front of them and I told them, I
29 said, you're going to have to -- I told them just day,

1 date, time, place, the facts, location, description of
2 the items and, as I said, I was dealing with other
3 things then while they were doing their statements and
4 at some point then I then read over their statements to
5 them. There was the declaration, of course, at the top 10:59
6 of the C8, and then witnessed their signatures when
7 they signed it.

8 50 Q. In cases that you investigated after this time, did you
9 invite other suspects, other witnesses I should say, to
10 write their statements in this way? 10:59

11 A. A scenario like that didn't crop up after this time.

12 51 Q. You see, I have to suggest to you that this is a
13 significant matter insofar as your superior, your
14 superintendent is saying to you, as a guard of ordinary
15 rank, that he has a problem with a departure from the 10:59
16 crime manual. I have to suggest to you that's a
17 reasonable criticism on his part and it's directed
18 towards the actual investigation you carried out.

19 A. No, no, no departure from the crime manual. The last
20 paragraph, from my recollection, of that CIT manual 10:59
21 facilitates for this scenario. And the other thing, in
22 relation to the question that was put to me, did I ever
23 take a statement like that afterwards. I said no. I
24 would have previously, on numerous occasions in the
25 past have to do it, have to do a similar thing and 11:00
26 there was never an issue before about it.

27 52 Q. I have to suggest to you that if you did that, it will
28 be Superintendent Murray's evidence that that was a bad
29 practice. He will say that in the circumstances he was

1 bringing to your attention the maintenance of a
2 standard that he didn't create but was created by the
3 crime manual?

4 A. I dispute that. I go as far as, if I ever had to make
5 a statement to the Guards, Judge, in relation to now, 11:00
6 I'd be writing it in my own handwriting.

7 53 Q. I have to again suggest to you there is a disagreement
8 between you and he on that part. Can I ask you to look
9 at page 202? Do you see he raised the question in the
10 second last paragraph, where he said: 11:00
11
12 "What efforts have been made to include or exclude the
13 suspect identified as two months have passed and the
14 matter needs urgent attention?"
15 11:00

16 A. Judge the suspect has already been excluded at this
17 stage. As is stated, I brought one of the injured
18 parties in to view the CCTV with me and, as I stated,
19 there was a camera, it was the day of the triathlon,
20 which in Athlone terms would be on the same scale as 11:01
21 the St. Patrick's Day parade in Dublin. So we couldn't
22 progress the matter. The suspect that I had nominated
23 didn't go in or out of the building where the crime
24 occurred. So I had to rule him out.

25 54 Q. what steps did you take to investigate the movements of 11:01
26 that suspect?

27 A. I'm only after answering that question, Judge. I was
28 watching on camera with the injured party, the door.
29 As I stated last week, this was an open house. Because

1 it was the day of the triathlon, it was an open house,
2 I don't know had they crafts or something, I can't
3 remember what they were doing inside this open house,
4 but any member of the public could go or out to this
5 particular house on that day. I sat down with the 11:02
6 injured party and we spent a good while watching the
7 CCTV and the suspect didn't go in or out. That was --
8 I can't -- I don't know what more -- I don't know how
9 the question can be answered any further.

10 55 Q. We will come back to this perhaps in later issues, but 11:02
11 will you have seen that Superintendent Murray would
12 have attempted to improve the standard of reporting in
13 relation to crime files. Would you just look back,
14 please, at page 201, which is the precursor of his
15 letter. This, I think, is your note to 11:02
16 Sergeant Monaghan. If we just take the first
17 paragraph, you say:
18
19 "This is the day of the triathlon. Along with hundreds
20 of others [blank] and other people were in the area. 11:03
21 There was no evidence to link blank to this crime."
22

23 would you agree with me that that paragraph doesn't
24 indicate the steps that you took to eliminate blank
25 from the crime, as of that date? 11:03

26 A. Just one moment until I read it, please.

27 56 Q. Sure, yes.

28 A. Can you just repeat the question, please?

29 57 Q. Sure. When you look at that paragraph that you wrote?

1 A. Yes.

2 58 Q. In terms of the information that you put there, is
3 there any evidence there to show what steps you took to
4 establish that there was nothing to link blank to the
5 crime? 11:03

6 A. Yeah, no, I understand, yeah.

7 59 Q. Let me put it a slightly different way?

8 A. I am with you on this, yeah.

9 60 Q. If somebody else, let's say Sergeant Monaghan read that
10 document, that all that told him about what you had 11:04
11 done?

12 A. Yeah, Judge, I see, just all I have written -- to
13 answer the question, Judge, all I have written there is
14 that there is no evidence to link the named person to
15 this crime. 11:04

16 61 Q. Yes. But would you agree that there's no indication of
17 what efforts you took to arrive at that conclusion?

18 A. I didn't write that down there.

19 62 Q. No. That's a fair answer, so you didn't write it down.
20 So the person to whom you are writing has no idea what 11:04
21 steps you have taken or whether you have taken any
22 steps. And that's why, when you turn to page 202, do
23 you see the question that's at the end of the page:
24

25 "What efforts have been made?" 11:04

26

27 I have to suggest to you that's a reasonable question,
28 in response to your memo on page 201.

29 A. Judge, just one moment.

1 63 Q. 202.

2 A. Yeah, but just for clarification. I would have sent
3 this up through Sergeant Monaghan, it wouldn't have
4 gone directly from me to the superintendent. I just
5 want to see what he perhaps what may have asked me. I 11:05
6 don't know. I don't see it, sorry.

7 64 Q. So, I think we're agreed that that's all he said at
8 that time?

9 A. On that date?

10 65 Q. Yes. 11:05

11 A. Mm-hmm.

12 66 Q. Then I think in the second paragraph, at page 201, if I
13 can just draw your attention to that?

14 A. Sorry, which?

15 67 Q. If you just look back, please, at page 201? 11:05

16 A. Yes.

17 68 Q. Your note to Sergeant Monaghan again. This is where
18 you give an explanation as to why the civilians wrote
19 down their own statements. Do you see there that the
20 explanation that you gave there was that you were busy, 11:05
21 not that it was required by any regulation or by any
22 necessity. You said, I was busy.

23

24 "It was very busy when the two injured parties arrived
25 so I did the best I could under the circumstances." 11:06

26

27 A. Judge, that's not -- not as simple as that. Apparently
28 it's been divided up here. If you were to read the
29 paragraph, or my reply from the very top paragraph to

1 the bottom paragraph, it explains -- when they are put
2 together, it explains a little bit more of the picture
3 than just the second paragraph.

4 69 Q. But the second paragraph deals with the civilians and
5 the taking of the statements, doesn't it? 11:06

6 A. Yes.

7 70 Q. Okay. And again, I just want to suggest to you that
8 that's a very, very limited description of what took
9 place, that provoked a necessary and reasonable
10 response for more information? 11:06

11 A. We're dealing with a very minor matter here in relation
12 to the taking of a statement. Judge, I have already --
13 it would be my view that it would be a perfectly legal
14 statement. So we're really wasting paper on this
15 issue. But in any case. 11:07

16 71 Q. Isn't it the case, if you look at the letter on page
17 201, that what you're doing there is, you're not
18 justifying what you have done, you're trying to
19 explain, to mitigate why things weren't as they
20 otherwise should have been? 11:07

21 A. You will have to rephrase that question, please.

22 72 Q. Sure. Would you agree what you are doing here is not
23 justifying what you did, you're actually saying
24 effectively, I was in difficulties at the time, I was
25 busy? 11:07

26 A. Judge, I was busy at the time. I have stated that
27 already in evidence.

28 73 Q. You're not saying, I was following part 3 of the crime
29 manual, where it says I can do things out of the

1 ordinary?

2 A. The end of, I'm not sure if it's part 3 of the crime, I
3 can't remember which part of the crime, is it not
4 chapter 9, I don't know, it doesn't matter.

5 74 Q. Okay. 11:08

6 A. But as I already stated, the end part of that crime
7 manual facilitates for that. I mean, we're talking
8 about a minor matter here and if I am to write reams of
9 paper to do with crime manuals and all the rest in
10 relation to such a simple little thing in relation to 11:08
11 valid statements.

12 75 Q. Again, that's a very interesting response, Garda Keogh,
13 but I have to suggest to you that Superintendent Murray
14 will say it wasn't just a simple thing in relation to
15 being sure that you had taken all necessary steps to 11:08
16 identify a suspect. Would you agree with me, that
17 wasn't a minor thing for the victims of the crime?

18 A. Judge, I have already answered this. The victim -- one
19 of the victims of the crime is sitting in with me in
20 front of the CCTV, in the CCTV room, where we go back 11:08
21 right through the CCTV in her presence and we watch
22 everything in relation to that door and who comes in
23 and who comes out. And the suspect that I had
24 nominated doesn't go in or out. So the witness knows
25 that -- like the witness is present while this is being 11:09
26 investigated. So I totally dispute that.

27 76 Q. Could I ask you to turn to page 202 for a minute,
28 please. Do you see here it says, Superintendent Murray
29 says:

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"Sergeant Monaghan should ensure that Garda Keogh is supervised in bringing this matter to a conclusion so the victims office can advise the injured parties of the efforts An Garda Síochána put into solving their crimes."

11:09

Do you see that?

A. I see that.

77 Q. So, you can see and Superintendent Murray will say that for him it was very important as part of his attempt to raise standards in terms of crime files and reportage, that this would be done as thoroughly as possible, so that the Gardaí would be able to go to victims and say, we covered all the bases, we did everything we could but we weren't able to solve the problem?

11:09

11:09

A. Judge, the injured party was beside me watching the CCTV. So the injured party is not alone aware the crime was investigated, was actually present for part of the investigation. So, I mean, I can't add any more, Judge.

11:10

78 Q. Garda Keogh, again can I just make a suggestion, what you are mixing up here is what you did against what you reported. And what you're superior is asking is for details of how you reported on what you had actually done, that he wanted a full report?

11:10

A. I don't know what to say to that, Judge.

79 Q. Very good. Well, if you look, please, at page 208, this is stamped the 22nd September, I think this is a

1 further letter written by you after the correspondence
2 we just looked at. Here is a more fulsome statement,
3 it is more detailed than 201?

4 A. Can I just read it for a moment?

5 80 Q. Please. 11:11

6 A. Okay.

7 81 Q. Will you agree with me -- take your time?

8 A. Sorry.

9 82 Q. Do you want some water?

10 A. Please, yes. 11:12

11 83 Q. Just a short question: Do you agree that there is much
12 more detail in that note than there was at page 201?

13 A. I accept that. Again, Judge, just going back, I mean,
14 if I can just back, and this is going to be déjà vu,
15 Judge, for you, because as I point out, in relation to 11:12
16 202, I mean -- if we can go back to 202, please, Judge,
17 and just to scroll down, without even going into the
18 contents of it. The amount of effort and time for
19 that, like, we're going into two pages, one full --
20 let's say, one full typed page, it's an awful lot of 11:13
21 time and effort gone into such a minor matter over C8s,
22 Judge. Just to bring that to your attention.

23 84 Q. Do you see, Garda Keogh, I have to suggest that's a
24 very revealing answer by you, because I have to suggest
25 to you that Superintendent Murray had a view of the 11:13
26 importance of quality work, quality investigative work,
27 whereas you seem to feel this was all rather minor and
28 trifling. Can I ask you to turn, please, to page 207.

29 A. No, no, excuse me, excuse me.

1 85 Q. Yes.

2 A. No, no, the crime and all that was not minor, I'm not
3 suggesting that, it's just in relation to the taking of
4 the C8s I'm saying is minor.

5 86 Q. Just to complete the sequence on this one before we 11:13
6 move to another document, can I ask you to turn to page
7 207. Mr. McGuinness showed you this document
8 previously. You see that Sergeant Monaghan acted on
9 foot of the directions he received. He brought the
10 provisions of chapter 3 of the crime manual to your 11:14
11 attention. Then he reported up that you had nominated
12 blank for the thefts but had been unable to link him to
13 the crimes and he confirmed that you had indicated that
14 all CCTV was used, it gave rise to no leads in the
15 investigation and the case would not be progressed, but 11:14
16 if any developments arose, they would be reported to
17 the office.

18 A. Yes.

19 87 Q. At the bottom of that, do you see the note in
20 handwriting at the bottom? 11:14

21 A. Yes.

22 88 Q. That's Superintendent Murray's handwriting, isn't it?

23 A. I accept -- I think it is.

24 89 Q. Basically what he's saying there and will say in his
25 evidence, that he noted the views expressed by Sergeant 11:14
26 Monaghan. He said:
27
28 "The crime file should be sent to the victims office,
29 who will inform the injured parties of the efforts

1 made. I do not expect to see a repeat of this by the
2 member involved."

3

4 A. Yeah. Again, a repeat of what?

5 90 Q. So again, just throughout the course of this process I 11:15
6 think it has been very clear that what's happened here
7 is that you have sent in documentation. Chief
8 Superintendent Murray will say that he raised what he
9 believed were legitimate points, he wasn't intending to
10 be critical but he was identifying questions which he 11:15
11 believed needed to be addressed?

12 A. No, no, Judge, I dispute that. This was a very, very
13 minor issue over legal statements and an awful lot of
14 time and effort went into all this to and fro
15 correspondence on such a minor the matter. I mean 11:15
16 between -- like with all this correspondence, that
17 would be a whole day on the beat, let's say, wasted for
18 a guard. You know, it's -- no, I dispute that.

19 91 Q. Again, he will dispute that. Can I ask that you to be
20 shown volume 11, page 3042, please? 11:15

21 A. Sorry, what page?

22 92 Q. Volume 11, please, at page 3042. This is the statement
23 Chief Superintendent Murray made to the investigators.
24 Just looking please to the second line. You will see
25 that he indicated and he say this in evidence, that as 11:16
26 far as he was concerned it wasn't normal practice for
27 persons to write their statements. He had never come
28 across this type of situation before.

29 A. Judge, I had done that on, as I said, not on numerous

1 occasions but on occasions over the years when the
2 circumstances would arise, I would have to do it that
3 way, you know. It is in the -- it is in the -- it is
4 in the bottom paragraph I think of that CIT manual, it
5 accounts for -- or takes into a situation that one can 11:17
6 make their own statement in their own handwriting, but
7 provided it is being -- has been read over and
8 witnessed by a member of the Garda Síochána. All that
9 was done.

10 93 Q. You see, Garda Keogh, do you see he will say in his 11:17
11 evidence that he has seen situations where people have
12 handed in prepared statement in answering an allegation
13 as opposed to a witness statement, because a witness
14 statement is a starting point, the foundation stone
15 which allows guards to take action and make informed 11:17
16 decisions. He sees a distinction between a person
17 coming to make a statement which they made previously
18 and hand handing it into gardaí, perhaps a suspect, and
19 he sees a witness as different. Would you agree?

20 A. No, I don't, because what if a person like me, in my 11:18
21 position, if I ever had to go to report something to
22 the Guards, like I'm not -- there's no way I would
23 allow -- that's not fair to members of An Garda
24 Síochána on the ground. I don't mean it like that.
25 But I would -- from here on in I would be writing, I 11:18
26 would be saying, if I have to report something, I am
27 making my own statement of complaint about this matter.
28 There are some people that would request -- a guard
29 can't turn around and say, no, you're not allowed put

1 something in your own handwriting, make your own
2 statement, I have to write down. There is nowhere in
3 law, as far as I know, that that scenario arises.

4 94 Q. He will also say that he saw the proper preparation of 11:19
5 these files as being part of the accountability for the
6 Gardaí. It enabled the Gardaí to account to the
7 public, to the victims and to Garda headquarters about
8 the quality of the work that has been carried out.
9 would you agree with that?

10 A. In relation to the victim, Judge, I have already 11:19
11 covered that. I mean, the victim was sitting beside
12 and during part of the investigation into this. So the
13 victim is fully aware that this isn't a thing that, you
14 know, she made a statement and I threw the statement in
15 a bin and forgot about it. The victim is fully aware 11:19
16 that this was investigated and that we couldn't
17 progress the matter, because the victim was beside me
18 when we were trying to progress the matter.

19 95 Q. Chief Superintendent Murray will say that he wanted the
20 standard to be raised and he wanted that to be pointed 11:19
21 out to you?

22 A. Judge, I don't know how much more raising of the
23 standard we can go to.

24 96 Q. Are you sure of that?

25 A. Under the circumstances, on that occasion, Judge, I 11:20
26 didn't do anything wrong. Everything was done legally.
27 The investigation was carried out, I mean, as best as I
28 could. Just couldn't bring it any further and the
29 witness was aware of that.

1 97 Q. Let's just pause there for a moment. Can I ask you to
2 be shown document number 2099 and the following page,
3 please. Now, I think that in the course of your
4 evidence on the 16th October, I think Mr. McGuinness
5 showed you a different document, which is page 2039, 11:20
6 which is dated 10/8/2015. I think that was a document
7 that was put forward to you as a template for improved
8 action in relation to files. But I want to suggest
9 that, in fact, this is the relevant document to deal
10 with this area, because this is a document which is 11:21
11 dated 19th June 2015. Could I just ask you a number of
12 questions about it? In other words, this predates the
13 Custume Place event. Do you accept that?
14 A. I accept --
15 98 Q. Do you see the date at the top? 11:21
16 A. Yeah, I see. It's a typed date at the top, I see that.
17 99 Q. Do you raise any point about it being typed as opposed
18 to being --
19 A. No, no, no. Just...
20 100 Q. Would you agree with me that on its face it's a 11:21
21 document that is several weeks prior to the incident at
22 Custume Place, which occurred on the 4th July. Can we
23 agree on that?
24 A. Yeah.
25 101 Q. Then, just looking at the top, you see it is addressed 11:21
26 to each sergeant in Athlone?
27 A. Yes.
28 102 Q. It is also addressed to each member in Athlone
29 district?

1 A. Yes.

2 103 Q. It's is entitled:

3

4 "The investigation and volume of crime and the

5 accountability process"?

6 11:22

7 A. I see that.

8 104 Q. Just over the page, you can see it's signed by

9 Superintendent Pat Murray, as he then was?

10 A. Yes.

11 105 Q. You had seen this document in June of 2015, had you

12 not?

13 A. I recall seeing -- I do recall seeing something, yeah,

14 I think it was this document.

15 106 Q. Let's just briefly go through it to help the Chairman

16 to see what was the state of play as of 19th June 2015

17 in Athlone Garda Station. So, as part of the reform

18 measures put in by Chief Superintendent Murray, he

19 wrote to you all and said:

20 11:22

21 "As a result of a review of the investigation of volume

22 crime and the accountability of processes, a new folder

23 is effective from 1st July 2015. A new process is

24 being put in place."

25 11:22

26 Do you see that?

27 A. I see that.

28 107 Q. Okay. Then he details the new standard that he would

29 like and he lists each of the points, do you see those?

1 A. Yes.

2 108 Q. He indicates that there should be entries put on Pulse
3 as soon as possible, and that the incident review
4 process at daily PAF meetings which examine each crime.
5 Was that a new development? 11:23

6 A. Sorry?

7 109 Q. He says that the incident review process at the daily
8 PAF meeting will examine each crime. Is that a new
9 process?

10 A. I don't know. 11:23

11 110 Q. Okay.

12 A. The PAF meetings, Judge, would generally be sergeants
13 in the district. I can't comment on that.

14 111 Q. In the next line he says that from after 1st July a
15 request for a crime file will be displayed on the 11:23
16 tasking list column of the PAF administration system
17 and e-mailed to the investigating member and nominated
18 supervisor immediately after the daily meeting. Was
19 that a change from what happened had occurred before?

20 A. It may have been. I just can't recall that part. AS I 11:24
21 said, Judge, in relation to the PAF briefings and that,
22 it was just -- I think it's the sergeants and
23 inspectors and superintendent would meet there, it
24 wouldn't be the guards on the ground. So I wouldn't
25 have -- I just wouldn't be in a position really to 11:24
26 comment on what goes on at those meetings.

27 112 Q. Let's turn to the third point, Garda Keogh, I think he
28 says there:
29

1 "The investigating member will complete each section of
2 the attached crime folder and insert all original
3 statements and correspondence relating to the crime to
4 the folder. When all avenues of inquiry are exhausted,
5 the investigating member will submit the crime file to 11:24
6 their nominated supervisor, usually by the due date on
7 the PAF list, who will review the file, complete the
8 last page of the folder and submit it to the district
9 office."

10
11 So, would you agree with me that effectively an
12 exhortation to ensure that "all avenues of inquiry
13 should be exhausted before the crime file is nominated
14 and submitted"?

15 A. I agree that's what is in the document. 11:25

16 113 Q. Yes.

17 A. But then again, that's my perception of reality.

18 114 Q. Exactly. But this is a new reality, isn't it, Garda
19 Keogh? This is a document you received, an instruction
20 you'd received from your superior? 11:25

21 A. Oh yeah, this is -- I'm not disputing that.

22 115 Q. Sure.

23 A. This document.

24 116 Q. would this be different to what you had done under the
25 previous administration? Is this a change? 11:25

26 A. Oh no, no, no. This makes it out like previous
27 administration was -- no, no. That's not fair.

28 117 Q. Okay.

29 A. No.

1 118 Q. Would you agree that it gave you a very clear
2 indication of the standard that Superintendent Murray
3 wanted all of you, not just you, all of you to try and
4 reach?

5 A. I mean, that's not for me to comment on really. I mean 11:25
6 I'm not disputing that this document came out and
7 what's in the document is there.

8 119 Q. Fine. Could I ask you to look at the last point on
9 that page, please, where it says:
10
11 "If all avenues of inquiry have been exhausted and no 11:25
12 leads exist, the district officer or acting officer
13 will mark the investigation of crime inactive and send
14 the file to the administration office at the victims
15 office for filing." 11:26
16

17 A. Yeah. Just, is there anything said about the take of
18 statements or anything in this, and how statements
19 should be taken?

20 120 Q. There are two points. There's the question of all 11:26
21 original statements and correspondence must be collated
22 and all avenues of inquiry must be exhausted?

23 A. Right. Just, there's no -- it doesn't say a member
24 must take a statement from an injured party or anything
25 like that. 11:26

26 121 Q. No, I think that's something that hadn't changed, you
27 see. That was so fundamental from the crime manual
28 that it didn't require to be notified to you or your
29 colleagues. Whereas this is a new system, a new system

1 that is being implemented. Did you resent this system
2 or did you object to this system?

3 A. Judge, I had that much going on with the other
4 investigation and things, that I mean, I would have
5 glanced probably at this and that's it. I mean, it 11:27
6 wasn't something -- this document wasn't --

7 122 Q. Again, Garda Keogh, this is probably something we
8 touched on the other day, is this something you felt
9 really didn't apply to you, because you were so busy
10 with other matters? 11:27

11 A. Not at all, no. Like I've I said I recall seeing this
12 document. But were are we here? We're in 2015, Judge,
13 and there's one document, it's accepted, yeah, I have
14 seen this document. I mean, I didn't learn it off by
15 heart or anything like that, because there's a lot of 11:27
16 documents in relation to this part of what's going on.

17 123 Q. Could you please just turn over the following page,
18 that's is page 2100?

19 A. It's the date with the signature?

20 124 Q. This is the same document. 11:27

21 A. Yeah.

22 125 Q. Do you see at the top it says:

23

24 "The victim office staff will notify the victim of the
25 updated position with the crime insofar as An Garda 11:27
26 Síochána is concerned."

27

28 And then:

29

1 "Having possession of the crime file folder, they will
2 be in a position to give accurate up-to-date
3 information. This will be available for audit and
4 examination."

11:28

6 So here, Chief Superintendent Murray will say that he
7 was seeking to creating a system that would be
8 accountable and subject to audit. Was that a change
9 from what had occurred prior to June 2015?

10 A. You see, I can't remember in relation to what happened
11 prior, in relation -- I have already said, in relation
12 to -- I never worked in the victims office and the PAF
13 thing office, as I said, I can't, I can't comment on
14 that. All I have said is, any persons I was dealing
15 with, injured parties I was dealing with, I always
16 would have gone back to them at some stage and said --
17 during my -- it was just a thing I always did, listen,
18 we can't progress this or we're going somewhere with
19 this, or try and explain it to them.

11:28

11:28

20 126 Q. Just two final points on this issue, do you see that
21 Chief Superintendent Murray, in the second last
22 statement, indicates:

11:28

24 "This process is to introduced to ensure that An Garda
25 Síochána in Athlone district are providing an
26 accountable, transparent response to the investigation
27 of volume crime."

11:29

28
29 would you agree with me that was a worthwhile

1 objective?

2 A. Oh yeah. I don't see any -- I can't say anything
3 negative about that.

4 127 Q. would you agree that a wasn't something that was
5 targeted at you personally but was a measure aimed at 11:29
6 raising standards of investigation?

7 A. Judge, I can't, I can't comment really on that.

8 128 Q. Then, if you just look, please, at the last line, you
9 see there that Chief Superintendent Murray said:
10 11:29
11 "Please bring this to the attention of each member for
12 strict compliance."
13
14 Underlined, the word strict.

15 A. I see that. 11:29

16 129 Q. Now, just taking that standard and that template, would
17 you agree with me that the step that you took in
18 relation to the Custume Place theft fell far short of
19 that requirement?

20 A. No. 11:29

21 130 Q. If you disagree with me on that, would you agree with
22 that that from Superintendent Murray's perspective what
23 you presented in terms of paperwork and reportage was
24 not in accordance with what he requested in this
25 document of 15th June, 2015? 11:30

26 A. Judge, this is an example of where Superintendent
27 Murray is forensically going through this Custume Place
28 theft thing himself. I mean, there was nothing wrong
29 with my police work on that occasion.

1 131 Q. So did you resent having your work reviewed by your
2 superintendent?
3 A. Judge, this is -- this is just part, one part of what
4 becomes a whole load of forensic examinations of my
5 police work by Superintendent Murray. 11:30

6 132 Q. Did you resent the intrusion into your parallel
7 investigation with the Ó Cualáin investigation, which
8 you considered to be your life's work? Was this minor
9 business compared to what you thought was important?
10 A. No, no. This has nothing -- this issue here has 11:31
11 nothing to do with the Ó Cualáin investigation, which
12 is parallel going on around the same time.

13 133 Q. Yes. But do I understand that you felt that this was
14 effectively an unnecessary distraction for you from the
15 important work you were carrying out as somebody who 11:31
16 saw himself as engaged in a parallel investigation with
17 the Ó Cualáin inquiry?

18 A. Judge, I've already said, Ó Cualáin is doing the
19 investigation into the heroin supply in the midlands
20 while -- this is 2015 and we saw again, I have gone 11:31
21 through all this, I am under stress, but there's
22 nothing wrong with my police work here. At the end of
23 the day, there is nothing wrong with my police work.
24 Judge, if any superintendent was to go through any
25 guard's file in the country, forensically, you are 11:31
26 always going to find some sort of minute problem, if
27 you want to nit-pick. And that is all this is;
28 nit-picking.

29 134 Q. Again, Superintendent Murray will disagree with you on

1 that and I have to suggest to you, if you look, please,
2 at 2048 of volume 8?

3 A. 2048?

4 135 Q. Yes. Do you have that?

5 A. Yes. 11:32

6 136 Q. Can I draw your attention to paragraph 44. Chief
7 Superintendent Murray will say that during his tenure
8 as district officer in Athlone, in his day-to-day
9 functions he initiated queries on many crime files to
10 ensure that high standards prevailed. That will be his 11:32
11 evidence; not just your files, but many files?

12 A. Judge, he's hardly going to say the opposite. He's
13 hardly going to say during my tenure as district
14 officer in Athlone I...

15 137 Q. But you're not suggesting, are you, that yours are the 11:33
16 only files that he reviewed?

17 A. Oh, no. No, no. But my point is, reviewed and
18 reviewing them forensically, Judge. There be would a
19 difference there.

20 138 Q. Well, you know, in terms of high quality review, Chief 11:33
21 Superintendent Murray will indicate that that's what a
22 proper high standard review is; it's forensic, it meets
23 a high standard?

24 A. Ah now, there's a level, there's a level there that --
25 you know, there's a level there when it comes to 11:33
26 reviewing a file and absolutely forensically going
27 through -- and to come up with something as simple as
28 issue over C8s and taking of a statement. On a busy
29 day -- it would be, Judge, in comparison to -- if there

1 was a guard on duty in perhaps Store Street here in
2 Dublin on St. Patrick's Day, and two persons arrive in
3 with this, where's two separate -- one incident with
4 two separate crimes, where they're reporting at the
5 exact same time, you know, I don't, I don't agree with 11:34
6 what's being put to me here.

7 139 Q. I am going to suggest to you again, if you turn to the
8 previous page, 2048, that Chief Superintendent Murray
9 sets out why he did this and he will say that the
10 initiative that he deployed was to prioritise and give 11:34
11 clear direction on issues like thoroughness, accuracy
12 and completeness of investigation files. Would you
13 agree with me that that's a worthwhile goal to achieve,
14 to achieve higher standards of policing in Athlone?

15 A. Judge, I did all them. 11:34

16 140 Q. Again, in terms of the file we are discussing, he will
17 obviously say that you did not. I am just pointing out
18 to you that his evidence will be that he was seeking to
19 raise the general standard, not just yours, all of your
20 colleagues. Would you agree with that? 11:35

21 A. I'm not disagreeing with that.

22 141 Q. We dealt yesterday with the fact that people like
23 Inspector Minnock, Sergeant Monaghan, I opened those
24 entries to you, they felt this was good, they felt this
25 was improving the standards. Did you resent this 11:35
26 change in standards?

27 A. No, no, I have nothing -- I have no issue with anything
28 like that, there's no issue on this.

29 142 Q. Finally, I just have to suggest to you on this point

1 that Superintendent Murray's evidence will be that all
2 he did in this case was to try and ensure a high
3 standard but not to target or discredit you or single
4 you out for particular attention on your own, he was
5 reviewing all the system during this time? 11:35

6 A. Well, Judge, I wonder how long it took him to write
7 large report in relation to such a minor, minor matter.
8 It would appear he had plenty of time on his hands.

9 143 Q. Well, in the circumstances, I think the evidence will
10 be that Superintendent Murray is extremely 11:35
11 hard-working. That's the evidence from all of the
12 other witnesses who will be called to give evidence.
13 And that insofar as he paid attention to your files, he
14 did to other people's files as well?

15 A. Yeah, but not to the same level, Judge. 11:36

16 144 Q. He will say that he did it to the level required.
17 Chairman, that's the end of that particular issue, I
18 wonder if this might be an appropriate point to break?
19 CHAIRMAN: Yes, I think so. We should have a word
20 about arrangements for tomorrow. 11:36

21 MR. MURPHY: Yes.

22 CHAIRMAN: Because I understand certain people have
23 some difficulties, I myself have some obligations in
24 the morning. I will try to be here as close to 10:30
25 as I can, but there are certain obligations which are 11:36
26 not legally binding but they are very hard to escape
27 from, I will do so as soon as I can but I know and I
28 understand that people have other commitments and
29 conflicts. So I think that we will sit tomorrow as

1 close to 10:30 as we can. So assume that I will be
2 here at 10:30 and we will break at lunchtime, at one
3 o'clock. If there is something still proceeding and
4 everybody is still in reasonable form for it, I hope
5 that we might be able to continue for some short time 11:37
6 to finish it.

7 MR. MURPHY: Yes.

8 CHAIRMAN: But that doesn't mean that we are actually
9 substantially departing from that. It's just that we
10 will try to finish some unit, some element by 11:37
11 lunchtime.

12 MR. MURPHY: Thank you, Chairman.

13 CHAIRMAN: So that's the situation. I am sure you are
14 probably as grateful as anybody else for it.

15 MR. MURPHY: Judge, should I liaise with Mr. McGuinness 11:37
16 and Mr. Kelly in relation to any practical issues on
17 the --

18 CHAIRMAN: Absolutely. You can liaison, if there is
19 any specific procedural matter or practical question
20 you need to discuss and if you are agreed on it, I will 11:37
21 be very slow to disagree. Is that okay?

22 MR. MURPHY: Thank you very much.

23 CHAIRMAN: Very good. Right, well now, I will come
24 back at 11:55, all right. Thank you.

25 11:38

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

28

29 MR. KELLY: Just before Mr. Murphy resumes, I have had

1 the opportunity to speak to Garda Keogh about the
2 proposed course, it's fine.

3 CHAIRMAN: Thank you very much..

4 145 Q. MR. MURPHY: I am grateful to Mr. Kelly for that
5 confirmation. Garda Keogh, can we move, please, to the 11:57
6 next issue, sub-issue in issue 9, which is the theft at
7 Dublin Road in Athlone on 17/8/2015. Could I ask you
8 to be given, please, volume 1, page 131, please. Garda
9 Keogh, I think this is part of your statement, initial
10 statement to the Tribunal and under paragraph 11, it 11:58
11 indicates your complaint about the matters that
12 occurred in relation to this issue. Can I just draw
13 your attention to the second paragraph, that just lists
14 your criticisms and we will address each one. I think
15 first you say: 11:58

16

17 "Superintendent Pat Murray, without any rational basis,
18 appeared to identify or nominate a suspect."

19

20 Is that one of your criticism? 11:58

21 A. Just one moment. Can I read the paragraph.

22 146 Q. Yes, please, the second paragraph under 11.

23 A. Yeah. Yeah.

24 147 Q. So, number 1 is you saying that he irrationally
25 nominated a suspect. Then number 2, if you turn over 11:59
26 the page, please, at top of page 132 you say:

27

28 "The investigation into the trailer was of course
29 ongoing. I was unable to obtain any CCTV from Charlie

1 Brown's. In the case of Gilmartin's petrol station, I
2 later obtained footage which advanced the
3 investigation. "
4
5 A. Excuse me, sorry, what I am reading here is, I had 11:59
6 already requested CCTV footage from Gilmartin's.
7 148 Q. which page are you looking at, please?
8 A. I am looking at page 132.
9 149 Q. Yes.
10 A. The question you asked me? 12:00
11 150 Q. It's the second paragraph:
12
13 "The investigation into the trailer was of course
14 ongoing. "
15 12:00
16 That's the paragraph I read from. The second
17 paragraph:
18
19 "I had already requested the CCTV footage from
20 Gilmartin's and Charlie Brown's. " 12:00
21
22 A. Yes, but that's not the question that was posed to me a
23 moment ago.
24 151 Q. well, what I read to you was this a moment ago.
25 A. Anyway, okay. 12:00
26 152 Q. what I am just saying is, you are accepting that your
27 investigation was ongoing. Then would you look,
28 please, down to the third paragraph, which says:
29

1 "In relation to the theft of a trailer..."
2
3 A. It starts with "Sergeant Monaghan explained"?
4 153 Q. No, sorry, two paragraphs further down, please.
5 A. 12:00
6 "In relation to the criminal damage matter..."
7
8 154 Q. Yes, to the theft of the trailer.
9 A. Sorry, yes. Can I read this paragraph?
10 155 Q. Please take your time to read that paragraph, yes. 12:00
11 A. Thank you. Yes.
12 156 Q. Garda Keogh, have you had a chance to read that? Can I
13 just ask you to look at the bottom of that long
14 paragraph, where you say:
15 12:02
16 "Superintendent Pat Murray then irrationally concluded
17 that Sergeant Monaghan should supervise the proper
18 investigation of crime to this we can show the victim,
19 that we were thorough and professional."
20 12:02
21 You complain there that Chief Superintendent Murray did
22 not define what he meant by show, thorough,
23 professional or proper and he didn't mention work
24 related stress.
25 12:02
26 First of all, can I just suggest to you, and we will
27 come to the correspondence, that by this date, as
28 discussed a few moments ago, by this date, the 18th
29 August, you were in possession of the memorandum we

1 looked at before the break, dated 19th June, namely
2 Superintendent Murray's review and revision of the
3 investigation and volume crime process. There can be
4 no dispute about that?

5 A. I don't think so. 12:03

6 157 Q. No.

7 A. As I said, a typed document with his signature on the
8 bottom, I'm not disputing the...

9 158 Q. Sure.

10 A. Yeah. 12:03

11 159 Q. So you were aware certainly by August, if you weren't
12 already aware by July, that Superintendent Murray was
13 seeking to get everybody in the division to raise their
14 standards and, therefore, you would have been aware of
15 the fact that he was encouraging you and all of your 12:03
16 colleagues to show victims that you were thorough and
17 professional, is that right?

18 A. I'm not disputing that.

19 160 Q. Okay. Can you then turn please forward to page 215,
20 which is volume 1. 12:03

21 A. 215?

22 161 Q. Sorry, 215, please, yeah. This is the letter of 14th
23 August 2015 from Superintendent Pat Murray, which I
24 think you have seen before when Mr. McGuinness showed
25 it to you? 12:04

26 A. Yes.

27 162 Q. Again, without delaying matters, ultimately the
28 questions that Superintendent Murray is asking are very
29 clear and succinct, aren't they?

1 A. Well, they're -- sorry, Judge, these are in -- the
2 three questions are in relation to three separate
3 incidents?
4 163 Q. Yes.
5 A. Technically four separate incidents, if you divide up 12:05
6 the first question.
7 164 Q. Can I just take the ones that relate to this issue.
8 which questions relate to the present issue? That's to
9 say, the theft at Athlone road?
10 A. So this is the last question? 12:05
11 165 Q. Yes.
12 A. Okay.
13 166 Q. So in relation to who supplied the TV? Question 1.
14
15 "1. No statement from that person on the file." 12:05
16
17 Statement of fact.
18
19 "2. Has any effort been made to enhance the CCTV?
20 12:05
21 3. Should it be circulated in any way?
22
23 4. Where is the CCTV now?"
24
25 Just pause there for a moment. Can I suggest to you 12:05
26 that Superintendent Murray will say in his evidence
27 that these were entirely reasonable questions for him
28 to ask and constructive questions for him to ask, based
29 on the paperwork as it was at that time?

1 A. At that time, yes, those questions in that part. But
2 bear in mind, there's two other questions in relation
3 to other incidents on this page.

4 167 Q. Yes. He will say that he was looking at not just your
5 files but other files at that time? 12:06

6 A. Sorry, I couldn't just hear the first part.

7 168 Q. He will say that he was looking at other members' files
8 on that date, not just yours.

9 A. Okay.

10 169 Q. Could you please turn forward to page 219, the same 12:06
11 volume.

12 A. Can I just read this for a moment?

13 170 Q. Please, yes. 219.

14 A. Yes.

15 171 Q. So by this time have you have filed documents, which 12:06
16 are between 213 and 214, that Mr. McGuinness took you
17 through. Chief Superintendent Murray says in the first
18 paragraph that the incident requires further
19 explanation in relation to CCTV. At that time did you
20 agree or disagree with that? 12:07

21 MR. KELLY: I think the witness asked for time to read
22 it and he clearly hasn't had the time to read it before
23 the question is asked.

24 MR. MURPHY: Very good.

25 A. Okay. 12:07

26 172 Q. So, just looking at those questions, I have to suggest
27 to you that they are all reasonable questions asked by
28 him, in relation to progress of the investigation?

29 A. Yes.

1 173 Q. You would agree with that?
2 A. Yes. I just want to bring -- just on the third line
3 there:
4
5 "Now evidence has come to light following a request for 12:08
6 further information."
7
8 That's not accurate.
9 174 Q. But in terms of the position where he says:
10
11 "Sergeant Monaghan should supervise the proper 12:08
12 investigation of the crime so we can show the victims
13 we were thorough and professional in our approach to
14 solving crime."
15
16 You wouldn't object to that? 12:08
17 A. No.
18 175 Q. Then turning forward, please, to the next page, I think
19 221. This I think is evidence that the CCTV had been
20 collected from the manager? 12:08
21 A. This is a statement, yeah. Well, will I read out the
22 statement, is it necessary?
23 176 Q. No, no, no need to do that. But you can see the
24 statement. It indicates that you were doing that work.
25 I am saying, this indicates that you were taking steps 12:09
26 as a result of that. Can you please turn to page --
27 A. Sorry, just for clarification, can I just read this?
28 177 Q. Yes. Is that your signature at the end, as a witness?
29 A. Yeah, that's my signature. Just one moment. Yes,

1 Judge, in this statement, I mean, it has like:

2
3 "Garda Nick Keogh contacted the service station N6
4 Athlone regarding CCTV."

5 12:09

6 CHAIRMAN: If you scroll down, Philip, please.

7
8 A. "At about 4:30am on the 8/8."

9
10 which is the evidence that I gave last week, that that 12:09
11 night I went to that 24-hour station, I requested the
12 CCTV, and, as I had said, the young lad that was
13 working that night, or the early hours of the morning,
14 couldn't operate the machine and I don't get the CCTV
15 until a week later. I have given this in evidence last 12:10
16 week, Judge

17 178 Q. MR. MURPHY: Then could you please turn forward to page
18 222. Here you have a note back from Sergeant Monaghan
19 to the superintendent and he is basically listing all
20 the work that you did, showing the CCTV has been saved, 12:10
21 a copy of the CCTV has been forwarded to Garda
22 headquarters in Ballinasloe, that you had been in
23 contact with -- sorry, Garda blank in Ballinasloe, that
24 you had been in contact with this member in relation to
25 possible suspects, that entries had been made by you on 12:10
26 Pulse, that you have identified a particular address as
27 false, that the crime is still under investigation and
28 a progress report will be given as things arise?

29 A. Yes.

1 179 Q. I think you agree that all reflects the detailed work
2 that you did in response to the earlier requests for
3 information from Superintendent Murray?
4 A. Yes.
5 180 Q. Yes. 12:11
6 A. Yeah.
7 181 Q. Do you see just the handwriting at the end, Garda
8 Keogh?
9 A. Yeah.
10 182 Q. This is Superintendent Murray's writing, do you see 12:11
11 what he says, he says:
12
13 "Noted: I appreciate the additional enquiries carried
14 out, which ensure the organisation is actually
15 achieving its goals in relation to the investigation, 12:11
16 reports and the efforts on identification."
17
18 That's signed by him. So that's saying, well done,
19 good work. Would you agree?
20 A. That's fair enough. 12:11
21 183 Q. So, so far, if we look at this, can I suggest to you
22 that what this indicates is what an outside person --
23 that's going back to perspective and reality, an
24 ordinary person, an ordinary citizen would look at
25 communications between a superior and his team asking 12:11
26 for further information and then you, as part of that
27 team, responding, carrying out information and
28 clarifying the situation?
29 A. Yes. Yeah.

1 184 Q. Could I ask you then to turn, please, to page 2048 in
2 volume 8? It's a different volume, sorry, Garda Keogh.
3 Could I ask you, please, to look at the last paragraph,
4 which begins with the words "on the same day". If you
5 would like a minute to read that, please do. 12:12

6 A. Please. Yes.

7 185 Q. Okay. Then, in the middle of the paragraph, this is
8 Chief Superintendent Murray will say, look, I asked
9 four questions to assist the successful conclusion of
10 the investigation. That you responded on the 12th 12:13
11 September, on the 22nd September of 2015, I think you
12 would agree with that?

13 A. Just one moment, I just want to see what the four
14 questions are.

15 186 Q. They are the ones we just dealt with at page 219, 12:13
16 volume 1.

17 A. Yeah.

18 187 Q. Okay. So, so far so good?

19 A. Yeah.

20 188 Q. Garda Keogh, we're in a position where these questions 12:14
21 have been raised, you have done the extra work, you
22 have got extra information and this is good news,
23 because this is leading to an advance of the
24 investigation, isn't it?

25 A. Yes. 12:14

26 189 Q. It is. He says or he will say in his evidence that he
27 expressed his appreciation of the efforts made, and on
28 the 2nd November 2015 he sanctioned ten hours overtime,
29 Haddington Road hours, to you to attend to the arrest

1 stage of the investigation. Were you aware of that?

2 A. Yes.

3 190 Q. I think two culprits had been identified as a result of
4 your additional good forensic work and they were due to
5 appear in Naas District Court on 18th November 2015? 12:14

6 A. Yes.

7 191 Q. I think you had been liaising with the detective
8 sergeant in Athlone and arrangements to be made for a
9 member to accompany you to try and bring the
10 investigation to a conclusion? 12:14

11 A. Yes. This part, this is all correct, yes.

12 192 Q. Then he will say that the detective sergeant in Athlone
13 reported to him on the 16th November that you had
14 indicated that it would be unlikely that you could take
15 part in the arrest because would you have a relapse of 12:15
16 drinking?

17 A. Yes. I informed the detective sergeant of this in
18 advance.

19 193 Q. Then he will say that the detective sergeant arranged
20 for two members to travel to Naas District Court on 12:15
21 18th November 2015?

22 A. Yes.

23 194 Q. One person was arrested for the crime there and he
24 admitted during his detention that he committed the
25 theft? 12:15

26 A. Yes.

27 195 Q. And he was charged?

28 A. Yeah.

29 196 Q. And he pleaded guilty?

1 A. I understand all this, yes.

2 197 Q. Yes. So that was a good result and a happy outcome for
3 the investigation?

4 A. Yes.

5 198 Q. He will say that he agrees with you on that. He says, 12:15
6 in the course of his statement at page 2049, and this
7 will be his evidence, he said:
8
9 "The queries I generated in this case were not in any
10 way directed at Garda Keogh personally, but were, in 12:15
11 fact, to ensure that the investigation was carried out
12 to a high standard and was fulfilled."
13

14 A. Judge, release call just reading somewhere in the
15 volumes in relation to the issue over the CCTV and the 12:16
16 collection of the CCTV, that it was only to do with --
17 the way I read it, that it was only to do with --
18 because he had written down to me, that I went to that
19 service station to look for the CCTV, that we got lucky
20 with and that wasn't the case. I had been down there 12:16
21 that night. The night of the crime I went to that
22 service station, just on the off chance that that car
23 would have pulled in. We have covered this last week,
24 Judge. The CCTV is just -- the petrol station is just
25 down the road from where the crime occurred and, as it 12:16
26 happened, the perpetrators of the crime pulled in to
27 refill their car so close to the scene of the crime.
28 Yes.

29 199 Q. Ultimately, would you agree with me, just going through

1 that sequence, this is win win for An Garda Síochána,
2 you have done very good work, he has raised prudent
3 questions and the people responsible have been brought
4 to justice?

5 A. Yes, Judge. I just have to point out one thing Judge: 12:17
6 This is in November 2015, I'm just -- as I said, I'm
7 going through a difficult patch in general with --
8 there's all the other investigation that's going on and
9 this is just after Garda A has been suspended. In this
10 period of time have I had Ms. B driving by my house, 12:17
11 where I live.

12 200 Q. Garda Keogh --

13 A. There's a couple of things.

14 201 Q. Let's be clear, I am not seeking to criticise what you
15 have done here, I am just pointing out you that did 12:17
16 some good work here, working in collaboration with
17 Superintendent Murray. But can I ask you to go back to
18 Volume 1, page 133, please, for a minute?

19 A. Just one thing I haven't addressed all through this,
20 Judge, because the alcohol has been fired at me and I 12:18
21 am not taking any issue with that, but just to clarify
22 Judge: when I would go drinking, Judge, it's not a
23 matter that I just stop drinking one day and then put
24 on the uniform and go back into work. I don't go back
25 into work -- I stay off for a couple -- for about three 12:18
26 days, where I don't consume anything, just to get
27 myself fit enough to go back into duty. So, if you
28 understand, I'm not drinking actually. The last few
29 days of my illness where I am out do with that, I

1 wouldn't actually be drinking. I am getting myself
2 fit, so when I go back into work, that I can give a
3 hundred percent. To the best of my ability. And under
4 the -- you know, in that time period, in November '18,
5 I am under a lot of pressure, but doing the best. 12:19

6 202 Q. Garda Keogh, just going back to page 133 in volume 1,
7 please. Do you have that there?

8 A. 133.

9 203 Q. It's volume 1, page 133.

10 A. Okay, 133. 12:19

11 204 Q. Just before you actually read that, can we pause for a
12 moment, Garda Keogh, just think about all of the
13 answers that you have given to me in the last five
14 minutes and where we are now today, here in this room,
15 with the benefit of hindsight, looking back on this 12:19
16 investigation, you and I and Superintendent Murray
17 agree that you did good work, that suspects were
18 brought to book and justice was done. So, I think you
19 will agree, that's where we are at the moment, as I
20 speak now. 12:20

21

22 Just looking down, please, if you would, at the middle
23 of the page, page 133, can I ask you just to read the
24 first and second lines of that paragraph, beginning
25 with the words "Again queries". 12:20

26 A. Okay.

27 205 Q. So again, now, with the benefit of hindsight, after all
28 you have said to the Chairman here this morning, would
29 you agree with me that in the statement where you

1 originally said, some time ago, that these queries from
2 Superintendent Murray were oppressive and irrational,
3 that that was an unjust criticism of him, that isn't
4 really correct, is it?

5 A. No, because as we went -- the document we've seen 12:21
6 earlier, where he is actually querying four different
7 investigations technically on one page, he has them all
8 rolled in onto the one page, on four different matters.

9 206 Q. No, no, we are just -- just talking about questions on
10 the trail, please, that's the question, that's what 12:21
11 this part of your complaint is. Look at the next
12 sentence, you say:

13
14 "They led nowhere in the overall context of the
15 elephant in the room." 12:21

16
17 First of all, would you agree with me that those
18 questions did lead to a successful conclusion of the
19 theft at Dublin Road?

20 A. On the theft. 12:21

21 207 Q. Yes.

22 A. But as I pointed out, he had rolled all these queries
23 on to the one sheet of paper, which we barely have
24 seen.

25 208 Q. Superintendent Murray will say, and I understood you to 12:21
26 agree, that he raised these questions and they
27 contributed towards the finalisation of a successful
28 investigation?

29 A. In this particular --

- 1 209 Q. Let's just stick with this one for a moment, if you
2 wouldn't mind, please, Garda Keogh. You see, I have to
3 suggest to you this is another example of perception
4 and reality. I mean, this is a letter, a statement
5 that you are looking at here, where you're effectively 12:22
6 saying there should be a public inquiry by the Tribunal
7 on a definite matter of urgent public importance, which
8 relates to how you were treated concerning this
9 particular theft, amongst other things. But, in fact,
10 when we look at it, I have to suggest to you that there 12:22
11 is no basis for any complaint about Superintendent
12 Murray's input in this complaint at all?
- 13 A. No, there was an issue in relation to the collection of
14 the CCTV. It was implied that I didn't go to that
15 petrol station to gain the CCTV, harvest the CCTV that 12:22
16 night. That was the issue with this. And as I have
17 said, this question is rolled into the other matters
18 and the other queries on a sheet, the one-page document
19 that we have seen earlier, I can't just remember the
20 page of it. 12:23
- 21 210 Q. And again it's a matter for the Chairman to decide but
22 I have to suggest to you that in this particular
23 situation all the evidence would suggest that there is
24 simply no basis for any complaint against
25 Superintendent Murray at all? 12:23
- 26 A. Well, I have answered, my answer just a moment ago is
27 the same. They were all rolled in, all these queries
28 were all rolled in together. There was the two thefts
29 at Custume Place, the theft of the trailer, there was

1 the -- what was the other one? There was a few more.
2 Mulligan's was an issue then after that. They're all
3 on the one sheet of paper.

4 211 Q. If I can move, please, Garda Keogh, to the third subset
5 of section 9, which is criminal damage at Mulligan's 12:23
6 filling station on 17/8/2015?

7 A. Is this the same page?

8 212 Q. No, this is a different page. So, could I ask you
9 please to be given volume 31, page 8942.

10 A. 8942. 12:24

11 213 Q. Please. I think this is a document in which you had an
12 input. Is document 8942 a document which reflects the
13 existence of an investigation into criminal damage at
14 Mulligan's filling station?

15 A. Yes. 12:25

16 214 Q. Can I ask you this, to turn forward then, please, to
17 volume 1, page 216.

18 A. 216, yes.

19 215 Q. Please.

20 A. Okay. 12:26

21 216 Q. Could I ask you, is this a note that you prepared in
22 connection with that investigation?

23 A. No. No. On 216, it's a reply to Superintendent Murray
24 via Sergeant Monaghan. So I am writing to Sergeant
25 Monaghan. 12:26

26 217 Q. Sorry, Chairman, I just lost my reference. In terms of
27 the response, can I ask you just to confirm, what was
28 the nature of that response?

29 A. Em, Judge, I think that is the response to the letter

1 on the page before, at page 215. I think.

2 218 Q. So, on this document questions arise in relation to who
3 wrote the statements, in relation to:
4
5 "[Blank] may be a suspect. Was this put to him in any 12:27
6 way?"
7
8 And the third one, in relation to the stolen trailer:
9
10 "Please supplying CCTV footage." 12:27
11
12 Again, in terms of these question, I have to suggest to
13 you that they are apparently reasonable questions?
14 A. No, no. The first two, the first two, no. Not the
15 first two questions. 12:28
16 219 Q. What's wrong with those questions?
17 A. Firstly:
18
19 "Who wrote the statements on attached C8s?"
20 12:28
21 I mean we have already gone into that. Judge, in
22 relation to the second one, in relation to Mulligan's,
23 it appears, and there is the name "may be suspects, was
24 this put to them in any way?" Just by way of example,
25 this is like saying it appears the Murphys in Cork 12:28
26 were, you know were suspects. It's on that level,
27 Judge. Athlone obviously is a lot smaller than Cork.
28 220 Q. Again, I have to suggest to you that these are entirely
29 reasonable questions. Let's look at the third

1 paragraph in relation to the --
2 CHAIRMAN: Mr. Murphy.
3 MR. MURPHY: Yes.
4 CHAIRMAN: As I understand it --
5 MR. MURPHY: Sorry, that relates to separate matters. 12:29
6 CHAIRMAN: The first query relates to the taking of
7 statements in relation to the theft. The third we have
8 just been discussing and we have completed our
9 consideration of it, the middle one is in relation to
10 Mulligan's and only in relation to Mulligan's. 12:29
11 MR. MURPHY: Sorry, Chairman, you are absolutely right.
12 CHAIRMAN: One of Garda Keogh's complaints is that
13 these three queries were put on the same letter.
14 That's one of the things.
15 MR. MURPHY: Yes. 12:29
16 221 Q. CHAIRMAN: It looks like his response via Sergeant
17 Monaghan is concerning the Mulligan's crime, isn't that
18 right?
19 A. Yes Judge.
20 CHAIRMAN: And only the Mulligan's crime? 12:30
21 MR. MURPHY: Yes.
22 CHAIRMAN: Okay.
23 222 Q. MR. MURPHY: Insofar as the Mulligan's issue is
24 concerned, I have to suggest to you that the questions
25 that were raised in that regard were entirely 12:30
26 reasonable?
27 A. Em, I don't think -- I don't think so, from just -- to
28 recollect the sequence of events and all the paper,
29 paper in relation to these incidents.

1 223 Q. There is obviously a clear disagreement between you and
2 Superintendent Murray on that point. He will say that
3 these were reasonable questions. If we move to the
4 robbery on 13/9/2015. Can I ask you to be given volume
5 3, page 230, please? Perhaps side by side with that, 12:30
6 also volume 3, at page 507?
7 A. Sorry, volume 3?
8 224 Q. volume 3, page 230 please.
9 A. volume 3, page 230?
10 225 Q. volume 3, page 230. 12:31
11 MR. KELLY: That's volume 1.
12 MR. MURPHY: Perhaps it's volume 1. Yes, I'm sorry.
13 A. Judge, which do I read first?
14 226 Q. Then just side by side with that, I think you have
15 volume 3, which has page 507? 12:31
16 A. Yes.
17 227 Q. This is a document which is effectively indicating
18 Pulse details, isn't that right?
19 A. No. It just has -- it's not a Pulse document. It just
20 says at the top: 12:32
21
22 "File history printed on..."
23
24 228 Q. I see. Okay. That relates to a robbery from a person
25 on 13/9/2015? 12:32
26 A. Yes.
27 229 Q. In terms of the history of the case, can I ask you to
28 turn to page 232?
29 A. Judge, there's two separate robberies from persons in

1 relation to the -- I just want to clarify something.

2 230 Q. 121, please. Pulse entry 121.

3 A. 12207121.

4 231 Q. Yes, please.

5 A. Okay. 12:33

6 232 Q. Now, perhaps it might just help to put this in
7 perspective, because Mr. McGuinness has taken you
8 through this in some detail, but can you look, please,
9 at page 230? This is a letter of Superintendent Pat
10 Murray to the sergeant, Athlone, 23rd September 2015, 12:33
11 do you see that?

12 A. Can I just read it, please?

13 233 Q. Please.

14 A. Yeah.

15 234 Q. Chief Superintendent Murray will say that the report 12:34
16 which you filed previously was, in his words, scant and
17 didn't give any indication of what investigative steps
18 were taken at the initial reporting stage regarding the
19 scene, the searches of the scene, CCTV issues, injured
20 parties, accounts of events, description of assailants, 12:34
21 what was taken, what violence was used, what injuries
22 were received, whether photographs were taken etcetera.
23 Would you agree with that criticism?

24 A. That's the criticism, but, Judge, all those were on the
25 Pulse report. They were on the Pulse report which I 12:34
26 had written out on the note left in the sergeant in
27 charge's office, to say this is a serious incident.
28 And I actually had written on the top line written
29 Pulse incident number 12207121. All of those details,

1 from my recollection, were in the Pulse report.

2 235 Q. Isn't it the says, Garda Keogh, that as matter of
3 ordinary practice one has the Pulse system but one also
4 has the crime files report system?

5 A. That would be correct. Crime files would contain the 12:35
6 Pulse. They may contain the Pulse incident but
7 certainly they would have the Pulse incident number.

8 236 Q. So, insofar as we go back to the document that we
9 mentioned several times this morning, that's to say
10 Chief Superintendent Murray's letter of 19th June 2015, 12:35
11 part of the reform process which he put forward was,
12 the first item:
13
14 "Crime reporting will be entered on Pulse as soon as
15 possible." 12:35
16
17 But thereafter he talks about reports; is that right?
18 For example, a crime file folder. Did you complete
19 that type of folder in this case?

20 A. I can't -- I could -- I'm sure I did, but I just can't 12:36
21 recollect.

22 237 Q. Okay. Well, as of 23rd September 2015, I have to
23 suggest to you that the questions that are being raised
24 here are very much along the lines of what's contained
25 in the document we looked at this morning. That's the 12:36
26 document of 19th June 2015. So, I have to suggest to
27 you that what this letter is doing is really raising
28 the question, where is the detail in the following
29 areas? Do you see that?

1 A. The detail is all on Pulse.

2 238 Q. Okay. Aren't you aware, though, since June, that that
3 isn't sufficient, that actually Pulse is part of the
4 reporting process, but only a part.

5 A. Judge, from recollection, when this robbery occurred, 12:36
6 it was in the early hours of the morning and I think I
7 explained last week, it wasn't as simple as just, we'll
8 take a quick note, oh, there was a robbery here and put
9 it on to Pulse and that was it. Like, we did search
10 the area. Then we'd to bring the injured party home. 12:37
11 And then dealt with the Pulse and whatever else.
12 Because we were due to finish work after the night,
13 Judge, that's when I left the note to say, listen, this
14 is a serious thing that happened last night and with
15 the Pulse incident number with all the details of the 12:37
16 event on it. So again, this is nit-picking.

17 239 Q. Again I have to suggest to you that it's not
18 nit-picking, it's an attempt by Superintendent Murray
19 to get you to carry out the work to the standard he was
20 trying to achieve the division itself. Nothing more 12:37
21 than that.

22 A. No.

23 240 Q. Can I ask you to turn volume 1, page 232, please?

24 A. Okay.

25 241 Q. This is your document, you have gone through it before 12:38
26 with Mr. McGuinness, but I think you will agree that
27 there is a lot more detail in it than was on any other
28 document filed on that date?

29 A. There's not a lot more, Judge. Can I just read it?

1 242 Q. Certainly.

2 A. I don't think it is as simple as there's a lot more.
3 Perhaps if I read it out.

4
5 "With reference to attached report, the incident was 12:38
6 reported to Gardaí at 4am, 13/9/15. The injured party
7 was brought to the scene, where it was searched. The
8 injured party was driven around the area in an effort
9 to identify the suspects. There is no CCTV in the area
10 the incident occurred. The injured party was then 12:38
11 brought home and placed in the care of his mother.
12 When I returned to work on 19/9, having already written
13 a report on the incident and put it on Pulse, I rang
14 the injured party, who informed me that he made a
15 statement to a detective to the effect he did not want 12:39
16 the matter pursued by Gardaí. The attached report from
17 Superintendent Murray is nothing short of a form of
18 harassment towards myself. Forwarded for your
19 information please."

20 12:39
21 And I sign it, Judge. And Judge, on this matter as
22 well, I have been shown document 507, page 507. The
23 bottom of page 507. Judge, just to point out, we have
24 heard a lot of Superintendent Murray's concern for
25 victims being informed and all the rest. This young 12:39
26 lad, from recollection, was doing exams and didn't want
27 to make a formal statement or whatever, that was his
28 choice. But if you read this, it has:

29

1 "For direction: Credibility of victim is in question
2 and has refused to cooperate with Gardaí. Recommend
3 incident to be recategorised to attention and
4 complaints."

5
6 Judge, this is incredible stuff, because like this is
7 currently on the Pulse system now. If that young lad,
8 if he's ever -- I mean for the future and he's to go
9 for Garda clearance or whatever, this record, I mean
10 credibility of victim is in question. If his parents,
11 he or his parents saw this, I mean I'm sure they
12 wouldn't be too happy. This person is a victim of this
13 robbery.

14 243 Q. Well, Garda Keogh, let's come back to him later on,
15 because that's going out of sequence, an observation
16 which I will deal with in turn. But looking at present
17 time, we're looking at the detail you gave, which was
18 being assessed and reviewed by your superiors. Could I
19 ask you to look and be given page 2314, which is at
20 volume 8, please? So this is a document with which you
21 are familiar, this is your original report?

22 A. No, this is the note that I left in the sergeant's
23 tray.

24 244 Q. Sorry. But as far as a report goes, this is the sum
25 total of the report that you left?

26 A. Yes, this is the report that I left.

27 245 Q. Yes. Would you agree with me that that's a very
28 limited document?

29 A. All the information is on Pulse. It has at the top:

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"Sergeant in charge. Robbery from person. Pulse incident number PIN 12207121. With reference to above, a robbery from the person was reported at 4am on 13/9/15. The injured party..."

12:42

Name, address, date of birth, mobile phone number.
Just I skipped a word:

"...after pointing out the scene, was brought home by Gardaí. Garda Keogh is going on to rest days and has two days annual leave booked and is not due to work until 19/9. This was a serious incident and the injured party may have injuries. Could this be forwarded to detective branch for favour of immediate investigation? Forwarded for your information, please."

12:42

12:42

And I sign it.

246 Q. Just take one line there, Garda Keogh:

12:43

"This was a serious injured and the injured party may have injuries."

Does that mean you hadn't checked out whether he had injuries?

12:43

A. No.

247 Q. Well had you checked out?

A. I'm not a doctor. But, Judge, in relation to the -- we

1 have the injured party in the back of the car because
2 we're driving around the location with the injured
3 party.

4 248 Q. Did you examine --

5 A. To find the suspects. 12:43

6 249 Q. Did you ask to see his injuries?

7 A. Judge --

8 250 Q. Yes or no.

9 A. Sorry, this is not a yes or no.

10 251 Q. It's a very simple question. 12:43

11 A. No, it's not a simple question. Judge, he mentioned
12 something about -- when we were asking about what
13 happened, he mentioned something about his leg, that's
14 all I recall, but he had no visual injury. It was
15 something, he mentioned something about his leg and I 12:43
16 remember there was some issue, do you want to get a
17 doctor or something, and he just wanted to go home at
18 that stage. We brought him home, put him into the care
19 of his mother. That was it.

20 252 Q. Garda Keogh, would you agree with me that in your note 12:44
21 there is no reference to his leg?

22 A. Chair, I just said "may have injuries".

23 253 Q. It doesn't even say where he may have an injury, does
24 it?

25 A. No, no the note doesn't, but I mean -- 12:44

26 254 Q. It doesn't even to say he had injuries needing medical
27 treatment, does it?

28 A. That can all be followed up and established later on,
29 you know, during the investigation.

1 255 Q. Well, isn't that material for a very important thing
2 when looking at a robbery. Was this serious violence
3 or was it minor? Was it violence with an implement,
4 violence with a stick, with a knife?
5 A. From recollection, it was a knife pointed at him. 12:44
6 Judge.
7 256 Q. How is anyone in the station to know that on the basis
8 of the information you left in this report?
9 A. At the top line, one would read "robbery from person,
10 Pulse incident number" and when they get this report, 12:44
11 they would say, this sounds serious, I'll check Pulse
12 and see what it is about.
13 257 Q. There is another line in here:
14
15 "Garda Keogh is going on to rest days and has two 12:45
16 annual leave days booked and is not due to work until
17 19/9."
18
19 Can I ask you, was it the case that you were going off
20 on leave and just decided you would leave a short 12:45
21 version behind rather than do a full report because you
22 didn't have time?
23 A. No, Judge. All the details are on Pulse and I just
24 left a note to flag it, this is a --
25 258 Q. Did you phone in the following day to give any extra 12:45
26 information or to enquire about the young man as to
27 whether he was injured or whether he had come back to
28 the station?
29 A. Sorry?

1 259 Q. Did you phone in to the station the next day when you
2 were on your rest day to enquire how the young man was?
3 No?
4 A. I just can't hear you, can you slow down a little bit,
5 please. 12:45

6 260 Q. Sure. Did you enquire in any of the following days
7 when you were on rest days as to how the young person
8 was?
9 A. No, Judge. But I have a note left clearly with the
10 address and his mobile number and everything, all the 12:45
11 details. And, of course, it's all on Pulse and all
12 those details are all -- the relevant details are on
13 Pulse. As I have gone into this last week, I recall
14 something about the McKenzie jacket, the description of
15 one of the assailants. That sticks out in my mind 12:46
16 because I never heard of and I don't to this day know
17 what a McKenzie jacket is. The injured party described
18 that. All that was put on Pulse. It was put on Pulse.

19 261 Q. Garda Keogh, can we just step back again for a moment
20 and just step away from Superintendent Murray and your 12:46
21 view of him. I think you have told us previously that
22 Inspector Minnock was somebody against whom you are
23 making no complaint in this Tribunal. I think that
24 would also apply to Sergeant Baker, wouldn't it?
25 A. Yes. 12:46

26 262 Q. I think that also applied to Inspector Curley?
27 A. Yes.

28 263 Q. Let's take Sergeant Baker, I wonder could you be shown,
29 please, page 2049. I think it's volume 8, please.

1 A. 2049?

2 264 Q. Yes, please. Could I ask you to look at the last and
3 the third paragraph. The last paragraph, beginning "on
4 Monday, 14th December 2015". Do you see that?

5 A. Yes. 12:47

6 265 Q. Do you want a moment to read that?

7 A. Please.

8 266 Q. Certainly.

9 A. Okay.

10 267 Q. First of all, can I put it to you, it's clear, as with 12:48
11 other files and reports, that yours was reviewed at a
12 daily PAF meeting on 14th September 2015?

13 A. Yes, it appears that way, yes.

14 268 Q. And the Pulse incident, 1207121 incident was discussed. 12:48
15 Present at that meeting was the sergeant in charge
16 Athlone that day, who was Sergeant Baker. Now, the
17 evidence will be from Chief Superintendent Murray and I
18 understand from Sergeant Baker, that it was she,
19 Sergeant Baker, who brought to the attention of the
20 meeting your report, which she felt was far from 12:48
21 satisfactory in that it lacked any detail to assist
22 enquiries?

23 A. Judge --

24 269 Q. That you had said that you were unable to make?

25 A. Judge, it appears from reading this, that they have 12:49
26 this report and that none of them decide to go onto
27 Pulse to check the incident on Pulse. That's the way
28 it reads to me.

29 270 Q. Garda Keogh, let's park this for a minute. Just accept

1 one basic point. The evidence will be that the person
2 who first flagged this as a problem was Sergeant Baker,
3 not Superintendent Murray?

4 A. I can't comment on that.

5 271 Q. I am just putting to you that's what the evidence will 12:49
6 be?

7 A. I just can't comment on that. I don't know.

8 272 Q. Can I just put it to you again to assist you, that it's
9 not just Superintendent Murray who thinks there's a
10 problem here, Sergeant Baker thinks there is a problem 12:49
11 and Detective Sergeant Curley thinks there is a problem
12 and Inspector Minnock felt there is a problem. That's
13 three people apart from Superintendent Murray at this
14 meeting?

15 A. As I've stated, reading this item, it appears, if this 12:49
16 is correct, that nobody bothered to click onto Pulse to
17 check out the incident on Pulse.

18 273 Q. You see, I have to suggest to you that here we have the
19 committee that's meeting to deal with all the files on
20 the day. This is the new system. Everything is under 12:50
21 review, everything is being looked at, not just Garda
22 Keogh's files. And one, two, three people, apart from
23 Superintendent Murray, people against whom you have no
24 complaint to make, they're saying this really doesn't
25 help us at all. 12:50

26 A. Judge, I know how An Garda Síochána works and there is
27 a ranking structure. One person makes a decision and
28 all the rest nod. I gave that evidence last week.

29 274 Q. Garda Keogh, in this case, there will be evidence from

1 all of these people that it was their common view,
2 based on the alert, as it were, or signal that they
3 were given by Sergeant Baker, that this was a
4 problematic report. In those circumstances, as a
5 result of that, Sergeant Curley will say that he 12:50
6 assigned a member to carry out enquiries and that the
7 matter was reviewed again following those enquiries and
8 there was doubts existed as to whether or not the
9 incident occurred at all, in the minds of those
10 members? 12:51

11 A. Judge, there's a couple of questions rolled into one
12 there. But Sergeant Curley -- the first question was,
13 Sergeant Curley appointed someone to investigate this.
14 That was the whole purpose then of my handwritten note,
15 this is a serious incident and can someone from 12:51
16 D/Branch deal with this. Sergeant Curley was the
17 detective sergeant at the time. So, I mean, I don't
18 know what to say to this, Judge.

19 275 Q. You're not making any complaint against Detective curly
20 or any detective in the detective unit. What I 12:51
21 understand the position will be in terms of the
22 evidence is that the person who you had spoken to, who
23 you believed to be the victim indicated that he didn't
24 wish to make a complaint?

25 A. He didn't wish to make a complaint, Judge, I 12:51
26 understand. But like, he made a statement and he
27 verifies, Judge, from reading the statement in the
28 volumes, that the incident happened.

29 276 Q. Can we have page 498, please. If you can be shown

1 that?

2 A. 498. Yes. The paragraph, please?

3 277 Q. If you please scroll down to the end for a moment.
4 This is a Garda John Divilly. Can I ask you, please,
5 to scroll up back to the top? 12:52

6 A. Sorry, Judge.

7 278 Q. To the very top.

8 A. 498. It's okay, I can get it off the --

9 279 Q. This is dated 15/9/2015. You see it's entitled:
10 12:52
11 "Re robbery from a person PIN 120121.
12
13 With reference to the above..."
14
15 Perhaps I will read this into the record. 12:53
16
17 "I was requested to speak to [blank] to answer four
18 questions. Namely;
19
20 1. The reasons why he doesn't wish for this incident 12:53
21 to be investigated.
22
23 2. A better description of offenders.
24
25 3. What injuries he received. 12:53
26
27 4. Had alcohol been consumed."
28
29 Then you see the responses, where Mr. Blank says:

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"He informed Garda Divilly that he just wants to forget about the incident, that he wasn't seriously injured, doesn't want the matter investigated, he has not been intimidated and he is not pursuing the matter."

12:53

Do you see that?

A. I see.

280 Q. Then, in the second part there is a reference to a suspect. One suspect with a height and build. A reference that both of the suspects had their hoods up. One was wearing a black hoodie, the other was wearing a blue hoodie. There was no description of the second suspect other than the colour of his jacket.

12:53

"3. He received a bruise to his head, cuts to his knuckles, which was caused when he attempted to fight on of the assailants."

12:54

Then goes on to refer to family matters. Says he didn't attend a doctor or a hospital. And then:

12:54

"[Blank] said he was drunk at the time of the incident."

12:54

A. I just notice here, Judge, the description here at point 2. Judge, my description is actually more accurate, as I recorded what he said that night, the night of the incident, when it was fresh and I recall,

1 as I said, it stands out, I still don't know what a
2 McKenzie jacket is, and that's what I put onto the
3 Pulse report. I put as much -- I recall, just it
4 cropped up last week, that they were two Irish males
5 and the description. So, my descriptions that night 12:54
6 were fairly accurate and they're not in this part here.
7 Obviously that young lad's memory over the day or
8 two -- but that night I recorded accurately what he
9 stated had happened.

10 281 Q. Detective Sergeant Curley will say that having looked 12:55
11 at this information, the review considered there was no
12 corroborative evidence to support the allegation made.
13 I take it you would agree with that?

14 A. No. No, no, absolutely, and that's no disrespect to 12:55
15 Inspector Curley on this. Because I was there the
16 night the incident was reported and as I explained, and
17 again, just to give an example, if a crime -- my
18 geography of Dublin isn't great, but, for example, if a
19 crime occurred, let's say, on, where are we, we're on
20 the south side, Grafton Street and he lives down -- and 12:55
21 the injured party is walking down towards that part of
22 Grafton Street where the crime happens, why would he
23 jump into a taxi then and go up to report it to Store
24 Street Garda station. That's just an example. Why
25 would he do that? Because the taxi pulled up, the taxi 12:56
26 driver pulled up beside myself and another garda while
27 we were on Church Street in Athlone, because it was
28 around the time, 4am, when there is trouble on the
29 streets. So we were parked up on Church Street, which

1 is the main street in Athlone, at that time. The
2 taximan pulled up, the young lad gets out of the car,
3 he comes over and he reports the incident. So we put
4 him into the back of the car, go to the scene and
5 that's how it transpires. Because where we were, 12:56
6 Judge, was -- like, he was nearly home and he was
7 heading in the taxi towards the Garda station, which is
8 the other side of the Shannon.

9 282 Q. Again, Garda Keogh, all of that detail, certainly most
10 of that detail, I think you will agree, was not in your 12:57
11 original report?

12 A. That detail was not -- for relevance -- I mean, the
13 taxi and all -- all the relevant details of the
14 incident are there in the report.

15 283 Q. Garda Keogh, here are your colleagues who are trained, 12:57
16 experienced, professional Gardaí, sergeant rank,
17 inspector rank, they are looking at this and they are
18 saying in good faith, this isn't this enough, we need
19 to check it out. And when they check it out, they look
20 at the report back and they conclude that this simply 12:57
21 isn't sufficient, that there are questions raised in
22 their mind, I appreciate your view, but in their mind
23 there is a question raised about credibility and they
24 take the view that this needs to be discussed by the
25 crime management team. If I could ask you to go back 12:57
26 briefly, please, to page 2049?

27 A. 2049. Is there any chance, Judge, we can bring up the
28 injured party's statement, just while we are on this
29 issue?

1 284 Q. Perhaps we could just stick with these documents first
2 and we can perhaps address that after the next break.
3 Just here, we have, at page 2049, the third last line,
4 this is Chief Superintendent Murray's statement but he
5 says:

12:58

6
7 "The crime management team discussed the matter."

8
9 So there is a discussion, I have to put it to you,
10 which takes place between a number of people in the
11 crime management team, not just one person and a
12 decision was taken by Superintendent Murray to use his
13 authority to reclassify the crime.

12:58

14 A. Yes. Judge, and the day he reclassified -- he
15 reclassifies the crime, from recollection, from robbery
16 to robbery from person -- sorry, to attention and
17 complaints to a non-crime. He continues on writing to
18 me in relation to a serious crime of robbery from a
19 person for a period of about a month, until I have to
20 go on Pulse and find out then that ultimately he had
21 declassified this a month ago and the correspondence in
22 that month between me and him are technically a waste
23 of time, Judge, a waste of policing time, Garda time.

12:58

12:59

24 285 Q. Again, Garda Keogh, the other gardaí don't seem to
25 think that. They all felt that this was part of
26 improving governance, transparency and high standards
27 in preparation of reports. This system we are looking
28 at here in this statement, I have to suggest to you, is
29 part of the reform. Can I just ask you, before the

12:59

1 break, can we show you, please, page 691?

2 A. And equally, Judge, before the break, can we also look
3 at the injured party's statement. Can we put that up
4 as well? 6941?

5 286 Q. No, 691 please. 691. 13:00

6 A. 691, sorry: Is there a part of it?

7 287 Q. Volume 4?

8 A. No, the page, it's a long page.

9 288 Q. Yes, I am going to refer to you particular parts of the
10 page, so just bear with me, Garda Keogh. I am not 13:00
11 going to delay matters by going through the system, but
12 you have seen this before. This is a statement from
13 Inspector Minnock. He describes the system that we
14 talked about earlier this morning, so I don't propose
15 to go through that again, that's to say the whole crime 13:00
16 file process. Do you see the middle of page 691,
17 please?

18 A. Does it start with a sentence?

19 289 Q. It starts with "this process". You're familiar with
20 the process and so the Tribunal. But I just ask you to 13:01
21 look at what he says about the process. Two-thirds
22 down, the sentence being:
23
24 "The process was comprehensive. . ."
25
26 Do you see that? 13:01

27 A. "The process was comprehensive"?

28

29 290 Q. Yes, please. If I ask you to read that down to the end

1 of the page?

2 A. Yes.

3 291 Q. You can stop at line "line 968" please?

4 A. I don't have -- there is no -- oh sorry, I see.

5 292 Q. Just read to the words. 13:01

6 A. Sorry, yeah. Okay.

7 293 Q. Here is Inspector Minnock saying that the process was,
8 in his words, and this will be his evidence, it was
9 comprehensive and it was there to ensure good
10 governance of investigations. And one of the 13:02
11 objectives, he will say, was to ensure that crime
12 incidents were not closed without oversight from
13 supervisors and the district management team.

14 A. I would have no issue with that.

15 294 Q. Yes. Thank you. 13:02

16 A. Judge, can we just, I know it's one o'clock.

17 CHAIRMAN: It's all right.

18 WITNESS: Can we just have a quick glance at the
19 injured party's statement.

20 CHAIRMAN: Can we do that? 13:02

21 MR. MURPHY: I don't have that statement.

22 CHAIRMAN: Can we find where that is?

23 MR. McGUI NNESS: It is volume 32, page 9011.

24 CHAIRMAN: Thank you very much.

25 WITNESS: It's a short statement, Judge. 13:02

26 CHAIRMAN: That's all right. Thank you very much. We
27 have it here. Thank you.

28 WITNESS: Is there a typed? This is the words of the
29 statement.

1 CHAIRMAN: Yes.
2 WITNESS:
3
4 "I remember last Saturday night I was walking home. . . "
5 13:03
6 Is it:
7
8 "...at 2am or 3am. I was walking near a bridge at the
9 location. Lads approached me and asked me for a
10 cigarette. I said I had none. One of them shouted at 13:03
11 me and hit me across the forehead with a [something]
12 bar. I fell to the ground and [something] held me
13 down, searched my pockets, and other fellow was kicking
14 me in the chest. I started to [something] -- "
15 13:04
16 CHAIRMAN: Fight back.
17 WITNESS:
18
19 "-- fight back."
20 13:04
21 Sorry.
22
23 "He then hit me with [something] again a few times.
24 They took €20 note and kept -- change out of my
25 pockets. They ran down the side of football pitch 13:04
26 towards the railway line. I reported that to the
27 Guards that night."
28
29 Judge, again back to the points of the credibility of

1 the witness and the note that I can't find now in all
2 these documents, that I referred to earlier on, that's
3 on the computer system, where he is now -- the injured
4 party in this case is now deemed -- credibility is
5 questioned. He has made A statement, he has cooperated 13:04
6 fully. Judge, I just wanted to point that part out to
7 you.

8 295 Q. MR. MURPHY: Sure. But isn't it also important to take
9 into account that he seem to be excising from the
10 picture that he was interviewed later and he withdraws 13:05
11 that.

12 CHAIRMAN: That's what he says.

13
14 "I am not really pushed about it now. I just want to
15 forget it ever happened." 13:05
16

17 Is that it?

18 WITNESS: Yes.

19 296 Q. MR. MURPHY: That's all part of the history, I am not
20 blaming you for this, I am saying that this is the 13:05
21 history of the case and, therefore, your colleagues
22 took the view based on the subsequent interview, not
23 the first one, the subsequent interview, that things
24 were not as they should be. But just to finish, if I
25 can, before the break. Can I just ask you to turn 13:05
26 back, please, to page 691?

27 A. Yeah.

28 297 Q. Ultimately, in addition to this general system, what
29 was going on at the time, he will say, was that

1 following the implementation of the revised crime file
2 that he initiated, that's Minnock initiated, Inspector
3 Minnock initiated an audit crime files. He will say he
4 was assisted in this by Detective Sergeant Martin and
5 Sergeant McNally. The audit review crime file 13:06
6 submitted by a number of members of verified entries
7 made by gardaí on the various crime files and none of
8 the crime files audited by him were yours. But he will
9 say in his evidence that the ultimate goal was to
10 automated the governance stream and replace the crime 13:06
11 file process ultimately to an entire Pulse process. He
12 will also say in his evidence that he personally
13 returned numerous crime files for the further attention
14 of other garda members through their supervisory
15 sergeants for a variety of reasons. 13:06

16
17 So, can I just put three questions to you? The first
18 is: would you accept that his evidence will indicate
19 that there was a general review of the system in
20 relation to crime files that applied to all members? 13:06

21 A. Yes.

22 298 Q. And would you agree with me that was something which
23 was being done for the purpose of improving policing in
24 Athlone?

25 A. I can't disagree with that. 13:06

26 299 Q. In those situations, the audit that he refers to didn't
27 apply to you, the one that he conducted?

28 A. The one that he conducted, again, I can't comment on
29 that. I'm not disputing, it's just not --

1 300 Q. Sure.

2 A. I can't comment.

3 301 Q. I just want to put these points to you, Garda Keogh,
4 just to summarise it, to say that there will be
5 evidence on behalf of the clients who I represent that 13:07
6 there was no targeting and no harassment or
7 victimisation of you in relation to these four
8 incidents, that in fact what this shows is the
9 application of this revised system. Nothing more,
10 nothing less. 13:07

11 A. Judge, I think I have made my case on this.

12 302 Q. Yes.

13 CHAIRMAN: Okay, you don't agree with that. Thank you
14 very much.

15 MR. MURPHY: Thank you. 13:07

16 CHAIRMAN: Very good. So we will say 2:05. Very good.
17 Thank you.

18

19 THE HEARING THEN ADJOURNED BRIEFLY AND RESUMED, AS
20 FOLLOWS: 13:07

21

22 MR. MURPHY: Chairman, Garda Keogh. I would like,
23 Chairman, if I can now, just to move to the complaint
24 that's made by Garda Keogh about reclassification, as a
25 subset of this last point? 14:06

26 CHAIRMAN: Thank you.

27 303 Q. MR. MURPHY: Garda Keogh, before lunch we discussed the
28 fact that there had been a review by the PAF and you
29 are familiar with all of the material we dealt with

1 before lunch. But insofar as a view developed that
2 this particular offence needed to be effectively
3 reviewed and reclassified, you are aware that there is
4 the capacity to do so on the system, where a view is
5 taken that the information available about the alleged 14:07
6 crimes is insufficient to classify it in the area of
7 criminality.

8 A. Judge, that doesn't qualify in this case, because the
9 injured party has made a statement, confirms the
10 incident happened. And, of course, equally, Judge, 14:07
11 when there's one less robbery on the system, it is
12 fiddling with the crime figures, because it's one less
13 crime, serious crime, and we are now into attention and
14 complaints, which is a non-crime.

15 304 Q. I can see, Garda Keogh, that you might take that point 14:07
16 if there was a complainant who was urging the Gardaí to
17 advance his complaint. But here, we all accept, do we
18 not, you and I, that this was a situation where the
19 complainant had declined to proceed with his complaint?

20 A. Yes. 14:08

21 305 Q. Okay. If we just stop for a moment, if we take a
22 completely different district, a different case. If
23 somebody comes, for example, and makes an allegation
24 assault and then says they wish to withdraw it, I
25 think, do you agree with me, that that statement and 14:08
26 that allegation wouldn't have to remain on the system
27 as an assault case, if the person who was the primary
28 witness, the alleged victim, said that they wished to
29 proceed no further?

1 A. No. No, no, I don't agree with that. What would
2 happen is, the assault case would remain on the system
3 and then it would drop, there's two ways, my
4 understanding, to deal with it. One, they can
5 invalidate an entry on Pulse and it's just marked with 14:08
6 a red kind of an I, but the entry stays. And the other
7 is to update the narrative, which would be the normal
8 procedure, where it would be the injured party does not
9 wish to follow-through with the complaint, or complaint
10 withdrawn or something to that effect. 14:09

11 306 Q. Or if you take a view from a separate position, that
12 the divisional team or the local PAF considered that a
13 witness in a different case showed lack of credibility,
14 had no corroboration, that would also be something
15 which would entitle them to consider reclassifying that 14:09
16 particular complaint?

17 A. Once again, that issue doesn't arise here, Judge.

18 307 Q. Okay. Again, can I just respectfully say that that
19 doesn't appear to be the case on the basis of the
20 powers given to An Garda Síochána. Can I ask you to be 14:09
21 shown volume 28, please?

22 A. Just the page, please?

23 308 Q. Sorry, I beg your pardon, at page 81362. Can I ask
24 you, Garda Keogh, have you ever seen this document
25 before? It's effectively entitled "re crime counting 14:10
26 rules", they replace instructions at code 27.4, 27.5
27 and 27.7 and incorporates the detection definitions set
28 out in HQ directive 22202. It's a document dated 4th
29 September 2003?

1 A. I see the document.

2 309 Q. In your preparation for the Tribunal's hearings, have
3 you seen this document?

4 A. I'm sure, Judge, the document is in the thing but I
5 wouldn't have given it great attention. 14:10

6 310 Q. Sure. So, if we go back to 2015, is it fair to say you
7 hadn't seen this document yourself in your operational
8 activities as a member of An Garda Síochána?

9 A. I can't recall, I can't recall that.

10 311 Q. But the evidence will be that your superior officers 14:11
11 had seen it and were operating under the terms of this
12 directive. Can I just take you to a couple of points
13 to assist you and to try and assist the Chairman to
14 understand the rules Chief Superintendent Murray
15 believed he was implementing at the time. 14:11

16

17 First of all, you will note that the crime counting
18 rules are set out officially, you will see four pages
19 on that the letter is signed by the assistant
20 commissioner of An Garda Síochána at the time. Could I 14:11
21 just draw your attention, please, to paragraph 1.1.
22 And just take a moment to reflect on this. I will read
23 it into the record as you read it. At 1.1 it says:

24

25 "A criminal offence is recorded when there is a 14:11
26 reasonable probability that a criminal offence took
27 place and there is no credible evidence to the
28 contrary. The test is that of a reasonable probability
29 - whether it is more likely than not that a criminal

1 offence took place.

2

3 1.2. A criminal offence is recorded by recording as
4 appropriate Pulse crime incident subject to the rules
5 below. "

14:12

6

7 And at 1.3 it says:

8

9 "If the criteria to record are satisfied (reasonable
10 probability and no credible evidence to the contrary)
11 and the victim does not want the matter taken any
12 further, a criminal offence should be recorded."

14:12

13

14 Do you see that?

15 A. I am just going to have to read 1.3 again, Judge. I
16 see that. Judge, I don't know if I am reading this
17 wrong.

14:12

18 312 Q. And then --

19 A. That's -- it appears to be what I have said all along.

20 313 Q. Again to assist you, if one turns to paragraph 3.0,
21 which is at page 8138. That deals with

14:13

22 reclassification where a lesser charge is preferred as
23 opposed to a more serious charge. That is the position
24 that applies here.

25 A. Sorry, can I just read this, 3.0, please? Judge, this
26 is not relevant for the -- Judge, it's my view, sorry,
27 this is not relevant to what we have discussed.

14:13

28 314 Q. Exactly. But I am just showing it you as an example of
29 how reclassification can occur for different reasons

1 but going back to --

2 A. Sorry, Judge, this relates to murder and reclassifying
3 to manslaughter.

4 315 Q. Garda Keogh, if you might just listen to my question.
5 I am accepting that is not to do with this, I am 14:14
6 pointing out an example of reclassification where there
7 is intention to proceed. If you look back, please, at
8 1.1:
9

10 "A criminal offence is recorded where there is a 14:14
11 reasonable probability that a criminal offence took
12 place and there is no credible evidence to the
13 contrary. The test is that of reasonable probability -
14 whether it is likely or not that the offence took
15 place." 14:15
16

17 Now, in this case we know that the management team
18 looked at this and concluded, based on the report back
19 from your colleague, that there wasn't sufficient
20 evidence for this purpose. 14:15

21 A. Judge --

22 316 Q. And if that's so they were entitled to take the steps
23 that were taken by Chief Superintendent Murray
24 thereafter?

25 A. Judge, we have a statement from the injured party fully 14:15
26 explaining, outlining the incident occurred and that
27 the injured party doesn't wish to follow-through with
28 you it. So I have to stand my ground on this matter,
29 Judge.

1 317 Q. Yes, Garda Keogh. If the committee then is satisfied,
2 it's withdrawn and for the other reason we went through
3 before lunch, that they have doubts in relation to its
4 credibility and take the view that there isn't a
5 reasonable probability that a criminal offence 14:15
6 occurred. All I am saying to you is that that view was
7 taken by experienced colleagues of yours, based on an
8 assessment of the evidence that they had after you
9 finished your inputting of this case?

10 A. Judge, were any of these experienced colleagues at the 14:16
11 scene? Did any of these experienced colleagues speak
12 to the injured party?

13 318 Q. Well, we know from this morning, one of yours
14 experienced detective colleagues did.

15 A. Judge, there's a statement there from the injured party 14:16
16 outlining that the incident occurred. That's a
17 statement, Judge, after the declaration, where,
18
19 "I hereby declare this statement is now true to the
20 best of my belief or knowledge, knowing that I will be 14:16
21 liable to prosecution if I state in it anything which
22 is false or I do not believe to be true."
23

24 319 Q. I am putting to you, Garda Keogh, that you are just
25 looking at one piece of information, whereas your 14:16
26 colleagues looked at all of the different pieces and
27 took a view. Now, you may disagree with that view, but
28 I am putting it to you, they arrived at that view based
29 on a clear, rational assessment of the evidence. And

1 are you just looking at one piece of that jigsaw?
2 A. Judge, it's not as simple. Because, Judge, I was at
3 the scene, I met the injured party that night, I went
4 to the scene, I have explained all those. Then, of
5 course, there is the statement, where the injured party 14:17
6 has confirmed that -- you know, what the injured party
7 said to me on the night of the incident corresponds
8 pretty much with what he has made in the statement a
9 few days or a week later, whenever it is.

10 320 Q. If I could ask you in the same book, please, to turn 14:17
11 forward to page 8148. You will see that this is a
12 review of Pulse incidents supervisory responsibility.
13 This is also assigned an 8150 by Assistant Commissioner
14 AJ Nolan on 23rd September 2003?

15 A. Sorry, Judge, the document I seem to be looking at. 14:18

16 321 Q. Yes, it's 8148?
17 A. Sorry?

18 322 Q. 8148, please.
19 A. Yeah, the date on this is 23rd September 2013.

20 323 Q. 2013, yes. 14:18
21 A. I thought you said 2003.

22 324 Q. I am sorry, that's my mistake, 2013. Do you see on the
23 top of that document, it says:
24
25 "Review of Pulse incidents." 14:18
26
27 The document suggests, and I will read this into the
28 record:
29

1 "The purpose of the directive is to reiterate and
2 provide clarity on the responsibility of supervisory
3 sergeants for ensuring the completeness and accuracy of
4 Pulse incidents created by members under their
5 supervision. "

14:18

6
7 That's the purpose of this directive, to effect Pulse.
8 So that Pulse will always be as up-to-date and accurate
9 as possible. Are you familiar with this directive?

10 A. I would have an awareness of it, Judge.

14:19

11 325 Q. Again, before you came to prepare to give evidence to
12 this Tribunal, did you read this document?

13 A. Judge, again, I didn't give -- I didn't thoroughly read
14 this document, I would have glanced through it, Judge,
15 as in flicked the pages, Judge.

14:19

16 326 Q. And again very briefly, not to labour the point, can I
17 ask you to look at the bullet points and the very last
18 one on page 8148. Do you see the point that says:

19
20 "Sergeants will ensure that incidents are updated
21 following any investigative developments or where new
22 information is received. "

14:19

23
24 Do you see that?

25 A. I see it, yeah.

14:19

26 327 Q. Yes. If you turn over, please, to the following page,
27 it imposes a duty on sergeants to ensure that the
28 recorded Pulse incidents are in compliance with data
29 protection codes and headquarter directives in relation

1 to crime counting rules, do you see that?

2 A. Sorry, you skipped a line, can I just read that part of
3 it?

4 328 Q. Read the whole paragraph, please.

5 A. Okay. 14:20

6 329 Q. So this shows, does it not, that there's a duty to
7 ensure that the Pulse incidents are in compliance with
8 the relevant rules contained in that paragraph?

9 A. I have no issue with that.

10 330 Q. Including crime counting rules, do you accept that? 14:20

11 A. Yeah.

12 331 Q. Yes. Okay. Then the next paragraph shows that there
13 are roles and responsibilities given to district
14 officers, do you see that?

15 A. Yes. 14:21

16 332 Q. In particular, can I draw your attention to the first
17 bullet-point, which indicates that:
18
19 "District officers will ensure leadership and direction
20 in relation to the recording and updating of Pulse 14:21
21 incidents in their respective areas."
22

23 A. Yes.

24 333 Q. Just pausing there, I think the balance of the document
25 is not one we have to read out in detail, but would you 14:21
26 accept that this document indicates that a person in
27 Superintendent Murray's position had a role, a
28 responsibility and a duty to ensure that the Pulse
29 record was kept up to the date in relation to the

1 available information as assessed which An Garda
2 Síochána, an ongoing duty, in other words?

3 A. I don't dispute that.

4 334 Q. You see, I have to suggest to you on behalf of
5 Superintendent Murray that his actions at the end of 14:22
6 this collective committee assessment by the PAF in
7 Athlone, was that he was entitled to act as he did and,
8 in fact, that was his responsibility.

9 A. No. No, no. This is not covered, what has happened in
10 this robbery from a person to attention and complaints 14:22
11 doesn't seem to be -- from what I am just looking at
12 here, there doesn't seem to be anything at the
13 moment --

14 335 Q. Garda Keogh, can I just put it to you that Sergeant
15 Baker, Detective Inspector Curley, Inspector Minnock 14:22
16 all agree that this was both necessary and appropriate
17 and that what was done by Superintendent Murray was
18 entirely in keeping with their collective assessment of
19 the information available to them at the time the
20 decision was made? 14:22

21 A. I can't comment on that, Judge, that's their position.

22 336 Q. Yes, it is. And again, can I ask that you be shown,
23 please, volume 11, page 3049. So this is Chief
24 Superintendent Pat Murray's statement made to the
25 Tribunal investigators. Do you see at line 601, he 14:23
26 will say that the organisation then, crime counting
27 rules divest clear authority to a district officer to
28 make decisions in relation to the management of crime
29 within the district. You have accepted, I think, that

1 those rules do exist?

2 A. Yes.

3 337 Q. Yes?

4 A. But that doesn't mean that you can fiddle with the
5 crime figures. 14:24

6 338 Q. He will say, please look at line 603, that he and his
7 colleagues in the PAF all felt that reclassification
8 was the best course of action?

9 A. That's what they say.

10 339 Q. Yes. 14:24

11 A. If that's what they say, I have to dispute that, Judge.

12 340 Q. He will he also say, to explain to you, that the manner
13 in which you dealt with the incident on the night
14 wasn't what was expected?

15 A. Again, I dispute that. 14:24

16 341 Q. Okay. And third, at line 605, he will say, on the face
17 of it, what was recorded by you as serious but it was
18 bottomed out by one of your colleagues. And in terms
19 of the assessment, that there was a clear assessment of
20 all of the available evidence at that time? 14:24

21 A. Can you clarify this particular part, where you say
22 bottomed out by --

23 342 Q. Yes. When the detective went to speak to the young
24 person who you spoke to?

25 A. Yes, Garda A this is, yeah. 14:25

26 343 Q. So, when you move down at o the last line, 612, what he
27 will say is, I am just putting this to you, he will say
28 that to simply put a robbery on Pulse and leave it
29 there, wouldn't allow an opportunity for anybody to

1 apprehend a suspect. He will say that was -- do you
2 understand that?

3 A. I don't.

4 344 Q. Okay?

5 A. Can you -- 14:25

6 345 Q. He is saying he has a duty under the rules to update
7 the files all the time, based on the available
8 evidence. Do you understand?

9 A. Okay.

10 346 Q. And he will say that if the evidence changes, then a 14:25
11 re-evaluation of the case can be made. Do you
12 understand?

13 A. Okay.

14 347 Q. And that if that re-evaluation takes place, he has the
15 capacity and power, in law, to reclassify? 14:25

16 A. That doesn't -- the document in relation to
17 reclassification that you earlier pointed out doesn't
18 cover this scenario, it was just murders and homicides
19 and it went from serious assaults to minor assaults and
20 things like that, not from a serious crime like a 14:26
21 robbery to attention and complaints.

22 348 Q. Can I just again ask that you to be shown a different
23 folder, folder 3, at page 495, please. In your
24 preparation for the Tribunal, have you seen this
25 document, garda? 14:26

26 A. I may have seen it, I just have to read it.

27 349 Q. Please just take a moment to read it?

28 A. Thank you.

29 350 Q. This is a letter from a detective sergeant then,

1 Detective Sergeant Eamon Curley. You will see that
2 it's dated 16/9/2015. It's part of the operation that
3 we described earlier this morning, where the material
4 that you provided was reviewed and assessed and Garda
5 Divilly, Detective Garda Divilly had sent in a report, 14:27
6 which we saw before lunch. This is what Detective
7 Sergeant Curley said in his report and will say in his
8 evidence. First, that in the light of the report from
9 Detective Garda Divilly, he said this incident cannot
10 be investigated without the cooperation of the victim. 14:28
11 Would you agree in general terms that it's difficult to
12 investigate a crime without the cooperation of the
13 alleged victim?
14 A. You have missed the start of that, where the
15 credibility of the victim has to be questioned. 14:28
16 351 Q. I am coming to that. Looking at the first paragraph,
17 first. The incident cannot be investigated without the
18 cooperation of the victim. I take it you would agree
19 with that proposition, in general?
20 A. Judge, I just need a second to think about this. 14:28
21 352 Q. Sure.
22 A. Please.
23 353 Q. To be fair to you, if it was a case where there was
24 CCTV footage, other witnesses and a witness who was
25 reluctant to come forward, but where other people had 14:28
26 seen a person being attacked and could identify the
27 accused, I accept a different situation would apply.
28 But looking at this scenario, where it's a complainant,
29 no corroboration, no other evidence to support it, what

1 Detective Sergeant Curley says his view was, that the
2 incident cannot be investigated without the cooperation
3 of the victim. Would you agree with that?

4 A. I can't agree with that, I'm afraid, because I was
5 there that night, I was on duty that night when the 14:29
6 victim of the crime reported the incident and, of
7 course, I've explained last week and today where the
8 victim lived, he was nearly home. I shouldn't have to
9 go through it all again. The victim got into the taxi.

10 354 Q. No, I am not asking to you go through it again. Garda 14:29
11 Keogh, I am asking you to listen to my question. Would
12 you agree that even that incident couldn't be
13 investigated fully without the cooperation of the
14 victim?

15 A. The victim still has reported the matter and then makes 14:29
16 a statement that the matter did occur and goes into a
17 very similar description of the incident a couple of
18 days later. Judge, the matter should not have been
19 recategorised from robbery to attention and complaints,
20 because there's nothing to say that the robbery didn't 14:30
21 happen.

22 355 Q. Okay. You see, Garda Keogh, if we move down to the
23 second paragraph, detective sergeant, now Inspector
24 Curley says, and I quote:
25
26 "The credibility of the victim has to be questioned as
27 it is not normal that a victim would refuse to
28 cooperate and pursue a robbery complaint.
29 Consequently, I recommend that the incident be

1 recategorised to attention and complaints following the
2 outcome of the interview with the victim.

3
4 Forwarded for your information and attention, please.

5
6 Eamon Curley"

7
8 So, I have to suggest to you that that shows that that
9 was Inspector Curley's view, that was Sergeant Baker's
10 view, that was Inspector Minnock's view and
11 Superintendent Murray acted upon that view reasonably
12 and in good faith?

13 A. Judge, this scenario doesn't seem to be covered under
14 the reclassification document we have seen earlier on.

15 356 Q. Again, Garda Keogh, I respectfully suggest to you, you
16 are wrong?

17 CHAIRMAN: Under 1.1 it's allowed.

18 MR. MURPHY: Yes.

19 CHAIRMAN: Under 1.1. Mr. Murphy, as I am
20 understanding, here's the difference: Garda Keogh
21 says, look, I was there on the night, the man got a
22 taxi travelling away from the direction of his home,
23 and he made a statement. The issue, as I am
24 understanding it, seems to be, Detective Sergeant
25 Curley says the credibility of the victim has to be
26 questioned. why? Because he refuses to cooperate.
27 what does that mean? He doesn't want to pursue the
28 matter. So, because the man doesn't want to pursue the
29 matter, on the face of it, maybe Sergeant Curley will

1 say -- the inspector will say something totally
2 different. But as I am understanding it, he is pinning
3 his colours to this mast because he doesn't want to
4 pursue it, that leads me to -- and because it's obvious
5 it can't be investigated, that on the face of it seems 14:32
6 logical, but it doesn't seem to follow, at least I am
7 having difficulty in how it follows, that his
8 credibility, as to whether he was attacked has to be --
9 I am having difficulty with that, but we are at an
10 early stage in the inquiry and we are going to hear 14:32
11 Inspector Curley. He is going to describe what was in
12 his mind. But at this moment, the agreement is: Is it
13 a 1.1 case, where Detective Sergeant Curley, as he then
14 was, is correctly questioning credibility, or is it a
15 1.3 case, where the note on the pulse should say, 14:32
16 victim doesn't want to pursue, full stop, but crime
17 nonetheless?

18
19 That seems to be the debate. Garda Keogh says, I was
20 there. The man simply didn't want to pursue it. 14:33
21 That's maybe an unusual position, but scarcely unique
22 in any of our experiences. But that's what he says.

23 MR. MURPHY: Yes.

24 CHAIRMAN: So, there we are. Does that lead to
25 credibility being questioned? Question. There is a 14:33
26 question. That's where we stand.

27 MR. MURPHY: Yes, Chairman.

28 CHAIRMAN: There is a chasm between. Now I am sorry
29 for interrupting.

1 MR. MURPHY: No, no, Chairman.

2 CHAIRMAN: But that appears to me to be the debate on
3 the matter.

4 MR. MURPHY: I have just two further sub-points.

5 CHAIRMAN: Certainly, yes, please do. I am giving you 14:33
6 a view or an indication of what provisionally it
7 appears to me just as the matter comes up. So, assume
8 nothing is decided. But anyway, yes, Mr. Murphy.

9 MR. MURPHY: Thanks, Chairman.

10 357 Q. Can I put it to you, Garda Keogh, that on no view of 14:33
11 this evidence, of this decision, about how this
12 decision was arrived at, we have gone through over the
13 last hour, on no view could this be regarded as
14 targeting or discrediting you?

15 A. It also discredits me as well, Judge. 14:34

16 358 Q. Just answer the first question, Garda Keogh. Do you
17 accept that on no view of this evidence could this be
18 seen as targeting you, discrediting you?

19 A. I don't accept that. I am the investigating garda at
20 the start of this, this incident. And, of course, 14:34
21 Judge, the main issue then is when it is -- in relation
22 to the targeting, like it has been reclassified, I
23 think is it on 9th or something like that, I can't
24 remember the date, but to attention and complaints and
25 Superintendent Murray continued writing down to me 14:34
26 under the --

27 CHAIRMAN: wait now, we have all that.

28 WITNESS: Yes.

29 CHAIRMAN: A number of times, if you don't mind me

1 saying.

2 WITNESS: Yes.

3 CHAIRMAN: A number of times. As a judge that we knew
4 used to say, I got that the second time you made it.
5 Don't worry. All right. So I understand that 14:35
6 absolutely. Look, here is the question: Maybe they
7 were wrong to reclassify it.

8 MR. MURPHY: Could I ask you, please, to be shown --
9 sorry.

10 359 Q. CHAIRMAN: Maybe they were wrong to classify it, is the 14:35
11 suggestion, but how was reclassifying it, maybe
12 wrongly, maybe it was massaging the figures, I don't
13 know, do you think that was targeting you, that is the
14 question.

15 A. Judge -- 14:35

16 360 Q. CHAIRMAN: Just tell me how you see that?

17 A. No, it's the writing down to me for --

18 361 Q. CHAIRMAN: I have that. The writing, you say
19 notwithstanding the reclassification, they still write
20 to you as if it were a serious incident? 14:35

21 A. Yes.

22 362 Q. CHAIRMAN: Okay, thank you very much. That's the point
23 you are making?

24 A. Yes, Judge.

25 CHAIRMAN: Thank you very much. 14:35

26 363 Q. MR. MURPHY: I have to suggest to you that that's
27 nothing more than simply continuing the heading of a
28 chain of correspondence that has existed between you
29 and them up until that time.

1 A. Superintendent Murray has already -- he actually has
2 reclassified it on the same date as he is writing down
3 to me. He has reclassified it as attention and
4 complaints, as the same date he is writing out to me
5 about robbery from person. 14:36

6 364 Q. Garda Keogh, isn't it perfectly clear that what he is
7 doing is simply writing back in a chain of
8 correspondence where the title never changes, simple as
9 that?

10 A. No, there's no mistake, it's the same day. It's on the 14:36
11 same day, he has reclassified it and he's writing down
12 to me. Reclassified to attention and complaints, a
13 non-crime, and he's writing down to me about this
14 serious incident of robbery from a person for
15 approximately a month. 14:36

16 365 Q. Garda Keogh, my clients disagree with your assessment,
17 but insofar as you portray the disagreement in Athlone,
18 isn't it the case that you didn't leave this issue
19 there? I have to suggest to you that in addition to
20 what you've said about your views at the time, you also 14:36
21 then made a very serious allegation that this amounted
22 to a form of interference with the crime figures, did
23 you not?

24 A. I have said this is fiddling with the crime figures.

25 366 Q. Yeah, fiddling with the crime figures? 14:37

26 A. Yes.

27 367 Q. Can I ask you, please, to be shown page 3051?

28 CHAIRMAN: 3051.

29 MR. MURPHY: which is volume 11, please.

1 CHAIRMAN: Yes.

2 368 Q. MR. MURPHY: Before we open the page itself, Garda
3 Keogh, were you angry that your superiors disagreed
4 with you about this issue?

5 A. Judge, at the time I just can't recall. All I can 14:37
6 remember is getting a whole ream of paperwork and on
7 the last day that I write to Superintendent Murray,
8 that I had to go back on to Pulse to go back in to
9 check the Pulse incident in order to answer the further
10 -- the last part of the correspondence that he is 14:38
11 writing out to me in relation to the robbery from the
12 person, and that's actually where I realise it was
13 reclassified. Then I went in to a couple of other
14 incidents of mine and I noticed they were reclassified.
15 I didn't make an issue of them. But, Judge, on this 14:38
16 one...

17 369 Q. So, Garda Keogh, can we take it at this stage you
18 considered that your superiors' directions to you were
19 something of a chore or a bore or a waste of time?

20 A. Sorry? 14:38

21 370 Q. Is it your evidence that in relation to this episode,
22 that you considered the directions given to you by your
23 superior officers to be a bore and a chore, to be a
24 worthless waste of time, is that what you thought?

25 A. Em, Judge, for a month I'm writing down about an 14:38
26 incident that has closed, been closed off, there's no
27 investigation into the incident. It's closed off and I
28 still have to write on all this correspondence, when I
29 could be out doing the beat or other things.

1 371 Q. Or pursuing your special investigation with Assistant
2 Commissioner Ó Cualáin, as you saw it?
3 A. Or that.
4 372 Q. Yes.
5 A. But I could be out on the beat doing other things than 14:39
6 writing on all this correspondence, to do with an
7 incident which has been reclassified from a serious
8 crime to a non-crime.
9 373 Q. Yes. But you went one step further, did you not, Garda
10 Keogh? Didn't you go and speak to other people about 14:39
11 this. And in particular, did you speak to Deputy
12 Wallace and Deputy Daly?
13 A. Yes.
14 374 Q. Did you tell them that you thought that this was
15 massaging the crime figures? 14:39
16 A. Yes. As I have said, Judge, when I went in to -- and I
17 noticed on that last day, that's the day I found out
18 that this had been reclassified, I went through other
19 incidents on Pulse to do with me and they were
20 reclassified. Then obviously I saw other incidents and 14:40
21 I did speak to Deputy Wallace and Daly and the answer
22 is yes.
23 375 Q. Again I have to put to you that that is a very serious
24 thing to have done and a wrong thing to have done,
25 because this case demonstrates clearly on the evidence 14:40
26 we heard this morning, that this was a reasonable
27 decision taken by Garda command in accordance with law,
28 which you disagreed with, and then mischaracterised as
29 fiddling the crime figures?

1 A. Judge, it is fiddling with the crime figures.

2 376 Q. Again I have to suggest to you, Garda Keogh, that's
3 false. Could I ask you to turn, please, to page 3051?
4 A. Just for the record -- yeah, okay. 3051?

5 377 Q. Please. 14:40

6 A. Right.

7 378 Q. Can I point to the bottom of the page, at line 641. Do
8 you see that?

9 A. Yeah.

10 379 Q. This is you speaking to the Tribunal investigators in 14:41
11 the controlled environments of a formal interview with
12 the Tribunal investigators last year.

13 A. Yes.

14 380 Q. And what you said was, first, that:
15 14:41
16 "Superintendent Murray didn't have jurisdiction to
17 reclassify it."
18

19 A. Yes.

20 381 Q. Second, you said: 14:41
21
22 "The incident was reported as a robbery and just
23 because somebody will not make a statement, it doesn't
24 mean that the robbery did not occur.
25 14:41

26 A. That's correct. And in hindsight, we now know that the
27 person did make a statement.

28 382 Q. And in terms of the investigation, did you tell them
29 that you had any knowledge that the person refused to

1 proceed with the complaint? Did you tell the
2 investigators that you knew that?

3 A. I don't recall.

4 383 Q. You don't recall?

5 A. I don't remember what I said. 14:41

6 384 Q. Okay.

7 A. It's here, it's going to be in writing, obviously,
8 whatever I said.

9 385 Q. Then you say:

10 14:41

11 "In my view the incident should not have been
12 reclassified as non-crime."
13

14 which is what you told us today. And then lastly, you
15 say: 14:42

16

17 "It is my view that this is also technically
18 interfering with the crime figures."
19

20 Do you see that? 14:42

21 A. Yes.

22 386 Q. Just turn over the page please. You were very careful
23 to put it forward to the Tribunal as being a technical
24 matter. It looks like it's a minor matter but that you
25 disagree. Now, Superintendent Murray will say, please 14:42
26 look at page 3052, that as a result of your conduct and
27 what you said to the deputies, that in fact what this
28 led to was a portrayal of interference with crime
29 statistics and something that was going on full scale

1 in An Garda Síochána.

2 A. Judge, I think I certainly know from the CSO, the
3 central -- or the CSO, they don't even accept the Garda
4 figures any more because of all the fiddling with
5 figures that went on. 14:43

6 387 Q. But, you see, the way you did it, Garda Keogh, I have
7 to suggest, was clearly reflecting your anger and
8 annoyance at the time. Because you made this very
9 personal to Superintendent Pat Murray, isn't that
10 right? 14:43

11 A. I am being targeted by Superintendent Murray in
12 relation to this issue. Judge, I have clearly said how
13 I found out even about the fiddling with the crime
14 figures was because that he had set off this -- it's to
15 do with -- he sets off this chain of correspondence 14:43
16 from robbery from person and it's me that's writing
17 back to him and at some point I have to go back onto
18 Pulse and I find that the incident was reclassified.
19 Then there's other incidents that were reclassified.
20 It cropped up last week, Judge. If my memory is 14:43
21 correct, some one of us used the word, it wasn't me,
22 corruption and we weren't sure. But I think it
23 actually does follow under the term corruption. I
24 would have gone, either way, to -- I did go to Deputy
25 Wallace and Daly and I printed off a couple of examples 14:44
26 for Deputy Wallace and Daly and I said, look at this.

27 388 Q. Yes. So, having characterised this as a technical
28 interference with the crime figures to the Tribunal,
29 Chief Superintendent Murray will say that on 15th

1 December 2015, a speech was made in Dáil Éireann by
2 Deputy Clare Daly based on what you had said. Do you
3 recall that?

4 A. I can't remember the speech off hand but I'm not --

5 389 Q. If we look at details of that. Can I ask you to be 14:44
6 shown, please, page 2522? So this is a copy of a
7 speech given by Deputy Clare Daly. It deals with a
8 variety of issues to do with policing and the Policing
9 Authority. Could I ask you, please, to turn over to
10 page 2523? Can I draw your attention, please, to the 14:45
11 second last paragraph?

12 A. "The previous Garda inspectorate", that part.

13 390 Q. Yes.

14

15 "...encounter a garda massaging the crime figures, for 14:46
16 example, that resulted in the analysis of crime figures
17 having been withdrawn for a period. A very serious
18 matter. We know for a fact that massaging the figures
19 is still continuing."

20

14:46

21 This is the part that I want to draw your attention to.

22

23 "In recent weeks in Superintendent Pat Murray's station
24 in the midlands and in Athlone, we have seen direct
25 evidence of at least eight cases where crimes were 14:46
26 written down so that the original crime was
27 reclassified as a more minor matter. There is clear
28 evidence of massaging the figures; for example,
29 changing burglaries to criminal damage, which is

1 reclassification. This is a very serious situation."
2
3 A. Yes.
4 391 Q. would you accept that was said on the basis of what you
5 told Deputy Daly? 14:46
6 A. I do.
7 392 Q. So you moved from the technical interference with the
8 crime figures to massaging the crime figures; isn't
9 that correct?
10 A. I am trying to figure out what the difference really 14:47
11 is.
12 393 Q. You see, the difference is, one suggests that there is
13 a perhaps technical inadvertence and the second
14 suggests it's deliberately being massaged, covered up,
15 corruptly. An allegation you never put in your 14:47
16 discussions to Superintendent Murray or to anybody
17 else. In other words, I am suggesting to you that this
18 demonstrates a very serious and wrongful escalation by
19 you of your views about this issue and it results in
20 this attack on Superintendent Murray in the Dáil? 14:47
21 MR. KELLY: Chair, I just remind Mr. Murphy that this
22 is actually Clare Daly's words, massage, in the Dáil as
23 opposed to Garda Keogh.
24 MR. MURPHY: I thought the witness accepted that this
25 was massaging, that this was his characterisation as 14:48
26 well.
27 A. Judge, it is massaging the crime figures.
28 394 Q. Yes.
29 A. I am not -- I have said, I have explained how I printed

1 off the number of examples, I gave them to Deputy
2 wallace and Daly and I said, look at this.

3 395 Q. CHAIRMAN: Where did you get the other examples?
4 A. After I found the first example with the robbery from a
5 person and I realised that was reclassified, I then 14:48
6 went through other figures to do with my work and I
7 realised there was other stuff that was reclassified.

8 396 Q. CHAIRMAN: Other stuff in your work?
9 A. Yes.

10 397 Q. CHAIRMAN: Okay. So all the cases were your work? 14:48
11 A. Not all, because then I went through a couple of
12 others. You see, the problem was, I didn't want to
13 drag other guards involved. So most of the stuff that
14 I gave to Deputy wallace and Daly was just my stuff.
15 CHAIRMAN: Okay. 14:48

16 398 Q. MR. MURPHY: Did you ever go to Superintendent Murray
17 and say, I think you have got this wrong in four other
18 cases, I think you are massaging the figures?
19 A. No, I didn't.

20 399 Q. So instead what you did was, with the annoyance and 14:49
21 anger which you felt clearly, that you effectively
22 sprung this so that it could be said about
23 Superintendent Murray in the Dáil, in public, to the
24 country, with no right of reply?
25 A. Judge, I'm entitled to do what I did. I did what I did 14:49
26 and I stand by what I did.

27 400 Q. Yes. But I have to suggest to you what you did was an
28 attempt to damage or, in your words, take down
29 Superintendent Murray by allowing the picture of what

1 took place be put in the public domain that was false.
2 A. Judge, it wasn't false, it was true, and it was
3 corruption. And I gave it to Deputy Wallace and Daly.
4 I didn't even know, I'd say, at the time it was
5 corruption. Because there was such a thing going on, 14:49
6 on national statistics with fiddling with figures and
7 all the rest, I brought this to their attention.
8 Because I think -- I can't remember -- I think the
9 Guards were saying -- this is -- are they up to
10 their -- I think breath tests, I think, at some stage 14:50
11 go to 6 million and then they revise it down to, is it,
12 2 million or something.

13 401 Q. Garda Keogh.
14 A. Then we have the issue with --

15 402 Q. Garda Keogh. 14:50
16 A. We don't even get the homicide figures right in this
17 country and it's not Mexico.

18 403 Q. Garda Keogh, that was a speech, not an answer to my
19 question. Insofar as I am putting this question to
20 you, I am suggesting to you that you had now labelled 14:50
21 something which was a disagreement at local level as
22 corruption, which is dishonest, intentional conduct by
23 Superintendent Murray?

24 A. Judge, please --

25 404 Q. Where was the evidence? Just answer my question? 14:50
26 A. Yes.

27 405 Q. Where was the evidence in your possession that
28 Superintendent Murray knowingly and dishonestly,
29 corruptly changed this classification? Where is that

1 evidence?
2 A. The evidence was on the Pulse incidents in the
3 narrative, where it had on most of the incidents
4 reclassified because -- and there was one sample,
5 Judge, which I remember, it was one of my cases to do 14:51
6 with a burglary in Kilbeggan and I put it on as a
7 burglary and Superintendent Murray reclassified it to
8 criminal damage. The GISC in Castlebar actually wrote
9 down to Superintendent Murray to say, no, this should
10 be on as a burglary. That was all -- that was in the 14:51
11 bundle of documents that I gave to Deputy Wallace and
12 Daly.
13 406 Q. Is the answer to my question that you had no evidence
14 of dishonest conduct on the part of Superintendent
15 Murray? 14:51
16 A. I am just after giving the examples of evidence.
17 407 Q. No, what you did was give an example of a transaction.
18 That's not question I am asking you. I am suggesting
19 to you, you have no evidence that Superintendent Murray
20 did this dishonestly? 14:51
21 A. Judge, the crime figures were rejigged and I gave them
22 to Deputy Wallace and Daly.
23 408 Q. What evidence did you have that this was done
24 dishonestly?
25 A. Judge, the evidence that I had was on the Pulse 14:52
26 documents and I gave them to Deputy Wallace and Daly
27 and in relation to the -- I have given that example
28 where, not alone my view that something was
29 reclassified wrongly, but other members in the GISC in

1 Castlebar, when they viewed the incident, they actually
2 wrote down after Superintendent Murray had reclassified
3 a burglary to criminal damage, and they wrote back to
4 him to say, no, this should be on as a burglary.

5 Because I remember -- because the persons gained entry 14:52
6 to the premises and that was -- they explained their --
7 on the incident. Judge, the incidents are somewhere in
8 these volumes, I don't know where but.

9 409 Q. Garda Keogh, I have to suggest to you, what you did in
10 this situation was reckless, irresponsible and 14:52
11 revealing, because it revealed the fact that you had
12 come to a position where if people didn't agree with
13 you in the chain of command, particularly people above
14 you, you felt free to criticise them without evidence?

15 A. No, no. And, Judge, at this time Superintendent Murray 14:53
16 is giving me a hell of a time in Athlone, during this
17 period of time. As I have said, that's actually how I
18 found out. Actually, he puts this into motion by
19 writing out all this stuff to me in relation to what he
20 has already marked as a non-crime and then he's writing 14:53
21 out to me as a crime. That's how I even found this.
22 He essentially is the cause of me finding this. It's
23 not that I went onto Pulse digging for something
24 negative about Superintendent Murray. It's because he
25 is writing down all this stuff that I have to go back 14:53
26 on to Pulse. And that's how I find the original -- the
27 robbery from persons being reclassified to attention
28 and complaints, and that's where I then go and look at
29 the other stuff. So he has actually inadvertently set

1 this in motion.

2 410 Q. Garda Keogh, I have to suggest to you that in this
3 situation what you just revealed was that you were
4 seeking to punish Superintendent Murray because you
5 believed he had given you a hard time? 14:54

6 A. Judge, he was giving me a hard time.

7 411 Q. You see, I have to put it to you, he was not giving you
8 a hard time?

9 A. I dispute that.

10 412 Q. I have to put it to you that your perception clouded 14:54
11 your view of the reality, that you were just being made
12 subject to the standards applicable to your colleagues
13 by Garda management?

14 A. Judge, nothing like this had ever happened to me
15 before, where I put an incident on Pulse and then it's 14:54
16 reclassified and then someone writes down for about a
17 month after, chasing me over something that they have
18 already reclassified. It never happened to me before.
19 And Judge, taking that into consideration with the
20 other things that we have already dealt with... 14:54

21 413 Q. Had you got to a stage, Garda Keogh, that you believed
22 that in your own mind you were an such an important
23 whistleblower that the ordinary rules didn't apply to
24 you and that you could say things like that or attack
25 your senior officers at will? 14:55

26 A. Judge, I am under attack from senior officers and I
27 have to defend myself also.

28 414 Q. Did you think you were a very important person at that
29 time because of your protected disclosure?

1 A. It's not importance or anything like that. Also, I am
2 parallel to all this, I am determined to get my main --
3 the heroin investigation over the line. Like, that's
4 also going on in the background with this. And I
5 believe they are just trying to put me under as much 14:55
6 pressure as they can.

7 415 Q. Can I just ask you --

8 416 Q. CHAIRMAN: Sorry, say that again.

9 A. Garda management, certainly from the time with
10 Superintendent Murray, like they really increased the 14:55
11 pressure on me with all this sort of stuff, where
12 there's really no need for it, from the C8s up to this
13 particular thing, writing out to me on stuff they've
14 reclassified, you know, writing out to me for crimes
15 that are -- 14:56

16 417 Q. CHAIRMAN: Tell me more about, when you say they are
17 trying to put me under as much pressure as they can?

18 A. Yes.

19 418 Q. CHAIRMAN: what does that mean?

20 A. In relation to all these reams of paperwork, all this, 14:56
21 everything, Judge, that I am investigating, that I send
22 up, everything is coming back with questions on them
23 the whole lot. And on this particular matter, like, I
24 don't believe there is an excuse or way out for them on
25 this, because it's crystal clear that it was a robbery, 14:56
26 reported as a robbery and then it's reclassified. But
27 he still continues to write out to me for about a month
28 afterwards about the robbery which he has already in
29 the same day or week --

1 419 Q. CHAIRMAN: No, listen, would you ever stop?
2 A. Yes.

3 420 Q. CHAIRMAN: You will drive me crazy if you keep at that
4 again. As if I hadn't got it the 21st time you said
5 it. Sorry. I'm sorry, I take it back. I have that 14:57
6 point. All right, I have that point firmly written
7 down several times. Okay. Thanks very much.

8 MR. MURPHY: Garda Keogh --
9 CHAIRMAN: I apologise.

10 421 Q. MR. MURPHY: Garda Keogh, I have to suggest to you that 14:57
11 in this episode, as in several others, what is coming
12 across very clearly is that unlike your colleagues in
13 Athlone, you pick the pieces of events and evidence
14 that you feel support your position and want to ignore
15 all the rest. All that was happening here was you were 14:57
16 being asked to account, as a member of An Garda
17 Síochána, for the work you were doing, as all of your
18 other colleagues were at that point.

19 A. No, Judge. This is, this is nit-picking. This is
20 where -- like this goes beyond -- I gave the example in 14:57
21 some of the previous ones, where they are forensically
22 looking into my work, this is -- this is just -- this
23 goes into an even different direction altogether than
24 just forensically looking at my work. You know, this
25 is even a different scenario on this particular matter. 14:58

26 422 Q. Did you find when you were taking drink and Xanax on a
27 regular basis that you found it harder to work, in
28 2015?

29 A. Towards of end of 2015, Judge, I think I have already

1 said, I know my career is coming to an end, I'm aware
2 of that, and as I stated, I knew I was coming to the
3 next phase, you know, where I was going to be isolated
4 and out, that I wouldn't be -- so.

5 423 Q. Is it correct to say, as you just said, that this was 14:58
6 something that happened towards the end of 2015, that,
7 in fact, this is something which occurred several times
8 during 2015, is that right?

9 CHAIRMAN: What's that, Mr. Murphy?

10 MR. MURPHY: The use of Xanax and alcohol. 14:59

11 CHAIRMAN: Yes.

12 A. Judge, it wasn't all the time that I was taking Xanax
13 with alcohol. It would probably have been -- I mean
14 ever, was it probably about, I don't know, five times
15 or something. I noted it in my diary when I did, 14:59
16 Judge, so... Like the reason I did that is, I am
17 watching, I am watching myself what's going on in
18 relation to that part of my life also and I am keeping
19 an eye on it.

20 MR. MURPHY: I wonder can you be shown 3790, please. 14:59

21 MR. KELLY: I wonder whether this is an appropriate
22 time to take a break, it is three o'clock.

23 CHAIRMAN: Yes. Have you much more to go on this? Are
24 we still on this reclassification?

25 MR. MURPHY: A little bit more to go. 14:59

26 CHAIRMAN: That's all right, then that's what we will
27 do. Thank you very much. 3:15 okay. Thank you.

28
29

1 THE HEARING THEN ADJOURNED BRIEFLY AND RESUMED, AS
2 FOLLOWS:

- 3
- 4 424 Q. MR. MURPHY: Thank you, Chairman. Garda Keogh, just
5 before the break you indicated, when I asked you the 15:15
6 question about THE use of drink and Xanax, that this
7 was something that you did really towards the end of
8 2015. I just want you to pause for a moment and think,
9 is that correct?
- 10 A. No, no. I'm wrong if I gave that impression. What I 15:15
11 am saying is, my stress levels are crashing towards the
12 end of 2015, Judge.
- 13 425 Q. If we take the robbery case that we have just been
14 looking at, that was 13/9/2015, September. Just again
15 to help you in relation to your memory of these events, 15:15
16 I think the position is you went to see the CMO, THE
17 Garda surgeon, on 18th December 2015; is that right?
- 18 A. Yes. That's the date that I discovered that they were
19 marking me out with the flu and that the CMO -- they
20 had already held a case conference I think the week 15:16
21 before and somehow the CMO didn't seem to know anything
22 about work related stress on my sick certs.
- 23 426 Q. Garda Keogh, we covered the labelling issue with you,
24 but can I move to the substance of my question.
25 Perhaps if you can be shown document number 3791, 15:16
26 please.
- 27 A. Yes.
- 28 427 Q. This is a note, we have seen part of this note before
29 at an earlier date. Just to help you, could you look

1 down four or five lines. You will see that the CMO
2 writes and I will read this to you, you had forgotten
3 that you were -- you were mistaken about calling in
4 sick on the 10/7/2015 and that you attributed this to
5 drinking while off duty and taking Xanax with alcohol 15:17
6 on the 9/7/2015.

7 A. Yes, we covered all this.

8 428 Q. I know. The point being, that by September 2015, which
9 is the one we're talking about at the moment, where
10 you're getting annoyed with your colleagues, your 15:17
11 superiors for having a different view in relation to
12 crime reclassification, I put the question to you:
13 were you finding it harder to work at that stage?

14 A. Judge, 2015, 2015 was a horrible year. It just was. I
15 mean, September -- I mean at this -- September, I'm 15:17
16 what, seventeen months working along Garda A, the
17 investigation is still going on. October Garda A is
18 suspended. By November, as I said, it just -- I
19 thought they might back off me but they don't. And it
20 just -- by the end of November, into December, like 15:18
21 it's pretty much -- once I am confined to permanent PO,
22 I know the game is up for me and that's it.

23 429 Q. Garda Keogh, I think the position is, you have given
24 evidence and there is no dispute about this, that you
25 took Xanax and alcohol at several stages throughout 15:18
26 2015, and I think you very fairly acknowledged that was
27 contrary to what you were told to do. But can I ask
28 you, during that period of time did you experience
29 episodes of increased aggression and irritability?

1 A. I don't think so. I don't think so.

2 430 Q. Did you find yourself having difficulties with
3 outbursts of anger?

4 A. I don't think so.

5 431 Q. Did you find yourself being euphoric? 15:19

6 A. My drink, Judge, was far from euphoric. Like I'd be --
7 oh no, when I'd be taking the Xanax, Judge, it would be
8 trying to come off the drink. I wouldn't be in a state
9 for euphoria or anything. In fact, on the contrary, it
10 would be the complete opposite. 15:19

11 432 Q. But you do understand, you were told both before and
12 after, that it was a really bad idea for you to take
13 both Xanax and alcohol, isn't that right?

14 A. Excuse me?

15 433 Q. You do understand now and you did understand in 15:19
16 December 2015 that it was a significantly bad thing for
17 you, for your health, to take Xanax and alcohol at the
18 same time?

19 A. Yeah, yes. Judge, having experienced, Judge, the
20 difference with just alcohol and Xanax and alcohol, you 15:19
21 would black out, you wouldn't remember really the --
22 for example, if I was to be drinking for a couple of
23 days without Xanax, I fairly remember a lot of it. But
24 with Xanax, it's increased the memory loss, you
25 wouldn't remember, you'd blackout kind of for those 15:20
26 days, Judge.

27 434 Q. Did your doctor, did the CMO advise you that people who
28 use Xanax and alcohol can have significant issues with
29 critical thinking or problem solving?

1 A. Judge, like, when I told my doctor about it, he
2 stopped, he stopped prescribing me Xanax.

3 435 Q. Did the doctors tell you that it could also provide you
4 with significant issues in relation to reasoning or
5 self control, planning, and judgment? 15:20

6 A. Em, no, I don't remember that. But I mean, I can give
7 my own evidence in relation to the -- I have given the
8 evidence in relation to Xanax mixed with alcohol. It's
9 not a euphoric thing, it's not that you are jumping
10 around the place, you know, it's the opposite, really, 15:21
11 Judge.

12 436 Q. In terms of your position at this time of the year, I
13 have asked you before whether you considered yourself
14 to be very important. I think in answer to a question
15 to the Chair the other day, you suggested that 15:21
16 something about in the history of An Garda Síochána.
17 Did you consider yourself to be the first whistleblower
18 in the history of An Garda Síochána?

19 A. Judge, that's a ridiculous statement. Sorry, a
20 ridiculous question. When I say the history of An 15:21
21 Garda Síochána, I am talking from the birth of An Garda
22 Síochána, when the Dublin Metropolitan Police is
23 combined with the Civic Guard and there's the Kildare
24 mutiny, sorry, they combine. An Garda Síochána is
25 actually borne out of the Kildare mutiny. The history 15:21
26 of An Garda Síochána, I mean, from Lugs Branigan to the
27 streets of Dublin and this -- look, I didn't -- sorry,
28 just go back to the question, please.

29 437 Q. Sure. Look, would this help? Could I ask you if you

1 could be shown page 13373, please? I am just trying to
2 help the Tribunal to understand the influences that
3 were affecting you in 2015 from different zones. You
4 might like to have your diary for 2018 available as
5 well, Garda Keogh, please. Can I just draw your 15:22
6 attention to 3rd January 2018. There I think is a
7 reference, if I can just read this to you, it says:
8
9 "KH. . ."
10 15:23
11 who I presume is [named person].
12 A. Sorry, I'm on page 13373.
13 438 Q. Yes, please. It's on the screen and then if you --
14 it's the 1st January?
15 CHAIRMAN: we have blank rang. 15:23
16 MR. MURPHY: If I could address your attention to 3rd
17 January.
18 CHAIRMAN: Yes, we have blank, blank Mr. Murphy.
19 MR. MURPHY: I beg your pardon, sorry, Chairman. There
20 is a reference to a Mr. Blank: 15:23
21
22 "...who rang to say that he had got documents from the
23 Department of Justice, pseudo name CR2, which implies
24 I'm CR1."
25 15:23
26 A. Yes.
27 439 Q. So that was confidential recipient 1?
28 A. Yes.
29 440 Q. Were you proud of the fact that you were the first --

1 CHAIRMAN: The confidential recipient is Judge McMahon.
2 MR. MURPHY: Sorry.
3 CHAIRMAN: There may have been confidential recipient
4 2. But confidential reporter is this one.
5 441 Q. MR. MURPHY: My mistake. So that applied to 15:23
6 confidential reporter number 1.
7 A. I only find out obviously that they, you know, the CR1,
8 like we're into January 2018 here.
9 442 Q. Yes.
10 A. I'm going through -- this is all still going on for me, 15:24
11 Judge, you know, from '14, '15, '16 '17 '18, we're now
12 in '19, it's not like the last ten years of my life
13 have been some sort of brilliant episode. I can't wait
14 for this to be over.
15 443 Q. Garda Keogh, can I put it this, isn't it clear, for 15:24
16 example, from your references in 2014 to von
17 Stauffenberg, that you felt a sort of heroic mission
18 that you were embarked upon in 2014?
19 A. Judge, I have great loyalty to my country, to the
20 State, the flag. There's serious problems in An Garda 15:24
21 Síochána. Judge, over the events of the last couple of
22 years, look, haven't we -- we have a commissioner that
23 the public now have full confidence in, for the first
24 time in probably ten years.
25 444 Q. Could I ask you to turn, please, to page 13376. 15:25
26 CHAIRMAN: Yes.
27 445 Q. MR. MURPHY: Just on 28th January 2018, there is an
28 entry which says:
29

1 "Hard week. Don't know what's going on with drugs case
2 so I went to the Hill of Tara for inspiration by Boru
3 and O'Connell."

4
5 Can we take it that that's King Brian Boru and Daniel 15:25
6 O'Connell?

7 A. Yeah, that's correct.

8 446 Q. So again, did you feel that what you were doing --
9 MR. KELLY: I hesitate to interrupt. This is ground
10 that we covered yesterday. I wonder what the value is 15:25
11 in actually repeating and traipsing over it again and
12 again.

13 CHAIRMAN: I thought you introduced this, Mr. Murphy.
14 I mean, we haven't had Brian Boru and Daniel O'Connell,
15 I agree. But I thought that you did introduce a sort 15:25
16 of overall perspective of your general -- before you
17 got to any detail.

18 MR. MURPHY: Yes.

19 CHAIRMAN: You introduced a very general
20 cross-examination, which I don't think there is any 15:26
21 criticism or comment on it, but I thought that
22 Mr. Kelly has some -- is Mr. Kelly partly right?

23 MR. MURPHY: Yes. I referred in part to one person in
24 that process and the general theme.

25 CHAIRMAN: We certainly were over von Stauffenberg, 15:26
26 that's for sure, I remember that one all right.

27 MR. MURPHY: Yes. I am merely seeking to assist the
28 Tribunal and the witness by identifying how he was
29 thinking throughout the course of this time, and this

1 is further evidence of that.

2 WITNESS: I can answer this, Judge.

3 447 Q. CHAIRMAN: Do you see what Mr. Murphy is saying?

4 A. I do.

5 448 Q. CHAIRMAN: what's the background here? 15:26

6 A. Yes.

7 449 Q. CHAIRMAN: what's motivating you, if you know what I

8 mean? well, what do you say is motivating you?

9 A. Judge, I love history in general and I do try to look

10 at it impartial. I saw a picture outside of Oliver 15:26

11 Cromwell there, the painting and I was just thinking,

12 like -- we won't go into that anyway, but it's fitting.

13 It should stay there.

14 450 Q. CHAIRMAN: Take your time and tell us about your

15 thinking, your motivation? 15:27

16 A. Yes. As I stated earlier, a lot of the times I base

17 things, I look back on history for particular events to

18 try and figure things out. And I am in general in

19 trouble in life, and as I've said there, "hard week,

20 don't know what's going on with the drugs case", that's 15:27

21 my heroin case that I reported back in 2014. And then,

22 of course, I look back, where did other Irish men go in

23 times of trouble. Of course, I'd be aware that Brian

24 Boru, on his way to the battle of Clontarf in 1014, he

25 stopped at the Hill of Tara, perhaps for inspiration. 15:27

26 I know that Daniel O'Connell, in his time, held one of

27 his Munster meeting at the Hill of Tara, you know,

28 perhaps for inspiration, and I went --

29 451 Q. CHAIRMAN: I am more concerned with you than I am with

1 Daniel O'Connell and his state of mind?

2 A. I just went to the Hill of Tara just for inspiration.

3 452 Q. CHAIRMAN: You went to get away from it all, is it,
4 just to do a bit of mindfulness or zen?

5 A. Yes. 15:28

6 453 Q. CHAIRMAN: Okay. So that's why you went to the Hill of
7 Tara. Okay.

8 MR. KELLY: Can I just say, my intervention was, we're
9 on allegation 9, and Mr. Murphy is now saying that he
10 exploring his view of this witness in 2018, and I'm 15:28
11 wondering how that is relevant to the events of 2015
12 and in particular allegation number 9.

13 CHAIRMAN: The reclassification allegations that we
14 have been exploring.

15 MR. KELLY: That's right. 15:28

16 MR. MURPHY: I was seeking to identify that this was
17 his state of mind throughout the entire period.

18 CHAIRMAN: Okay,

19 MR. MURPHY: Both in '18 and in '14 and also in '15.

20 CHAIRMAN: Okay. well, you can help us on this, Garda 15:28
21 Keogh. Has your thinking -- sorry, has your - what
22 shall I say, attitude, your general motivation, has
23 that remained more or less the same from 2014 or has it
24 changed over the years?

25 A. There was a change in January of 2018, Judge. 15:29

26 454 Q. CHAIRMAN: All right,

27 A. After the promotion, where I started questioning the
28 whole -- the functions of the State, let's say.

29 455 Q. CHAIRMAN: So when Superintendent Murray became Chief

1 Superintendent Murray, you began to doubt what?

2 A. The impartiality of the Policing Authority, because I

3 didn't know they were writing out relevant questions.

4 456 Q. CHAIRMAN: Question?

5 A. Yes, Judge. 15:29

6 457 Q. CHAIRMAN: That sounds to me like a confirmation of

7 your suspicions to begin with, rather than a change, if

8 you know what I mean. But did your thinking remain --

9 I mean, disagree with me if that's wrong?

10 A. No, my thinking changed in January of 2018, and it did 15:30

11 remain that way up until I thankfully read the Tribunal

12 documents and it's back corrected again since. What I

13 read and what I know now, that GSOC are impartial and

14 the Policing Authority...

15 458 Q. CHAIRMAN: But your view of An Garda Síochána? 15:30

16 A. No, that remains the same

17 459 Q. CHAIRMAN: Has remained, subject to the fact that you

18 seem to be a supporter of the new commissioner, is that

19 right?

20 A. I am, Judge. 15:30

21 460 Q. CHAIRMAN: That's okay.

22 A. He is bringing in reform and I support him on it. And

23 Judge --

24 461 Q. CHAIRMAN: That is all right. But Mr. Murphy was

25 exploring with you, and if I can summarise it in this 15:30

26 way, and I am sorry to drone you, but that your

27 sentiments about An Garda Síochána have basically been

28 the same from the time you started essentially until

29 now?

1 A. Yeah, but Judge in relation to -- as I said, there's a
2 core group of officers at the top, which does not
3 include Commissioner Drew Harris. I would wish, if I
4 could go back, like we can't go back in time, but if
5 Drew Harris was the commissioner when I made my 15:31
6 complaint, I don't believe we would be having this
7 Tribunal.

8 462 Q. CHAIRMAN: And the essence of it as I understand, you
9 say -- no, I'm not going to do that. Maybe at the very
10 end I will explore your thinking a little further. I 15:31
11 don't want to start jumping in and doing my
12 interpretation at this point. All right. So thanks
13 very much.

14 MR. MURPHY: with your permission, Chairman, I propose
15 to move on to a short issue, which is number 11. 15:31

16 CHAIRMAN: Thanks very much.

17 MR. MURPHY: Chairman, this deals with the complaints
18 by Garda Keogh in relation to his confinement to indoor
19 duty on the 22/10/2015.

20 CHAIRMAN: Indoor duty. Thanks very much. 15:31

21 MR. MURPHY: Yes.

22 CHAIRMAN: Okay.

23 463 Q. MR. MURPHY: So, if we can ask you, please, to be shown
24 volume 1, at page 135. Garda Keogh, I just want to use
25 this, because I think it may be the pithiest 15:32
26 description of the evidence that you gave on this
27 description last week. Do you see number 13, at the
28 top of the page.

29 A. Yes.

1 464 Q. I think there it says that during a period that you
2 mention:

3
4 "I was reduced to indoor duty and was confined to desk
5 bound duties in the public office, carrying out, 15:32
6 therefore, the most stressful job in the station in
7 circumstances where it was known to management that I
8 was suffering from work related stress. Thus, on 22nd
9 October 2015, Superintendent Pat Murray simply 'with
10 immediate effect' reduced me to indoor duties. There 15:33
11 was no analysis or right of representation. He said
12 that he will review the matter again on 1st November
13 2015 (he never did)."

14
15 Is that a fair summary of the complaint you are making 15:33
16 on this point?

17 A. That's fair, with the exception of one thing: I think
18 I read in the documents that he did review it, but I
19 wasn't informed, but I think there was a review, but as
20 I said, I wasn't informed. Other than that, yeah. 15:33

21 465 Q. Okay. So, could I just ask you then please to turn
22 forward to volume 1, page 68. Again, here you're
23 talking to the Tribunal investigators. Could I draw
24 your attention, please, to line 978. Do you see that?

25 A. Yeah. 15:34

26 466 Q. There, I think the position is, at line 978, you said
27 that:

28
29 "Superintendent Murray said that he was putting me

1 permanently on the public office and he appeared to be
2 using my sick record as the reason."

3

4 A. Yes.

5 467 Q. Do you see then further down, at 981 you say:

15:34

6

7 "I suspect the real reason I was put on indoor duties
8 at the time was it was just after Garda A had been
9 suspended and who was the subject of my complaint. It
10 was a message to everyone in the station."

15:34

11

12 A. Yes.

13 468 Q. I think that's the essence of your complaint on this
14 point. Now, can I ask that you go to Volume 8, page
15 2256. Again, this is a note that was taken by
16 Superintendent Murray and he will say in evidence and
17 his note suggests that he noticed when he met with you
18 to serve the form 1A14, that we dealt with earlier
19 today on behalf of the chief superintendent in relation
20 to disciplinary inquiry, he said that he noticed that
21 your hands were shaking a lot, to the extent that you
22 couldn't write properly and that he discussed your
23 sickness with you. Do you recall discussing your
24 sickness?

15:35

15:35

25 A. I am just looking for my own notes, please.

15:36

26 469 Q. Please.

27 A. Judge, what I have recorded in my notes, Judge, is at
28 3:30 on the 22nd October:

29

1 "Sergeant Monaghan said Superintendent Murray looking
2 to speak with me, gave me appeal sheet re €300
3 discipline, said he was having case conference re my
4 sick and putting me permanent P0."

15:36

5
6 I have there in brackets that I didn't --

7 470 Q. He will say that he tried to discuss your sickness with
8 you and you said to him you would continue to go sick,
9 is that correct?

10 A. My recollection is that I didn't even speak at the
11 meeting. I have noted there, I didn't look at him.
12 So...

15:36

13 471 Q. Let, me just put to you.

14 A. Yes.

15 472 Q. That he will say that he explained to you that he felt
16 there was a risk having you go to incidents because you
17 weren't around to follow up because you were getting
18 sick so often?

15:37

19 A. Well, Judge, all the other incidents we have gone
20 through, like I mean have I done my best. Things are
21 getting harder for me during this time and we are --
22 this is October 2015, Garda A gets suspended I think
23 two weeks after that. I have Ms. B with be else in the
24 car drive by my house. That is fine if it was
25 accidental, but I understand they denied it, which is
26 another issue. Judge, that's it, that's a difficult
27 time. Then, the other investigation, of course, is
28 still ongoing. So, I mean, I am under a lot -- I am
29 under serious stress at this point I mean as well.

15:37

15:37

1 473 Q. He will say that he pointed out there had been a number
2 of incidents not properly dealt, that he had been
3 talking to you about those. He basically said that you
4 had no reason or excuse for these things and at that
5 point he said:

15:38

6
7 "As per the earlier conversation, I now considered he
8 should be employed indoors as in his present condition
9 I felt there was a risk involved to public and/or
10 organisation."

15:38

11
12 A. I mean, that's just ridiculous, because Judge, the
13 public officer deals with the public, signs all the
14 forms that come in from the public.

15 474 Q. Can we come back --

15:38

16 A. No, I should be entitled to answer the question.

17 475 Q. Can you come back please to the question I am asking,
18 which is just, in terms of this issue, did this happen?
19 You're talking about the consequences, but would you
20 just look at this for a moment, please. Did he say
21 these things to you? Do you remember him saying these
22 things to you?

15:38

23 A. He discussed the CMO.

24 476 Q. Okay.

25 A. I have to check my own notes here, I have issues and
26 certain things.

15:39

27 477 Q. Just from your recollection, do you think that he said
28 to you there was a risk involved to the public and/or
29 the organisation about you going on outdoor duties?

1 A. I don't remember him saying that. I mean, I don't have
2 a note of that here. What I have is that he said he
3 was having a case conference re me sick and putting me
4 as permanent PO, that's public office.

5 478 Q. Do you see in the note there, Garda Keogh, where he 15:39
6 refers to earlier conversation? Do you remember
7 earlier today we talked about it earlier conversation,
8 back in July, where he said that if this continued he
9 would have to consider putting you on indoor duties?

10 A. Just, can you give me the date please, just for July. 15:39

11 479 Q. Let me come back to that as it's not in that particular
12 section, but we dealt with it earlier on. But the
13 point I am putting to you is: He had spoken to you
14 before about your health, would you agree, in July,
15 after the AWOL incident? 15:40

16 A. Oh yes. I would have to just check. Can I refer to my
17 notes?

18 480 Q. Just even what you remember?

19 A. You see, we are going back years and different
20 everything. 15:40

21 481 Q. I am just talking about the evidence you gave today?

22 A. Judge, it wouldn't be fair for me to try and guess.

23 CHAIRMAN: If you want to refer to your diary, you
24 refer to your diary. If you want to refer to your
25 diary. 15:40

26 WITNESS: Can I have the date, please, for July.

27 CHAIRMAN: We think it's July of 2015. Mr. Murphy did
28 question you about this conversation but that's all
29 right, you just refresh your memory.

1 WITNESS: Actually, I think I have it here.

2 CHAIRMAN: Yes.

3 WITNESS: I have it. Ah, sure that's the infamous
4 phone call, isn't that the 15th July and the phone
5 call.

15:40

6 482 Q. MR. MURPHY: Yes.

7 A. Yeah.

8 483 Q. That's it. And in the course of it he said he was
9 sending you to the CMO, holding a case conference.
10 That's the conversation which he recalled saying if
11 this continued he would have to consider putting you on
12 indoor duties. Do you remember that?

15:40

13 A. Em, I don't have a note of indoor duties at that -- but
14 everything else, I think we agreed on, on this part.

15 484 Q. Can I ask you to check your diary, perhaps I have
16 mistaken a date here, for 30th August 2015.

15:41

17 A. The only thing I have is that it's a Sunday night and
18 at 9pm the super arrives in to serve regulation 15
19 papers on me.

20 485 Q. So you do remember that meeting, don't you? Could I
21 ask you to be given page 2246 of volume 8, please. If
22 I can ask you to refer to the last five lines. Maybe I
23 will just read these on you.

15:41

24

25 "I asked him if events were impacting on his work and
26 said if he continued as at present, I would have to
27 consider reducing the risk he posed by taking him off
28 outdoor duty."

15:42

29

1 You asked to continue to send him any issues that
2 Superintendent Murray may have about you in writing and
3 also that you said that you would do what you liked and
4 that he assured you that you could not and the meeting
5 ended on that note. Do you remember that meeting? 15:42

6 A. I don't remember it. I don't have it in my diary. I
7 don't recollect even that thing. It clearly happened.

8 486 Q. Yes.

9 A. It was clearly a meeting, you know, I just remember the
10 conversation. 15:43

11 487 Q. Garda Keogh, there's no need for us to tangle about
12 that. But insofar as that issue is concerned, if I can
13 bring it back then to the assignment of indoor duties
14 later in the year, which we are talking about now, I
15 have to suggest to you, this is something that was 15:43
16 notified to you back in August, it was something that
17 Chief Superintendent Murray was thinking about then and
18 you knew that. So, when he told you in October that he
19 was going to assign you to indoor duties, that couldn't
20 have been such a big surprise? 15:43

21 A. Why would he put someone with the shakiest hands in the
22 station to sign all the forms for members of the public
23 in full view, to write in all the prisoners into the
24 custody records, which are like legal documents for the
25 purposes of virtually any court case and everything 15:43
26 like that, why would you put the person, you know, in
27 that position? It just doesn't make sense.

28 488 Q. Can I put a few questions to you, Garda Keogh, that
29 might help you to see some sense in it. Would you

1 agree with me that if you were assigned to indoor
2 duties in Athlone at that time, there was always a
3 sergeant in the station with you?

4 A. Not all the time. I mean not --

5 489 Q. There was a station sergeant assigned? 15:44

6 A. There was always a sergeant on duty, I would say, but
7 just not like a sergeant babysitting me everywhere I go
8 or whatever, it wouldn't be like that.

9 490 Q. Would you agree that even sometimes there were even two
10 sergeants in the station? 15:44

11 A. Sometimes, Judge, there could have been three or four
12 sergeants, depending on the shift. It depends.

13 491 Q. Would you agree with me that indoor duties would
14 involve more than just being the station orderly, that
15 there were other indoor duties that would be assigned 15:44
16 to you from time to time anyway?

17 A. Well, as I said, you deal with all the prisoners that
18 come in, you answer the phones, then, whatever calls
19 come in on the phones, you have to give to the patrol
20 cars that are out to go to the scenes of particular 15:44
21 incidents. Then you have members of the public coming
22 in. It is the most stressful job in the station.

23 492 Q. Fine. Can I suggest to you that, in fact, it's not the
24 most stressful job, because you have backup and support
25 and there are more stressful jobs, would you agree with 15:45
26 me, as a member of An Garda Síochána?

27 A. Judge, I don't, I can't agree with that. I think any
28 guard -- look, they mightn't break the blue wall of
29 silence, but that one privately they'll think to

1 themselves, yes, it is the most stressful job in the
2 station. In any station, Judge.

3 493 Q. But it's always work where you are supervised and in
4 the company of colleagues?

5 A. Em, there is - I mean there is -- there would be, you 15:45
6 know, there would always be -- most of the time, yeah,
7 there would be -- there would be periods in early hours
8 of the morning where the patrol car goes out and
9 perhaps another car has to go out and you'd be on your
10 own in the situation. 15:45

11 494 Q. CHAIRMAN: It sounds like a yes to me?

12 A. Yeah. Like most of the --

13 495 Q. CHAIRMAN: He says most of the time you would have
14 backup and support, there would mostly be a sergeant?

15 A. Mostly, mostly, yes. 15:46

16 496 Q. CHAIRMAN: who would effectively act as station
17 sergeant?

18 A. Yes. But it's not like they are sitting in the -- like
19 they'd have their office down below us.

20 497 Q. CHAIRMAN: I understand, you're not sitting in a line 15:46
21 at a table?

22 A. Yes, Judge.

23 CHAIRMAN: Okay.

24 498 Q. MR. MURPHY: would you agree with me, Garda Keogh, that
25 at the meeting with the superintendent you didn't 15:46
26 protest and say to him, don't do it, superintendent,
27 this is the worst job in the station.

28 A. I don't think I -- I think I am agreed with you just on
29 that.

1 499 Q. Okay. And in fairness, after the meeting, is it fair
2 to say you didn't go to your GRA representative and
3 say, this can't happen, I am being put into the worst
4 job in the station?

5 A. You see, Judge, I left the GRA prior to making my 15:46
6 disclosure because I couldn't trust the GRA and just,
7 their own history in recent times isn't great. Judge,
8 also there was persons involved to do with the original
9 disclosure involved with the GRA.

10 500 Q. CHAIRMAN: Okay. 15:47

11 A. So I had to pull away from the GRA.

12 501 Q. CHAIRMAN: I follow. So that wasn't an option for you.
13 I suppose Mr. Murphy is really saying, okay, you didn't
14 protest to Superintendent Murray, did you do anything
15 else about it? I mean whatever challenge you could do, 15:47
16 did you go to the sergeants and say, look here, would
17 you have a word, put in a word for me, do you know what
18 I mean, I think that's what he's really saying?

19 A. Judge, I didn't want to involve the sergeants in this
20 because I believed it was crystal clear to every one of 15:47
21 them what was going on.

22 502 Q. CHAIRMAN: And what was going on was?

23 A. Even the interactions, all the documents we've seen,
24 none of the sergeants are actually criticising me for
25 anything, it's actually Superintendent Murray in all 15:47
26 the correspondence we've seen, it's Superintendent
27 Murray.

28 503 Q. CHAIRMAN: And this, you think, was a further example
29 of Superintendent Murray being hypercritical of you or

1 what was it? I mean, I don't want to be suggesting
2 things to you.

3 A. Yeah. No, once they had me in that particular
4 position, because it is the most stressful, it's also
5 the position you're most likely to make a mistake on 15:48
6 something and they're looking for any mistake I would
7 make.

8 504 Q. CHAIRMAN: Okay.

9 A. Judge, the other thing is, the sergeants would have all
10 known I would do the beat. Like I would be the type of 15:48
11 guard, even if it was raining and they said go out on
12 the beat, I would do it.

13 CHAIRMAN: Okay.

14 505 Q. MR. MURPHY: Can I ask you to turn to page 187, please,
15 volume -- sorry, 2260, at volume 8, please. 2260, 15:48
16 volume 8. This is Chief Superintendent Pat Murray's
17 notice to his chief superintendent at the time,
18 effectively saying:

19
20 "I have given the correspondence, including the copy of 15:49
21 1A14 to Garda Keogh on 22nd October 2015 and member
22 acknowledge same. Original attached."

23
24 Then he says:

25
26 "The member's hands were shaking a lot when I spoke to 15:49
27 him, to an extent that he could hardly write. As a
28 result of that other issues regarding work performance,
29 I informed Garda Keogh he would be employed on indoor

1 duties at present, with a review date of 1st November
2 2015. "

3

4 Then he says this, I want to put this to you:

5

15:49

6 "The member acknowledged acceptance of my decision. "

7

8 A. No. No, Judge, no, no. I don't know how he can form
9 that.

10 506 Q. You told us that you didn't object to the decision?

15:49

11 A. That's obviously how he -- because I didn't object, he
12 says I acknowledged. I mean, look, that's -- whatever
13 way, Judge, you wish to interpret that. But in
14 relation to that, the shaking of the hands again, I
15 have seen the notice that I signed that day and my
16 signature is perfect. But I also have my original
17 diary of the entry that I would have written after that
18 meeting. I can hand it in, Judge, for it to be glanced
19 at. It's on 22nd October 2015. Isn't that the date
20 where -- yeah, I have my diary entries that I would
21 have written on that date. If it can be brought up on
22 the screen, Judge.

15:49

15:50

23 507 Q. Perhaps we will come back to that in a moment?

24 A. Well, I think, no, I think that not fair.

25 CHAIRMAN: Don't worry about it, we won't forget that,
26 don't worry.

15:50

27 WITNESS: All right.

28 CHAIRMAN: Yes.

29 508 Q. MR. MURPHY: The evidence that you gave to the Tribunal

1 in relation to this issue last week, could I summarise
2 it as saying you said to the Chairman that this was
3 being put in the worst place, most difficult job?

4 CHAIRMAN: Yes, that's right.

5 509 Q. MR. MURPHY: Sort of Siberia. And that this was 15:50
6 something which really was the end of your career and
7 the end of your working life, that you would never
8 recover from this?

9 A. Just the last bit --

10 510 Q. You said to the Chairman that this is something you 15:51
11 regarded as indicative of coming to the end of your
12 working life, that this was your end your aspirations
13 as a Garda?

14 A. Yes, I knew that.

15 511 Q. Could I ask you to be shown page 14675, please? This 15:51
16 is Volume 52. 14675.

17 A. Yes, 14675.

18 512 Q. Thank you. Garda, these are Facebook messages that you
19 discovered to the Tribunal. Can I refer to you the one
20 in the middle, which is dated 25/10/2015, at 20:18:22. 15:52
21 This is the one that reads, and it's from you~

22

23 "Murray said he putting me as permanent PO next week.
24 Doesn't bother me. Other than that all quiet."

25

26 A. I see that.

27 513 Q. I have to suggest to you that's wildly different to the
28 evidence that you gave to the Tribunal last week and
29 today. That in effect at the time you indicated that

1 as far as you were concerned that didn't bother you and
2 that, other than that, all was quiet?

3 A. Judge, all I can say is that perhaps is bravado to
4 another guard that I know is under serious stress as
5 well.

15:53

6 514 Q. You see, I have to suggest to you, Garda Keogh, two
7 things: It's consistent with the way in which you
8 responded to Superintendent Murray and which he
9 recorded, namely acceptance?

10 A. No, no.

15:53

11 515 Q. I have to put it to you that it's also wildly different
12 to the evidence and the picture you sought to portray
13 in your evidence to the Tribunal last week?

14 A. That's not -- no.

15 CHAIRMAN: Mr. Murphy, when Superintendent Murray says
16 he acknowledged acceptance, I mean the superior officer
17 has said what's happening.

15:53

18 MR. MURPHY: Yes.

19 CHAIRMAN: I mean it doesn't necessarily imply
20 agreement, oh, I see what you mean, and therefore I
21 consent. His consent is irrelevant. The
22 superintendent has decided this is what is happening to
23 you, here is it and I review it and so on. Such is
24 life.

15:53

25 MR. MURPHY: It doesn't indicate what he portrayed as
26 being --

15:54

27 CHAIRMAN: I understand your point about this one. But
28 I am thinking that when it comes back to the -- we
29 shouldn't read too much into Superintendent Murray's.

1 MR. MURPHY: Oh no.

2 CHAIRMAN: I am not suggesting that he intended to mean
3 he consented to this, but it would be too much to read
4 consent into the words of acceptance.

5 MR. MURPHY: Yes, Chairman. No, no, the point I am 15:54
6 seeking to make is that there is no protest, no
7 objection, no horror expressed and far from it.

8 CHAIRMAN: I understand that. Okay.

9 MR. MURPHY: This frank indicator in his private
10 communication suggests that -- 15:54

11 CHAIRMAN: That's fine.

12 WITNESS: Judge, can I just make a point as well.

13 CHAIRMAN: Yes.

14 WITNESS: I see just down from that, which is on 25/10.

15 CHAIRMAN: Yes. 15:55

16 WITNESS: I make a point:

17

18 "Ah, I know, I don't know what he's playing at
19 putting..."

20 15:55

21 And that's a guard.

22

23 "...on my unit."

24

25 CHAIRMAN: Yes. 15:55

26 A. This is the guard that previously pointed out during a
27 phone call on the 15th, when Superintendent Murray
28 rings me, that I had an issue with --

29 CHAIRMAN: I understand, yes, yes.

1 WITNESS: And puts that other guard on my unit.

2 516 Q. CHAIRMAN: I understand.

3 WITNESS: I just wished to point it out, that's all.

4 517 Q. MR. MURPHY: So, just finally I have to put it to you
5 that in effect this indicates that you exaggerated in 15:55
6 your testimony the impact of this decision by
7 Superintendent Murray, in fact it was not as bad or
8 dramatic as you portrayed it to be?

9 A. No, no.

10 518 Q. Thank you. 15:55

11 CHAIRMAN: Now, you wanted us to look at your diary
12 entry because you said that the diary entry for 22nd
13 October 2015 did not support the suggestion of shaking
14 hands incapable of writing an entry. You said that you
15 wrote it on the same day and that we should be able to 15:56
16 observe that. So you said, please, to make sure, and I
17 told you we wouldn't forget it. I am not forgetting
18 it.

19 WITNESS: Judge, I had forgotten.

20 CHAIRMAN: There you go. Now could we have the diary 15:56
21 entry?

22 MR. MURPHY: I think at 13334.

23 CHAIRMAN: Thank you very much. 13334. Thank you very
24 much. Here we are, the 22nd, Thursday, is that right?

25 WITNESS: That's correct. 15:56

26 CHAIRMAN: would you like to read us the relevant
27 entry? It's 3:30, is that right?

28 A. 3:30.

29 519 Q. CHAIRMAN: I'm assuming that's p m. 3:30 in the

1 afternoon, daytime?

2 A. Yes. L61 is in the patrol car.

3 520 Q. CHAIRMAN: well, here we get to the relevant bit?

4 A. Yeah.

5 521 Q. CHAIRMAN: would you like to read it for us? 15:57

6 A.

7 "Serjeant Monaghan says Superintendent Murray looking

8 to speak with me, gave me an appeal sheet re €300

9 discipline, said he was having case conference re my

10 sick and putting me on permanent PO (I never looked at 15:57

11 him). "

12

13 The purpose of this, my writing, Judge.

14 CHAIRMAN: Yes.

15 522 Q. MR. MURPHY: Garda Keogh, just pursuant to that point, 15:57

16 would you confirm that you wrote that some hours after

17 the event?

18 A. Judge, I would have wrote that -- I mean, I would have

19 wrote that --

20 523 Q. At home? 15:57

21 A. That night, or whenever --

22 524 Q. CHAIRMAN: I understand.

23 A. It would have been as soon as --

24 525 Q. CHAIRMAN: what you are saying is, that to write it in

25 that legible fashion is inconsistent with the 15:58

26 proposition that at 3:30, even allowing for some time

27 later in the night, that is inconsistent, you say, with

28 having your hands shaking and generally being in a mess

29 at 3:30?

1 A. Yes, Judge. And there's also my signature earlier on,
2 where I signed the document.

3 526 Q. CHAIRMAN: Indeed.

4 A. Which, I also say --

5 527 Q. CHAIRMAN: You specifically mentioned your diary and 15:58
6 that's the only one and you wanted us to come back to
7 that?

8 WITNESS: Yes.

9 CHAIRMAN: Very good.

10 MR. MURPHY: Perhaps that's a matter for submission at 15:58
11 a later stage.

12 CHAIRMAN: Yes, absolutely, you can make a submission
13 about the implications and inferences and so on.

14 MR. MURPHY: Yes.

15 CHAIRMAN: Thank you very much. All right. So we will 15:58
16 assemble tomorrow for a shorter day, for a half day,
17 for the morning. We will do that as close to 10:30 as
18 I can make it from the ceremonies in the courts, okay.
19 Thank you very much.

20 15:59

21 THE HEARING THEN ADJOURNED UNTIL FRIDAY, 25TH OCTOBER
22 2019 AT 10:30AM

23
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27
28
29