

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

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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 FRIDAY, 25TH OCTOBER 2019 - DAY 108

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

GWEN MALONE STENOGRAPHY
SERVICES

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I N D E X

W I T N E S S

P A G E

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

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

1 THE HEARING RESUMED, AS FOLLOWS, ON FRIDAY, 25TH
2 OCTOBER 2019:

3
4 MR. MURPHY: Good morning, Chair.

5 CHAIRMAN: Thanks very much. Just before we start, I 10:36
6 would like to welcome our registrar, Mr. Peter
7 Kavanagh, and to acknowledge the sterling service
8 offered by Mr. Philip Barnes, our office officer, in
9 his absence. So take a bow, Mr. Barnes, and welcome,
10 Mr. Kavanagh. Thanks very much. 10:37

11 MR. MURPHY: Thank you, Chair.

12 CHAIRMAN: Now, where were we? Yes, I think you were
13 cross-examining Garda Keogh.

14
15 GARDA NICHOLAS KEOGH CONTINUED TO BE CROSS-EXAMINED BY 10:37
16 MR. MURPHY, AS FOLLOWS:

17
18 MR. MURPHY: Yes, Chairman. I propose this morning to
19 move into issue number 12.

20 CHAIRMAN: Thank you very much. 10:37

21 MR. MURPHY: Issue number 12 is the issue raised by
22 Garda Keogh by way of complaint in relation to the
23 alleged misrecording of his sick leave and reduction in
24 salary.

25 CHAIRMAN: Yes, misrecording of sick leave, yes, 10:37
26 certainly, we have been touching on that once or twice.
27 Yes, okay, you know where we are, Garda Keogh.

28 WITNESS: Yes.

29 CHAIRMAN: Thank you.

1 1 Q. MR. MURPHY: Garda Keogh, just to try and shorten
2 matters, I think Mr. McGuinness took you through a lot
3 of documents last week in relation to the question of
4 sick pay related documents and sick related documents,
5 and, in particular, he put to you in part some of the 10:37
6 evidence of Garda Olivia Kelly of Athlone Garda
7 Station. Can I just ask you at the outset, do you
8 accept that Garda Olivia Kelly was the person
9 responsible for making the relevant inputs in relation
10 to the SAMS system, relative to this issue? 10:38

11 A. I can't answer that, because I don't know, but I
12 understand that. Judge, just for your information, I
13 understand there is load of volumes, 53 and 54 are
14 after arriving. I see them behind me. I understand
15 there's stuff in volume 53 to do with this particular 10:38
16 matter, which I have not or my legal team had an
17 opportunity to read.
18 CHAIRMAN: Very good.

19 2 Q. MR. MURPHY: well, insofar as I am going to ask you
20 questions this morning, I will confine them for moment 10:38
21 to the documents that don't exist in that folder and we
22 will see where we stand thereafter. But can I say to
23 you, in terms of Olivia Kelly's document, you've had
24 this one for a long time. Can you be given volume 12,
25 page 3640, please. Can you be given that, please? 10:39
26 MR. O'BRIEN: Chairman, I hate to interrupt Mr. Murphy.
27 CHAIRMAN: Yes, Mr. O'Brien.
28 MR. O'BRIEN: I just notice that my leader and the rest
29 of my team are just not present at the moment. I

1 wonder could we ask you for perhaps two minutes to
2 allow them to arrive.

3 CHAIRMAN: Mr. Barnes is going to check up, they
4 possibly are having a cup of coffee or something like
5 that, assuming that I am going to be a bit later. 10:39

6 MR. O'BRIEN: I think they are here

7 CHAIRMAN: All is well, Mr. O'Brien, all is well. Not
8 that Garda Keogh wasn't extremely well served,
9 nevertheless, it's perfectly understandable Mr. Kelly,
10 you were right to assume probably that I would be later 10:39
11 than I am. So, no problem.

12 WITNESS: Judge, can I just point out to my legal team
13 as well, just for clarification, that there is volumes
14 53 and 54, which none of us -- well, I certainly
15 haven't got to read and they do relate to this 10:40
16 particular topic that I am due to be cross-examined on.

17 CHAIRMAN: Let me stop for a moment. Mr. McGuinness,
18 do you know anything about this?

19 MR. MCGUINNESS: well, I am obviously concerned that
20 there is a complaint from the witness in relation to 10:40
21 material which he says he hasn't seen. There is
22 material in volume 53 relating to Ms. Carr and a series
23 of e-mails. I had opened most of them. I think
24 there's only one or two --

25 CHAIRMAN: Say again, Mr. McGuinness. 10:40

26 MR. MCGUINNESS: There's only one or two perhaps extra
27 relevant documents. I would be perhaps unhappy to
28 proceed with this issue, particularly if there's a
29 protest or a disadvantage being felt.

1 CHAIRMAN: Yes, I understand. If I understand it, just
2 so we are all in the clear about where we go, the
3 Tribunal seeks information from everywhere that it
4 thinks there might possibly be relevant material. But,
5 as will have been noticed in the opening statement, we 10:41
6 do, of course, depend on other people to provide it.
7 which is not to say that I am critical of the provision
8 of materials, because I don't know what the
9 circumstances are which led to delays in supplying
10 material and people have other things to do and so on. 10:41
11 So, I am not getting into a finger wagging exercise.
12 But, we do get in material as the inquiry progresses.
13 would I like it to be otherwise? well, take a guess!
14 I had hoped that we would have served all material, in
15 fact, I naively gave, I suppose you could call it, an 10:42
16 instruction that nothing was to be served after the
17 31st July. well, we live and learn. Material comes in
18 that comes in later and that may or may not be relevant
19 as I see it or as we see it, but somebody else may say
20 that has a different relevance. So, in this situation, 10:42
21 after that little introduction to explain how the
22 situation happens; if somebody wants to make a
23 complaint, they can do so in writing and I will
24 consider that as to whether rebukes ought to be
25 delivered. But I am not going to do so on the blind or 10:42
26 I am not going to do so without having information as
27 to the reason for any late furnishing of materials. I
28 am dealing with the fact, and Garda Keogh says, look
29 here, there's stuff coming in and I think there's

1 material relevant to it and I think it is irresistible
2 that he is entitled to look at that.

3
4 So, I think, Mr. Murphy, we will move on. We can come
5 back to issue 12 on the assumption that the next 10:43
6 issue -- if it is convenient for you to do so,
7 Mr. Murphy.

8 MR. MURPHY: Yes, Chairman.

9 CHAIRMAN: We will leave issue 12, come back to issue
10 12 when everybody has had an opportunity of taking 10:43
11 account of the materials in volumes 51 and 52. For a
12 final comment: One of the issues that every Tribunal
13 wrestles with is the spectra of disclosure and the
14 apprehension that it might happen, that it has been
15 sitting on some piece of paper somewhere in its 10:43
16 archives, that it hasn't disclosed to somebody and then
17 a party, rightly or whatever, a party alleges that that
18 material should have been disclosed. So, we live under
19 a cloud of concern about disclosure. Should it be so?
20 I don't know. That's another day's work that we might 10:44
21 address at the very end of the Tribunal, but we don't
22 need to do it now.

23
24 So, with those, some necessary, some unnecessary
25 remarks -- 10:44

26 MR. MURPHY: Chairman, in those circumstances, could I
27 ask the indulgence of five minutes just to take
28 instructions. I intended to proceed in relation to the
29 commendation issue but I need to discuss with

1 Mr. Kelly, to make the certain that he not going to
2 make point in relation to that issue.

3 CHAIRMAN: Certainly. If you want to check out -- so
4 that we want to cover an issue that isn't troubled by
5 this particular point, okay. 10:44

6 MR. MURPHY: Yes.

7 CHAIRMAN: Mr. McGuinness, are we happy with that?

8 MR. MCGUINNESS: Yes, Chairman, no objection at all.

9 CHAIRMAN: Okay, very good. That gives me an
10 opportunity to go back to the speeches. Thank you. 10:45

11

12 THE HEARING THEN ADJOURNED BRIEFLY AND RESUMED, AS
13 FOLLOWS:

14

15 CHAIRMAN: Thank you. 10:55

16 MR. MURPHY: Thank you, Chairman. I have had an
17 opportunity to speak to Mr. Kelly and, having reviewed
18 the issues, what is proposed is that we will deal with
19 number 15, which is complaints in relation to the
20 alleged denial of commendations. 10:55

21 CHAIRMAN: Thank you.

22 MR. MURPHY: And, if time permits, we will then move to
23 deal with number 17, which relates to the allegations
24 in relation to the Ó Cualáin investigation.

25 CHAIRMAN: Yes. Very good. If it at all possible, I 10:55
26 think we will proceed to lunchtime without a break.
27 But equally, let me know if, you know, if you really
28 can't manage. Okay, thanks. So, we are on number 17,
29 is that right? Commendations.

1 MR. MURPHY: No, 15.

2 CHAIRMAN: I am sorry, 15, commendations. Sorry.

3 3 Q. MR. MURPHY: I think, Garda Keogh, you gave evidence
4 last week in relation to these issues. Can I just deal
5 with the first of the three issues, which is the 10:56
6 question of the incident involving the stabbing of the
7 taxi driver on 3/8/2015?

8 A. Yes.

9 4 Q. With that in mind, could you be shown volume 1, please,
10 page 137. This is your statement made to the Tribunal. 10:56
11 Can I draw your attention, please, to paragraph 17,
12 under the heading "denial of commendations", which is
13 the last paragraph on the page. Thank you. There, I
14 think, your complaint is summarised in the following
15 terms, you say -- 10:57

16 A. Sorry, just the last paragraph on this page relates
17 to --

18 5 Q. The paragraph heading is "17. Denial of
19 commendations", your statement?

20 A. Yes, but you said the last paragraph under -- 10:57

21 6 Q. No, I said the last paragraph marked "Denial of
22 Commendations" 17. Do you see that?

23 A. Are we on the next page, 138.

24 7 Q. 137. Do you see that, Garda Keogh?

25 A. Is's the paragraph to do with taxi driver under "Denial 10:57
26 of commendations" or the next paragraph on the page?

27 8 Q. It's the paragraph under "Denial of commendations". I
28 will just read it to you.
29

1 "A taxi driver was stabbed in Athlone on 3rd August
2 2015. I was involved in the case. I had seized the
3 bloodstained clothes and the car for technical
4 investigation. It was regarded as a success in that
5 inter alia the crime was detected, the scene was 10:57
6 preserved and suspects were apprehended. However, I
7 was taken off the Pulse report. I was taken off the
8 case completely. It was as if any successful operation
9 in which I was involved was to be airbrushed."

10
11 Now, that's the complaint you made to the Tribunal at
12 the outset in relation to this matter. You had been
13 involved, you had done something of practical impact,
14 that you were taken off the case completely and because
15 it was a successful operation, it appeared to you that 10:58
16 you were being airbrushed out of history in relation to
17 the conduct of that investigation.

18
19 Now, in terms of the investigation itself, I think you
20 have told us in your evidence, and there is no need to 10:58
21 review that particular point, that you were present on
22 the night in question and you carried out certain
23 activities. Now, can I ask you to be shown volume 48
24 please, at page 13455. This is a report prepared after
25 the event and after the successful completion of the 10:59
26 investigation. You will see that in section 2, at the
27 top right-hand column of the page, it says:

28
29 "Description."

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And there are two Pulse numbers; is that right?

A. Yes.

9 Q. I think you will agree they were two separate incidents but they were similar in nature?

10:59

A. That's correct.

10 Q. There was a common link between those incidents as well?

A. I understand that.

11 Q. Yes. Not only was there a common link with the accused, it also appeared that the victims were both elderly people and business people who were targeted because of their age and vulnerability?

10:59

A. That's correct.

12 Q. I think it's common case and there is no disagreement, that the victims in both cases received serious injuries, including stab wounds and head injuries, and these robberies occurred 15 hours apart on the same date and were committed by four juveniles?

10:59

A. Yes, Judge, yes.

11:00

13 Q. I think one offender was common to both crimes and all offenders were considered to be part of the same gang, it involved an antisocial and criminal activity in the Athlone area at the time?

A. I understand so.

11:00

14 Q. So, in the aftermath of the incident, I think you have given evidence about what you did. Can I just suggest to you that this report details material, some of which would you not have been aware of at the time, but it

1 reflects the work done by your colleagues, in
2 particular your colleagues in the detective unit, after
3 you ceased to have an active role in this particular
4 investigation.

11:00

5
6 So, first of all, can I draw your attention, please, to
7 section 3. I think that's a section that has been
8 completed by Inspector Eamon Curley, who was then a
9 detective sergeant. Do you see that?

10 A. Yes.

11:00

11 15 Q. I think in the first two paragraphs he details the
12 facts of the assaults and robberies. There is no need
13 for us to progress with those. One assault took place,
14 a robbery took place at 1:40am and the second took
15 place at 17:45 hours.

11:01

16
17 Could I just draw your attention, please, to the next
18 paragraph? Because what the evidence will suggest is
19 this: That the new investigation commenced following
20 the first robbery and expanded to include the second
21 robbery. Do you accept that?

11:01

22 A. Yes.

23 16 Q. It also was indicated that when some elements indicated
24 that the crimes may be the work of the one group of
25 offenders, CCTV examination conducted by your
26 colleagues, Detective Garda Divilly and Cogavin,
27 identified two potential suspects for the robbery of
28 the taxi driver?

11:01

29 A. I understand so, yes.

1 17 Q. I think it's fair to say, you weren't involved in that
2 detection issue?

3 A. Correct.

4 18 Q. Then consequently, a search under warrant was conducted
5 on 5/8/2016 at a house [inaudible], and that resulted 11:02
6 in the recovery of clothing worn one-by-one of the
7 robbers and the arrest of a suspect, Mr. Blank. I
8 think you will agree with me, you weren't involved in
9 that either?

10 A. Correct. 11:02

11 19 Q. So, following from that advancement of the detection
12 process in the investigation, enquiries were conducted
13 during the detention of the first suspect, which led to
14 the identification of the other two suspects and that
15 led your colleagues to call to a home in Athlone and 11:02
16 that resulted in the arrest of two further suspects. I
17 think you weren't involved in that either?

18 A. Correct.

19 20 Q. The report then goes on to say:
20 11:02

21 "The investigations continued throughout 5/8/2016 and
22 into 6/8/2016 and led to the identification and arrest
23 of two further suspects, namely blank and blank. And
24 by early morning of the 6/8/2016, all the suspects were
25 in custody. Continued interviews in the day resulted 11:02
26 in the recovery of firearm, an imitation firearm, and a
27 baseball bat. Four offenders made extensive admission
28 to their involvement in the robberies that occurred.
29 One male was released without charge, namely blank, but

1 his arrest was instrumental to the success of the
2 investigation. "

3
4 I think it's fair to say you weren't involved in that
5 work either? 11:03

6 A. That's correct.

7 21 Q. So, insofar as the searches, the detection, the
8 identification, the arrest, the detention, the
9 management of the investigation, you weren't involved
10 in that at all? 11:03

11 A. That's correct. I was involved at the very start of
12 it, at the scene.

13 22 Q. I think it's fair to say you also weren't involved in
14 the prosecution and you weren't involved in the
15 recovery of weapons? 11:03

16 A. I was never even asked to make a statement in relation
17 to being at the scene or in relation to the evidence
18 that I seized at the scene.

19 23 Q. I wonder if I could ask you, please, to take out your
20 diary for 5/8/2016, please. 11:03

21 A. '16?

22 24 Q. Yes, please. Your diary, please, for the 5th August
23 and 6th August 2016, please.

24 A. '16?

25 CHAIRMAN: Are you sure it's 2016? The incident
26 happened in '15. 11:04

27 MR. MURPHY: Sorry.

28 CHAIRMAN: No, it's okay. If are you moving to
29 something else, well and good.

1 MR. MURPHY: I beg your pardon, this may be a
2 typographical error.
3 CHAIRMAN: It's all right.
4 MR. MURPHY: Yes, 2015, Chairman.
5 CHAIRMAN: 5th August '15, is that right? 11:04
6 MR. MURPHY: Yes.
7 CHAIRMAN: Thanks.
8 MR. MURPHY: That, Chairman, can be seen at page 13323,
9 please, of the materials. 13323. Thank you.
10 CHAIRMAN: Thank you. 11:04
11 25 Q. MR. MURPHY: So, just to be clear, on the 5th, which
12 was the day referred to in the report, I think you have
13 the letters RD in your diary, which I think we
14 understand to be rest day.
15 A. That's correct. 11:05
16 26 Q. On the next day, the 6th, you have also rest day?
17 A. Yes.
18 27 Q. And on the day before, the 4th you have rest day?
19 A. The day before the 4th.
20 CHAIRMAN: No the day before, the 4th, rest day. 11:05
21 A. Yes.
22 28 Q. MR. MURPHY: So on the 4th, the 5th and 6th, these were
23 rest days, you weren't on duty at all?
24 A. That's correct.
25 29 Q. During those days, would you agree with me, that the 11:05
26 report indicates that all of the significant
27 developments in terms of detection, identification,
28 search, arrest, interrogation, identification of
29 suspects, decisions to prosecute, communications to the

1 DPP, prosecution and arrival in court, were dealt with
2 by your colleagues in the detective unit and not by
3 you?

4 A. That's correct. They did great work and there is no
5 issue there. 11:05

6 30 Q. Just turning over the page, please, to page 13456.
7 Matters progress even better, because it turned out, in
8 the third paragraph, that all four offenders were
9 charged with robbery and each of them pleaded guilty
10 and all were remanded in custody for sentence. Do you 11:06
11 see that?

12 A. Yes.

13 31 Q. Yes. Then, if I can ask you to look at the last half
14 of the page, under the heading "Summary of involvement
15 of members in the investigation". Do you see that the 11:06
16 identification of Detective Garda Cogavin, Garda
17 Divilly, and let's look at what they were doing, on the
18 right-hand column. Do you agree with me that it says,
19 for example, Detective Gard Cogavin identifies
20 suspects, arrested suspects, charged, court attendance. 11:06
21 Do you see that?

22 A. Yes.

23 32 Q. Garda Divilly identified suspects, arrested suspects,
24 charged, court attendance. Do you see that?

25 A. That's correct. 11:07

26 33 Q. Garda Sharon McMeeting was responsible for arresting a
27 suspect?

28 A. Yes.

29 34 Q. Garda Brian Keane was involved in arresting a suspect?

1 A. Yes.

2 35 Q. Sergeant Yvonne Martin was involved in executing the
3 search warrant and assisting the investigation?

4 A. Yes.

5 36 Q. Garda Turner was involved in file preparation? 11:07

6 A. Yes.

7 37 Q. Garda Connolly was involved in interviewing the
8 prisoner?

9 A. Yes.

10 38 Q. Detective Sergeant Curley was coordinating the
11 investigation?

12 A. Yes.

13 39 Q. Garda Shankley was interviewing suspects and attended
14 at court for the charging?

15 A. Yes. 11:07

16 40 Q. Garda Shane O'Connell was there for the arrest of the
17 suspect?

18 A. Yes.

19 41 Q. Garda Damien O'Rourke was an interviewer?

20 A. Yes. 11:07

21 42 Q. And also involved in the recovery of weapons?

22 A. Yes. And there's no issue, Judge, with any of that.

23 43 Q. Well, can I just suggest to you that there is also no
24 issue that you didn't play any part in the actions that
25 were identified as being material, important and 11:07
26 excellent in relation to the investigation, detection
27 and apprehension of these offenders, because you were
28 on your rest day when both of these investigations were
29 taking place?

1 A. Judge, I have to dispute that, because at the scene, at
2 the scene and I think it's the first robbery where we
3 go to, where we get the blood stained clothing and take
4 in the car, we can't see into the future that there's
5 going to be another robbery or more evidence or 11:08
6 anything. So, I mean, at that point in time, we don't
7 know who -- like, obviously the blood from the taximan,
8 but there potentially could have been blood from one of
9 the perpetrators. And equally, in the car, they were
10 in the car, so, I mean, potentially there could have 11:08
11 been evidence in the car. So, for that argument to be
12 put, that I had nothing to do with anything, me or my
13 colleagues that were with me that night, and preserving
14 the scene and all the work we had done, I have to
15 dispute this part of it. Because we were there from 11:08
16 the start, Judge, and there's a continuity on the whole
17 thing. And I totally accept, after the second robbery,
18 more progress, more evidence and all the rest comes to
19 light. But at the time we did things right and that's
20 my case. 11:09

21 44 Q. You see, Garda Keogh, you also have accepted that none
22 of the members of your unit who were there at the
23 beginning received a commendation either, isn't that
24 right?

25 A. That's my case. 11:09

26 45 Q. So I have suggest to you that that indicates that you
27 weren't singled out for any specific targeting, but
28 rather the commendation went for the quality of the
29 detection and investigation, identification and

1 apprehension of the suspects, as the documents
2 indicate?

3 A. I dispute that, Judge. I believe and what would --
4 what has happened previously, where I am aware of, is,
5 that the persons that would arrive at the scene would 11:09
6 all get a commendation. My point is that the members
7 on the unit didn't get -- my unit get a commendation
8 because I was there. If I wasn't there --

9 46 Q. CHAIRMAN: They'd have got a commendation if you hadn't
10 been there. That's your case? 11:10

11 A. Yes, Judge.

12 CHAIRMAN: That's your case.

13 47 Q. MR. MURPHY: Have you any evidence to suggest that that
14 was why the decision was made by your superiors? Yes
15 or no? 11:10

16 A. I mean, I have been totally removed off the Pulse
17 system.

18 48 Q. CHAIRMAN: Your case, if I understand, is that in
19 normal circumstances when commendations were going,
20 they would go to everybody from top to bottom involved 11:10
21 in the case.

22 A. Yes.

23 49 Q. CHAIRMAN: However, senior people or people preserving
24 the scene or whatever it was. And in this case, as you
25 said, the others suffered because you were involved and 11:10
26 you say there was a decision taken. Who took that
27 decision, do you say?

28 A. Judge, from reading the documents --

29 50 Q. CHAIRMAN: I mean, are you in a position to say that?

1 A. Yes, I think so.

2 51 Q. CHAIRMAN: I don't want you to speculate. If you don't
3 know, say you don't know.

4 A. Just from recollection and quoting, Superintendent
5 Murray, I think in his statement or somewhere, says I 11:11
6 took a hands on approach to this case.

7 52 Q. CHAIRMAN: That he took a hands on approach?

8 A. Yes.

9 53 Q. MR. MURPHY: Did you also see the next sentence, after
10 the one you've just quoted, where he says, and this is 11:11
11 at page 3093:
12
13 "I had no knowledge of Garda Keogh's involvement."
14

15 CHAIRMAN: Just respond to Mr. Murphy. 11:11

16 54 Q. MR. MURPHY: The following words, that you have chosen
17 to ignore, are that he said:
18
19 "I had no knowledge of Garda Keogh's involvement. I
20 don't think he supplied a statement to the 11:11
21 investigation file which went to the DPP."
22

23 Is that correct?

24 A. Judge, I was down at the time originally. I rang on
25 the incident onto GISC, I put it onto Pulse. 11:11

26 55 Q. CHAIRMAN: Yes.

27 A. Judge, I was down originally as the investigating
28 member.

29 56 Q. CHAIRMAN: Yes.

1 A. Now, as I said, I've no issue with the detective branch
2 coming in and taking over the case, that's the norm.
3 But I should have been removed from investigating
4 member to assisting member with everybody, all the rest
5 of my unit. But I actually get removed completely off 11:12
6 the Pulse system for that particular incident.

7 57 Q. MR. MURPHY: You see, Garda Keogh, I have to suggest to
8 you that what is clear from the evidence of
9 Superintendent Murray is that a file was done and
10 completed through the incident room, is that right? 11:12

11 A. Sorry?

12 58 Q. Line 1306, please at page 3093. It's the file you have
13 just been given.

14 A. Judge, I was never asked to give a statement.

15 59 Q. Superintendent Murray will say that he didn't think you 11:12
16 supplied a statement, I think you have confirmed you
17 didn't, and he will also say that the file was done and
18 completed through the incident room and that he and the
19 chief superintendent visited one of the victims the
20 evening after it happened, that he had no knowledge 11:12
21 that you were involved in this incident?

22 A. I can't accept that, for the fact I was down on Pulse
23 as investigating member. So, my name would have been
24 at the very top when whoever clicked onto Pulse to view
25 the actual incident, they could not have but seen my 11:13
26 name as investigating member at the start.

27 60 Q. CHAIRMAN: what does it mean to say the file was done
28 and completed through the incident room? what does
29 that mean?

1 A. The incident room would be for a serious incident,
2 Judge. For example, in my original heroin case, the
3 incident room, we said was Oranmore in Galway, where
4 there is a book where they mark out all the job sheets
5 for the purpose of taking statements and all the rest. 11:13

6 61 Q. CHAIRMAN: The centre, in other words?
7 A. Yes, Judge.

8 62 Q. CHAIRMAN: There would be a specific room if it's a
9 serious crime?
10 A. Yes. 11:13

11 63 Q. CHAIRMAN: And that's called the incident room?
12 A. Yes. Every murder, for example, would have an incident
13 room.

14 64 Q. CHAIRMAN: When he says it was done through the
15 incident room, what does he mean? He is saying that 11:13
16 means that he had nothing to do with it? Is that what
17 he's saying?
18 A. I don't know what he's saying.

19 65 Q. CHAIRMAN: You don't know?
20 A. I don't know what he's is saying. 11:13
21 CHAIRMAN: Okay, that is all right.

22 66 Q. MR. MURPHY: But were you involved in the incident
23 room?
24 A. No.

25 67 Q. Thank you. So what he is indicating is, the incident 11:14
26 room, the persons involved in that room were
27 coordinating and organising the investigation; isn't
28 that correct?
29 A. Judge, the incident room, as I said, like I should have

1 been asked to make a statement. I was at the scene and
2 for gathering evidence and continuity, all that side of
3 things.

4 68 Q. We do know, Garda Keogh, from the file we read out a
5 minute ago, that part of the success of this operation 11:14
6 was that all of the accused pleaded guilty at the first
7 opportunity, before any Book of Evidence had been
8 prepared, isn't that right?

9 A. I accept that.

10 69 Q. So in other words, part of the success of this swift, 11:14
11 thorough, excellent investigation, was that the
12 defendants faced reality straightaway, pleaded guilty
13 and went into custody within a very short time?

14 A. No dispute.

15 70 Q. I appreciate that there had been a trial on indictment, 11:14
16 a larger advice of proofs might have required more
17 statements, but would you agree with me, Garda, that
18 also none of the members of your unit made statements
19 either?

20 A. I'm not aware, Judge, of that. 11:15

21 71 Q. Okay

22 A. Then again, Judge, for purposes of continuity, you see,
23 it was me that seized the --

24 72 Q. CHAIRMAN: If the matter had gone to trial.

25 A. Yes. 11:15

26 73 Q. CHAIRMAN: You would have been asked to make a
27 statement for the Book of Evidence, to link up the
28 evidence, isn't that right?

29 A. Yes. Well, you see, I'm removed off the Pulse system,

1 so...

2 74 Q. CHAIRMAN: But irrespective of the Pulse system, if you
3 took possession of the clothing, you would have had to
4 make a statement?

5 A. Correct. 11:15

6 75 Q. CHAIRMAN: You would need that for the Book of
7 Evidence?

8 A. Correct, Judge.

9 76 Q. MR. MURPHY: Just turning, if you would, please, to
10 page 3094. You see in the second line, Superintendent 11:15
11 Murray will say that he will interpret the fact that
12 there was no statement on the file as indicating that
13 you had very little or no involvement in the case and
14 that he believes from subsequent enquiries that he
15 discovered that you handed in a piece of clothing to 11:16
16 the exhibits officer, is that correct?

17 A. That's what Superintendent Murray has stated. So he
18 does know there's -- that I have some involvement then
19 in the case.

20 77 Q. Based on -- 11:16

21 A. A minute ago, Judge, I had no involvement in the case
22 and now we're coming to this part where I handed in a
23 piece of clothing to the exhibits officer.

24 78 Q. Sorry, based on --

25 A. So... 11:16

26 79 Q. Based on his response to your complaint, he becomes
27 aware of that fact. He also says, at line 1310, that
28 anyone who accesses Pulse leaves a footprint, there is
29 an audit trail of anyone who entered the incident and

1 he can't see anyone having any reason to do what you
2 allege?

3 A. Judge, it's in the documents that I was clearly removed
4 from the Pulse system. It was me that put the incident
5 onto Pulse. I've read the transcript, there's a 11:16
6 recording on the transcript where I put the incident
7 onto Pulse and put all the details onto Pulse. I put
8 all the guards that were at the scene with me, Sergeant
9 Monaghan was in charge then at that scene. He had done
10 a great job in that part of it. 11:17

11 80 Q. CHAIRMAN: I understand. But let me see if I
12 understand and please correct me, this could be
13 important, I don't know. We don't know, at the end of
14 the day. My understanding is not that you said he
15 played an important part in the investigation. You 11:17
16 accept, if I understand, that you played no part in the
17 investigation. You were the first officer on the scene
18 and you did what was proper for an officer, a first
19 attender at the scene, which is to -

20 A. Gather evidence. 11:17

21 81 Q. CHAIRMAN: - preserve evidence. I suppose make sure
22 that the victim was all right and preserve evidence and
23 do all those things?

24 A. Yes.

25 82 Q. CHAIRMAN: You did, with your colleagues you attended 11:17
26 to those things and you say you did so properly and
27 competently?

28 A. Yes, Judge.

29 83 Q. CHAIRMAN: But you accept that in the scale of an

1 investigation that is only the first part of it, you
2 were going off duty, the matter was then take every
3 over by the detectives and they did very good work?
4 A. Yes.
5 84 Q. CHAIRMAN: Everybody seems to agree. Sorry, your case 11:18
6 is simple, in those cases in other circumstances where
7 a commendation is made, it's given to everybody
8 involved from start to finish?
9 A. Yes, Judge.
10 85 Q. CHAIRMAN: Top to toe. 11:18
11 A. Yes, Judge.
12 86 Q. CHAIRMAN: In this case, the first responders were
13 excluded because you were among them?
14 A. That's my case.
15 87 Q. CHAIRMAN: That's your case. 11:18
16 A. That's what I believe.
17 88 Q. CHAIRMAN: That's what you are saying.
18 A. Yes.
19 89 Q. CHAIRMAN: So, who ever decided not to give
20 commendations, you say deliberately decided not to give 11:18
21 the others commendations because they wanted to make
22 sure that you didn't get one?
23 A. Yes, Judge. I have often got commendations in the past
24 for far less.
25 90 Q. CHAIRMAN: That's the case? 11:19
26 A. Yes.
27 CHAIRMAN: That is the case. Thank you.
28 91 Q. MR. MURPHY: Garda Keogh, do you agree that view is
29 based on your perception, not on any evidence that you

1 have, that a decision was taken to exclude from
2 commendations or to exclude you from any recognition in
3 this case? Do you have any evidence?
4 A. Judge, there is evidence, there's evidence in the
5 documents. I mean we've just heard, a question that 11:19
6 was put to me, if I recollect correctly, I had nothing
7 to do with it at all. And then it transpires that I
8 may have found a piece of clothing. We now know I put
9 the incident onto Pulse. We now know that I was
10 removed from Pulse. Superintendent Murray says he took 11:19
11 a hands on approach to the incident. Judge, I believe
12 all that is evidence in relation to this particular
13 matter.
14 92 Q. I have to suggest to you that it's not. And again this
15 is more speculation and supposition on your part and 11:19
16 more fixation with Superintendent Murray, seeking to
17 blame him for everything about which you make
18 complaint. Can I ask you to turn, please, to 14706 in
19 volume 52? So, this is a note sent by Detective
20 Sergeant Monaghan at 4:33am. That's for the attention 11:20
21 of the superintendent, that's Superintendent Murray,
22 and it's on the morning of 4th August 2015. It makes
23 reference to the incident which occurred at 1:35am. Do
24 you see that?
25 A. I see that. 11:21
26 93 Q. Do you see in the middle of the line there is a
27 description of the offence and then it says this:
28
29 "Garda CCTV was viewed. Further enquiries have to be

1 carried out in relation to local CCTV. Family members
2 were contacted. Garda Keogh's investigating member
3 will attend to further enquiries when he returns from
4 rest days. A search was carried out by members under
5 the blank and in the general area where the incident 11:21
6 happened and nothing was found. Forwarded for your
7 information please. Sergeant Derek Monaghan. "

8
9 A. I see.

10 94 Q. So, Sergeant Monaghan is recognising your role in the 11:21
11 early part of that investigation but is also
12 acknowledging that you have gone on rest days?

13 A. I have no dispute. Bear in mind, Judge, we don't know
14 at the time there is going to be a second robbery.

15 95 Q. It will be Superintendent Murray's evidence that he 11:21
16 didn't see this e-mail at the time and this is
17 something which that been brought to light only in more
18 recent times?

19 A. Sorry, can you just repeat that, please?

20 96 Q. Yes. Superintendent Murray will indicate that he did 11:21
21 not see this e-mail, which is sent at four o'clock in
22 the morning, but this has been brought to his attention
23 in more recent times, through the discovery process.

24
25 would you agree with me, what that indicates is that 11:22
26 you were off on rest days, that's common case, but what
27 happened after you went off duty was that all the
28 investigation morphed, became more complicated,
29 connected with a second investigation, brought in the

1 detective unit and the entire thing transformed into a
2 much, much larger investigation, isn't that true?

3 A. That's correct.

4 97 Q. Just one of the points that you have been to the
5 Chairman throughout the process of your evidence this 11:22
6 morning is that it's standard practice or almost an
7 entitlement that if you are part of an investigation
8 team, you're entitled to a commendation. Could I ask
9 if the witness could please be shown --

10 A. Sorry, I didn't -- that's over stretching it a bit. 11:22

11 98 Q. Okay. Please indicate how far you'd stretch it, how
12 far you'd say there's an entitlement to an award?

13 A. Judge, in relation to a case like this where there was
14 a successful outcome, like a big case like this, this
15 is a robbery, a violent robbery, you know, where there 11:23
16 is a successful outcome.

17 99 Q. The success then, is what you say, of the entire
18 operation is that every person involved in any role
19 whatsoever in the process is automatically entitled to
20 a commendation, is that your case? 11:23

21 A. No, I didn't say that. I have often been involved in
22 cases where, for example, I was Member in Charge and I
23 didn't receive a commendation. That's fair enough, and
24 in certain roles. But for the purposes of at the
25 scene, at the scene it's different, because you are 11:23
26 there from the start.

27 100 Q. Okay. If I can ask you to be shown book 26 and 27,
28 please, at page 7973. This is chapter 13 of the
29 relevant element of the Garda Code, which deals with

1 commendations. Can I just draw your attention to
2 clause 13.1. Perhaps I can just read that into the
3 record, it says:

4
5 "A commendation shall be awarded to members of An Garda 11:24
6 Síochána not above the rank of inspector who, in the
7 opinion of the divisional commendation committee, has
8 made a particular contribution beyond what is expected
9 in the course of their normal duty or in respect of an
10 occasion where the member performed excellent police 11:24
11 work. The commendation system is applicable to all
12 areas of policing and support work."

13
14 Just breaking that down, would you agree with me, that
15 indicates that the decision to award is based on the 11:25
16 opinion of a divisional commendation committee?

17 A. I don't dispute that. But Judge, just the last line of
18 that paragraph, just to bring to your attention:

19
20 "The commendation system is applicable to all areas of 11:25
21 policing and support work."

22
23 101 Q. Yes. And in terms of the commendation that's based on
24 the information that's made available to the divisional
25 commendation committee, isn't that right? 11:25

26 A. I understand. I don't know.

27 102 Q. And you have seen the information that was made
28 available to them, isn't that right? You have seen the
29 form that Inspector Curley filled out that we went

1 through a few minutes ago?

2 A. which? Can we go back to that?

3 103 Q. Yes. Volume 48, page 13456, please. Just to start
4 with, can you turn over to the next page, you will see
5 a box, section 6, to be completed by the divisional 11:26
6 commendation committee?

7 A. Sorry, Judge, I have a different -- I am on page --

8 104 Q. 13456?

9 A. Oh sorry. 13457.

10 105 Q. Yes, on 13457 you will see the box to be completed by 11:26
11 the divisional commendation committee. Do you see
12 that?

13 A. Yes.

14 106 Q. In terms of that box, it indicates the opinion of that
15 committee. Then turning back to the previous page, 11:26
16 13456, is the page we read out a few minutes ago, which
17 you see. Now, I have to suggest to you, that's the
18 information that was considered by the divisional
19 committee and upon which it based its opinion. Would
20 you agree with that? 11:27

21 A. I can't disagree -- well --

22 CHAIRMAN: Go back to the previous one, if you wouldn't
23 mind, the previous page. Just scroll up to the
24 previous page.

25 MR. MURPHY: That's 13457. 11:27

26 A. You see, who is the committee? I don't know who the
27 committee are. And the other thing is, as I stated,
28 Judge, Superintendent Murray states he took a hands on
29 approach.

1 107 Q. CHAIRMAN: Sorry, hold on.
2 A. Yes.
3 108 Q. CHAIRMAN: Mr. Murphy is asking this question?
4 A. Yes.
5 109 Q. CHAIRMAN: This is what the Curley report said. 11:27
6 Mr. Murphy's question is this: Assuming this was the
7 material before the committee, howsoever it was
8 composed, it didn't include your name, rightly or
9 wrongly. Do you see what I mean?
10 A. I do. 11:28
11 110 Q. CHAIRMAN: That's what he's getting at.
12 A. Yes.
13 111 Q. CHAIRMAN: He says, there's the information. Now, I
14 don't know whether that's the information or the only
15 information that was before the committee or whether 11:28
16 the members of it knew more or less or should have
17 known more or less. I don't know anything about that.
18 But he says on the basis of that your name isn't it,
19 therefore you wouldn't have got a commendation. That's
20 his point. What do you say to that? 11:28
21 A. Well I, say to that --
22 112 Q. CHAIRMAN: I mean, I understand your case, that I
23 understand, but Mr. Murphy is cross-examining you and
24 he says, what do you say to that, and I want to know
25 what do you say to that? 11:28
26 A. I just see somewhere here, just there's executive
27 search warrant and assist in investigation.
28 113 Q. CHAIRMAN: Yes.
29 A. But my argument is that I would have seized the

1 evidence at the scene.

2 114 Q. CHAIRMAN: No, no, no.

3 A. And the whole thing with the taxi driver.

4 115 Q. CHAIRMAN: Do you understand the question?

5 A. I'm not sure, Judge. 11:28

6 116 Q. CHAIRMAN: Okay.

7 A. If you can go again, please.

8 117 Q. CHAIRMAN: No problem. Take your time. If the
9 committee simply had the Curley report in front of it,
10 the only people who might get commendations are the 11:29
11 people named?

12 A. I agree on that.

13 118 Q. CHAIRMAN: And you agree?

14 A. I agree on that, yes, Judge.

15 119 Q. CHAIRMAN: Now whether that should be the situation is 11:29
16 another day's work?

17 A. Yes.

18 CHAIRMAN: Okay.

19 120 Q. MR. MURPHY: Garda Keogh, just looking again, please,
20 at page 13457. If you look at section 6. The chief 11:29
21 superintendent is chief superintendent Galton; is that
22 right?

23 A. Yes.

24 121 Q. The second superintendent is Alan Murray, and the third
25 is? 11:29

26 A. Thomas Malarkey.

27 122 Q. Malarkey. So they are the decision-makers in relation
28 to this issue?

29 A. Yes.

1 123 Q. And insofar as Superintendent Pat Murray has any role,
2 if you look at section 5, you will see as report passes
3 up from Inspector Curley, or Sergeant Curley at that
4 stage, to the superintendent, he writes in section 5:
5
6 ""the investigation work carried out on these two cases
7 was of a very high quality. The suspects were
8 identified using sound police work and it was a basis
9 for bringing the case to a conclusion. The culprits
10 are before the Circuit Court." 11:30
11
12 A. Yes.
13 124 Q. So, his only involvement there was to say this was a
14 very good investigation?
15 A. Yes. Judge, I think you addressed it in the last 11:30
16 question you asked me in relation to the nominations,
17 let's say, for commendations. Chief Super Galton,
18 Super Alan Murray and Super Malarkey, they could only
19 work on what was in front of them.
20 125 Q. CHAIRMAN: That much is clear? 11:30
21 A. Yes.
22 126 Q. CHAIRMAN: They are in the clear?
23 A. Yes.
24 127 Q. CHAIRMAN: So they had nothing to do, so to speak?
25 A. Yes. 11:31
26 CHAIRMAN: They are the review committee or whatever
27 you call them, the DCC?
28 128 Q. MR. MURPHY: Is it also the case that Inspector Curley
29 is someone against whom you made no complaint in

1 relation to these, he is the person who prepared the
2 report?

3 A. Judge, I understand that. I understand that --

4 129 Q. Pardon me. Yes.

5 A. Yeah. No, Judge, look, as I said, I have read so much 11:31
6 in documents and that. But I accept that Inspector
7 Curley...

8 130 Q. So, what I have to suggest to you, Garda Keogh, is that
9 the evidence in the case, now not perception but the
10 evidence, is that Inspector Curley, then a sergeant, 11:31
11 filled out the form, the form reflected an accurate
12 assessment of the merging of the two investigations and
13 the detection elements which are identified for
14 specific praise, that Superintendent Murray didn't get
15 in the way of that report, on the contrary, he 11:31
16 effectively approbated the applause and commendation
17 given to these particular members and the committee
18 which made the decision did so on the basis of the
19 information available to it, in accordance with
20 standard practice of chapter 13? 11:32

21 A. I don't -- I can't agree with that because
22 Superintendent Murray stated he took a hands on
23 approach -

24 131 Q. Yes.

25 A. - in relation to this investigation. 11:32

26 132 Q. Insofar's as he did so, I say that there is no evidence
27 to demonstrate that he targeted you, sought to
28 discredit you, sought to damage you. In fact, all the
29 evidence is that Inspector Curley was the person

1 involved in the assessment of the investigation, in the
2 joint investigation, the person who carried out the
3 report and at least three senior officers are the
4 people who made the decision?

5 A. Judge -- 11:32

6 133 Q. CHAIRMAN: Do you think Inspector Curley should have
7 included the first responders? I know that's a general
8 expression, but the people who were on the scene and
9 recovered and looked after the taxi driver and so on
10 and then the people at the shop as well? 11:32

11 A. I think he should have, yes. Because, Judge, I have
12 often been at different incidents like that, where you
13 would just be even preserving the scene and that.

14 134 Q. CHAIRMAN: That would be reported?

15 A. Ah yeah, you would get -- I mean, in this incident, 11:32
16 Judge, as I said, it's not that I am even down graded
17 from investigating member to assisting member, which
18 would be the norm, I am completely removed from the
19 scene whatsoever according to Pulse.

20 135 Q. CHAIRMAN: But do you think that Inspector Curley made 11:33
21 a mistake in what he did?

22 A. I don't know what -- I can't explain and I can't
23 explain.

24 136 Q. CHAIRMAN: I know you're not making a complaint against
25 him but I mean we all make mistakes and whatever it is. 11:33
26 Is that what we are talking about here?

27 A. Well, Judge, as I have stated, and I don't want to
28 repeat myself because I know you could hop off me.

29 137 Q. CHAIRMAN: No, don't worry, there's no question. This

1 is Friday, it's all right.

2 A. Grand.

3 138 Q. CHAIRMAN: Go on.

4 A. Judge, I suppose from my point of view, I came in to
5 work at some stage after I'd come back from the rest 11:33
6 days and I clicked onto the incident, and obviously I
7 would have become aware there was a second robbery and
8 that there was more progress during the week. But when
9 I went onto the --

10 139 Q. CHAIRMAN: And you discovered you had vanished? 11:33

11 A. I discovered that I was gone.

12 140 Q. CHAIRMAN: Okay.

13 A. I wasn't even down as an assisting member.

14 CHAIRMAN: Okay.

15 141 Q. MR. MURPHY: Just on that point, Garda Keogh, I have to 11:34
16 suggest to you that there is no evidence that Inspector
17 Curley set out to discredit you or target you when he
18 went and filled out that form?

19 A. I --

20 142 Q. CHAIRMAN: He's not suggesting that. In fairness, 11:34
21 you're not suggesting anything like that?

22 A. No.

23 CHAIRMAN: No, no.

24 143 Q. MR. MURPHY: And I have to suggest there is no evidence 11:34
25 to suggest that Superintendent Murray was guilty of any
26 targeting or discrediting insofar as he played any role
27 in the process of that particular recommendation?

28 A. Judge, I suppose that's something, you will have to
29 decide on that, I suppose. I can't answer that, Judge.

1 CHAIRMAN: Okay.

2 144 Q. MR. MURPHY: Can we move then, please, to the issue on
3 22/9/2015. Can you please be given volume 1, page 137.
4 I think you have given evidence --

5 CHAIRMAN: Just in time. 11:35

6 145 Q. MR. MURPHY: Could I ask you please to be shown volume
7 1 at page 91. This is where you spoke to the Tribunal,
8 effectively complaining that you had not been given a
9 commendation in relation to the rescue from the Shannon
10 and that the award that was given under the Irish water 11:36
11 safety was only really some kind of belated
12 afterthought, triggered by the fact that you had issued
13 an application to the Personal Injuries Assessment
14 Board in respect of a civil action against the Gardaí.
15 Now, you remember your evidence last week to 11:36
16 Mr. McGuinness about that?

17 A. Yes, I do.

18 146 Q. Yes.

19 A. I think I accepted in relation to the PIAB thing.

20 147 Q. That's right, yes. 11:37

21 A. But, Judge, I think it was also established that Irish
22 water safety award, it wasn't even -- the
23 recommendation didn't come for two months after the
24 incident.

25 CHAIRMAN: Yes. 11:37

26 A. Which is very -- two months of a length of time where
27 there's so many other incidents going on. That's very
28 curious.

29 148 Q. MR. MURPHY: Garda, is there any time limit that has to

1 be applied for these things? Are you saying there is a
2 minimum time limit that has to be observed in relation
3 to awards?
4 A. No. And going off the subject onto this awards thing,
5 Judge, is a red herring. It's to do with Garda 11:37
6 commendation is the complaint, nothing to do with
7 awards.
8 149 Q. In terms of this situation, the position is that you
9 are saying this was a guise. Do that in your statement
10 at line 1321. I have to suggest to you, there is no 11:37
11 evidence to suggest a guise on the part of
12 Superintendent Murray or anyone else?
13 A. Judge, two months afterwards something -- I haven't got
14 to go through this again properly, because it only
15 cropped up last week in relation to the two months part 11:38
16 so...
17 150 Q. What was brought up last week was that you were wrong
18 in the previous sentence, where you said:
19
20 "This coincides with the issuance of and the Garda's 11:38
21 receiving my application for the personal injury
22 assessment board in respect of my civil proceedings
23 against the Gardaí."
24
25 Now, you very fairly said you were wrong in that, wrong 11:38
26 by about a year.
27 A. I stated I was wrong last week. I am only stating a
28 few minutes, or a few seconds ago even that I was wrong
29 or incorrect on that.

1 151 Q. And again, just so we understand your mindset when you
2 spoke to the Tribunal investigators in 2018, just a
3 year ago, for that reason you said, the reason why you
4 were wrong, you were suggesting that there was a guise.
5 So I have to suggest to you there is no evidence to 11:38
6 support your claim in 2018 that this was a guise, would
7 you agree with that? Because it was based on the false
8 premise that PIAB was connected to this process.

9 A. Judge, we are going off the subject. The subject is to
10 do with Garda commendations not the water safety 11:39
11 awards.

12 152 Q. No, no, Garda Keogh what you are seeking to get away
13 from here is that in 2018, to the Tribunal
14 investigators, you made a very high case, the case that
15 this was deliberate, it was a guise, it was a trick, it 11:39
16 was a fraud perpetrated on you because this was all to
17 avoid the PIAB application, which you now accept was
18 wrong. So I am asking you to accept where you are
19 wrong about that, you are also wrong to try to suggest
20 there was any guise? 11:39

21 A. I can't accept that, Judge, because I'm still
22 suspicious of why it was two months after. -

23 153 Q. CHAIRMAN: No, that's a different question.

24 A. Right.

25 154 Q. CHAIRMAN: Mr. Murphy is entitled to ask you the 11:39
26 question. My understanding was that you made the case
27 that Superintendent Murray responded to the PIAB
28 application by fixing it so that it would appear that
29 he was more generous than he was, so that he appeared

1 to be a good person by recommending you for the Seiko
2 award. That's the case you made. Now, Mr. McGuinness
3 pointed out to you that that was wrong and you accepted
4 that in factual terms you cannot make that case because
5 the time simply does not permit it. 11:40

6 A. Okay.

7 155 Q. CHAIRMAN: I mean, that was the date. There's no
8 point, we don't have to worry about this, it's gone as
9 an allegation. You have, it seems to me, come back to
10 the position, oh well, look, it took him two months to 11:40
11 do it. And now you're complaining that it took him two
12 months to do it. Now, maybe you're right to say it
13 took him two months to do it, but what's the
14 significance, what is so sinister about the two months,
15 it's nothing to do with PIAB, why is two months 11:40
16 sinister? That's the question that we're exploring?

17 A. Judge, my issue on this was nothing really to do with
18 the water safety awards.

19 156 Q. CHAIRMAN: No, I know that.

20 A. It's to do with Garda commendations. 11:41

21 157 Q. CHAIRMAN: Hold on. I know that. But the water
22 safety, the Seiko Just in Time award is relevant to
23 this, as you yourself maintained, because you said he
24 was using it as an excuse over the PIAB. Now, that's
25 gone. Still on the question of -- and I am not 11:41
26 forgetting your point that you should have got a
27 commendation as well as a reference to the water
28 safety. It seems a very appropriate one for a water
29 safety in the circumstances. But you say in addition

1 you should have got -- I have that.

2 A. And the rest of my unit, Judge.

3 158 Q. CHAIRMAN: And the rest of your unit. I have that.
4 But here's the question, before we get to that: what
5 is the big deal about two months? 11:42

6 A. I'm not sure. That's why --

7 159 Q. CHAIRMAN: I mean, if he did it in six weeks would it
8 be all right? Or if he did it in four weeks would it
9 be all right? Or would it be all right if he did it in
10 12? Where are we going? 11:42

11 A. Normally if one is to do that, you do it that week when
12 it would be fresh.

13 160 Q. CHAIRMAN: Okay.

14 A. Because so many other incidents would happen over the
15 week. 11:42

16 161 Q. CHAIRMAN: I understand.

17 A. The likes of these robberies and things like that, that
18 would take precedence just in the gravity of the
19 situation.

20 162 Q. CHAIRMAN: He took a while to get around to doing it? 11:42

21 A. Yeah.

22 163 Q. CHAIRMAN: But it's hard to see -- I mean, can I be
23 frank with you?

24 A. Mm-hmm.

25 164 Q. CHAIRMAN: If I am writing a report and I say, 11:42
26 Superintendent Murray targeted Garda Keogh because he
27 delayed two months in writing a recommendation to
28 Seiko, that doesn't sound great, does it. That's what
29 I am looking at, you know.

1 A. I understand.

2 165 Q. CHAIRMAN: And maybe you say he could have done it
3 faster and if he was enthusiastic about it and if he
4 liked me or didn't, hadn't got it in for me, he might
5 have done it an awful lot faster. That's a general 11:43
6 point I understand, but as a specific allegation of
7 targeting, it seems hard to stand up.

8 A. A lot can happen in eight weeks of policing.

9 166 Q. CHAIRMAN: Sure.

10 A. And why -- 11:43

11 167 Q. CHAIRMAN: All right, you're sticking with the point
12 about eight weeks?

13 A. Well, I am just suspicious on that.

14 MR. KELLY: Judge, can I just say on that, just to have
15 the chronological chain. 11:43

16 CHAIRMAN: Yes.

17 MR. KELLY: A letter went to the commissioner of An
18 Garda Síochána on the same day as the application went
19 in to PIAB. The letter went in to the commissioner on
20 13th September 2016. 11:43

21 CHAIRMAN: Yes.

22 MR. KELLY: And to PIAB on the 16th September.

23 CHAIRMAN: Thank you.

24 MR. KELLY: To PIAB on 26th September '16, together
25 with the usual supporting documentation. 11:44

26 CHAIRMAN: Right. But this had been done in November
27 '15.

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

29 CHAIRMAN: The application for the Seiko Just in Time

1 went in November '15.

2 MR. KELLY: Yes, I get the point. I just wanted to get
3 the chronology.

4 CHAIRMAN: Thank you very much. Mr. Kelly, while we're
5 at it, while we're at it, for what it's worth, subject 11:44
6 to anything that anybody may say, I find it hard to
7 condemn as targeting something that was two months when
8 it should perhaps have been two weeks. But no doubt I
9 will be put right.

10 MR. MCGUINNESS: Chairman, I just wanted to remind you 11:44
11 of one piece of evidence that I drew Garda Keogh's
12 attention to.

13 CHAIRMAN: Yes.

14 MR. MCGUINNESS: It was the fact that Superintendent
15 Murray, in fact, wrote a letter on 22nd September 2015, 11:45
16 on the day of it.

17 CHAIRMAN: Yes.

18 MR. MCGUINNESS: To the chief superintendent,
19 indicating that he did intend to recommend the entire
20 team for a Seiko Just in Time award. 11:45

21 CHAIRMAN: Okay.

22 MR. MCGUINNESS: The application was then made two
23 months later.

24 168 Q. CHAIRMAN: I understand. Do you understand that?
25 A. I do, I heard that. 11:45

26 CHAIRMAN: That appears to have nailed that one down
27 fairly clearly. Now, you may still say he should have
28 given you a commendation and Mr. Murphy will now deal
29 with that one?

1 169 Q. MR. MURPHY: In terms of the approach towards the
2 issue, can I ask you to turn to page 2053 in volume 8,
3 please? This is an extract from Chief Superintendent
4 Murray's statement to the Tribunal. Do you see at the
5 end of page 2053, please, he says:

11:46

6
7 "On 11th November 2015, I nominated seven members,
8 including Garda Keogh, for a Seiko Just in Time award
9 for their part in the rescue of a lady from the river
10 Shannon on 22nd September 2015."

11:46

11
12 He attaches the correspondence which Mr. McGuinness
13 showed you, which I will come back to in a moment.
14 Just the next bit:

15
16 "The awards were presented to the members on 8th
17 November 2016 at a ceremony in Dublin Castle. This was
18 the second occasion on which I nominated members from
19 Athlone for recognition for the Seiko Just in Time
20 award scheme. The members I nominated on the first
21 occasion were also recognised, receiving Seiko watches,
22 as their rescue efforts put them in great danger.
23 There was not an ulterior motive for nominating Garda
24 Keogh for this award."

11:46

11:46

25
26 Could I ask you just to turn to the next page.

27 A. Judge, can I just point out, we got an award from the
28 water safety, I appreciate that and that, but we didn't
29 get recognition from An Garda Síochána, a commendation,

11:47

1 all it is, is press the button, good work there, from
2 An Garda Síochána. That would normally happen. I gave
3 the example, Judge, in relation to the badger baiting
4 incident, Judge, which occurred when I was off duty,
5 actually in a different division, County Offaly, the 11:47
6 chief in Mullingar, when the National Parks wrote in to
7 give their commendation, which would be the equivalent
8 of the Just in Time award, this was in 2013, before I
9 made a disclosure, when National Parks wrote in a
10 letter to say this was great work or whatever, a 11:48
11 commendation came down from Mark Curran, the chief in
12 Mullingar, automatically. That I suppose is my point
13 on this case.

14 170 Q. Garda Keogh, that has absolutely nothing to do with
15 this, in my submission. 11:48

16 A. I'm giving it by way of an example.

17 171 Q. It's not an example that is relevant to this case.

18 CHAIRMAN: It's a contrast.

19 A. Sorry.

20 CHAIRMAN: No, no, don't apologise. He says, maybe it 11:48
21 has nothing to do with it but look, this happened to me
22 on another occasion. That's his point Mr. Murphy,
23 rightly or wrongly. It doesn't seem wildly irrelevant
24 as a point to make. But we're not investigating the
25 badger baiting incident in Offaly, mercifully. 11:48

26 172 Q. MR. MURPHY: Garda Keogh, could you ask you, please, to
27 turn to page 2383. It's a document Mr. McGuinness
28 showed you last week as well. This is a letter of
29 commendation from Superintendent Murray, which you have

1 seen. It names all of your colleagues and it names
2 you.

3 A. Sorry, Judge, I am just trying to turn to the page.

4 173 Q. Garda Keogh, it's 2383, please.

5 A. Thank you.

11:49

6 174 Q. This is a document you have seen before?

7 CHAIRMAN: Yes.

8 A. Yes.

9 175 Q. MR. MURPHY: Yes. I think you will agree with that
10 that you are named in this document?

11:49

11 A. Oh yeah.

12 176 Q. Yes. You will agree with me that Superintendent Murray
13 is recommending you and your colleagues for
14 commendation in relation to what had taken place and he
15 also gives a description of your attempts, successful
16 attempts to rescue the lady who had fallen into the
17 river?

11:49

18 A. Yes.

19 177 Q. He says:

20

11:49

21 "The speed in which the members acted, their dedication
22 and commitment in such inclement weather conditions
23 ensured a positive outcome to what could possibly have
24 been a tragic incident."

25

11:49

26 I have to say to you, on no view of those words or this
27 letter could this be regarded as targeting of you by
28 Superintendent Murray.

29 A. Judge --

1 178 Q. Isn't that correct?
2 A. Judge, I just find it fascinating --
3 179 Q. Could you answer the question?
4 A. If we were all agreed that it was such good police
5 work, why didn't he just press the button and say, 11:50
6 we're going to give them a commendation from An Garda
7 Síochána as well.
8 180 Q. CHAIRMAN: what difference would it have made?
9 A. It's only a piece of paper.
10 181 Q. CHAIRMAN: what difference would it have made to you? 11:50
11 A. It's a piece of paper.
12 182 Q. CHAIRMAN: I mean, here you're being brought up to
13 Dublin, to Dublin Castle, a formal ceremony. That's
14 very generous, isn't it?
15 A. My point is, what difference is it, it's only a piece 11:50
16 of paper, press the button, that's the thing.
17 183 Q. CHAIRMAN: I understand. Hold on a second. Your case
18 on this particular issue is, that despite these words,
19 which are pretty enthusiastic commendations, despite
20 these words, nevertheless he targeted you? 11:50
21 A. Judge, when you put this with the previous one and the
22 next one.
23 184 Q. CHAIRMAN: No, on this one alone.
24 A. Okay.
25 185 Q. CHAIRMAN: I understand your point. Look, there is 11:50
26 another point have you to make, which is to say, any
27 one incident might be one way, viewed one way, that I
28 understand, but when you look at them in the whole?
29 A. Yes.

1 186 Q. CHAIRMAN: That I understand. But we have to analyse
2 them one-by-one. As far as it goes on this specific
3 one, just viewed as a separate one?
4 A. I'm in your hands on this one, Judge.
5 187 Q. CHAIRMAN: Do you know what I mean? 11:51
6 A. I understand exactly, Judge.
7 188 Q. MR. MURPHY: Do you understand, Garda, that if your
8 complaint as you made it to the Tribunal in your
9 statement is upheld, in the light of this evidence, you
10 would be the first person to be targeted by being 11:51
11 recommended for an award in the presence of the
12 Minister, in Dublin Castle, with publicity, praise and
13 commendation. Do you not see even through your
14 perspective of these events how bizarre such a
15 complaint is? 11:51
16 A. Judge, my argument all along --
17 189 Q. CHAIRMAN: No, hold on a second. There's a statement
18 and Mr. Murphy says, comment.
19 A. Judge, I am in your hands on this.
20 CHAIRMAN: All right. That's very fair. 11:51
21 190 Q. MR. MURPHY: Thank you. Just finally, just as a matter
22 of fact, can I ask you just to turn, please, to Volume
23 8, page 2384, please? Just as a matter of fact, I
24 think to confirm the Tribunal's understanding, this
25 document indicates that the awards were to be presented 11:52
26 by Minister Simon Coveney on behalf of the award
27 committee in Dublin Castle. I take it there was a
28 reception and there was publicity and there were
29 photographs of that event; isn't that correct?

1 A. That's correct. We all got to shake hands with
2 Minister Coveney as well.

3 CHAIRMAN: Very good.

4 191 Q. MR. MURPHY: I think in fairness, you would also accept 11:52
5 that Superintendent Murray, in his capacity as a member
6 of An Garda Síochána, recommended you for that award.
7 Not in his private capacity, but as your
8 superintendent?

9 A. I accept that, on that part.

10 192 Q. Just finally, I think insofar as the commendation is 11:52
11 concerned through An Garda Síochána, I suggest to you
12 that in substance and in fact that's what this was.
13 But did you say last week to Mr. McGuinness that
14 ordinary commendations which you had received in the
15 past were really the kind of thing you put in your 11:53
16 locker, do you remember saying that?

17 A. I do, yes. As I just stated a minute ago, like it's
18 only a sheet of paper, it's only to press the button,
19 you know. I would have received many of them over the
20 years for minor, minor things. That is why I just 11:53
21 throw them in the locker, because -- now you can get --
22 I think there's different levels of commendations as
23 well, Judge. But for the ones that would come down,
24 let's say, from the chief or that, or if it's just not
25 a major thing, I mean, you just throw them into the 11:53
26 locker and that's it.

27 193 Q. Then finally on this issue, Garda Keogh, I think we can
28 deal with this briefly in the light of Mr. McGuinness
29 direction in evidence with you last week, the last

1 complaint you made was in relation to failing to get a
2 commendation in relation to arresting a person for
3 burglary on 28/10/2014. I think you now accept that
4 the evidence is that Superintendent Murray wasn't in
5 your divisional area until March 2015; isn't that
6 right?

11:54

7 A. This is the burglary, the burglary in the bakery.

8 194 Q. Yes.

9 A. Judge, again, it's just I didn't get a commendation.

10 It's not from the organisation. Me or Garda Dempsey

11:54

11 did not get a commendation that night, Judge, and we

12 both should have got commendations on that night. It

13 doesn't matter. Again, this is after I have made my

14 protected disclosure. We're into 2014. We're getting

15 commendations up to 2013 for stuff when I'm off duty

11:54

16 and not even in the division and working. But yet,

17 after I making my protected disclosures, the fact is I

18 do not get a commendation or anything, and any garda or

19 sergeants working with me does not get a commendation

20 either.

11:55

21 195 Q. I have to suggest to you two things. First of all, you
22 have no evidence to suggest that this was done
23 deliberately by anybody to cause you a disadvantage,
24 isn't that correct?

25 A. Judge, as I said, the commendations are not the biggest

11:55

26 thing in all of this, because they are only a sheet of

27 paper. It's a small, little thing. It's a small,

28 little thing. That's all these commendations are;

29 small things. But my point is, I don't get

1 commendations for -- if I was not a whistleblower --
2 196 Q. CHAIRMAN: who should have given you the commendation
3 in 2014?
4 A. The chief in Mullingar, I would say. Not just -- me
5 and Garda Dempsey. We should have got a commendation 11:55
6 for that.
7 197 Q. CHAIRMAN: But wouldn't that have to go to the
8 committee, is that right?
9 A. I don't know. It would have been --
10 198 Q. CHAIRMAN: who would put you forward for that? 11:55
11 A. No, it's where --
12 199 Q. CHAIRMAN: who was the divisional officer?
13 A. Mark Curran at the time.
14 200 Q. CHAIRMAN: Yes.
15 A. At the time would have been the divisional officer 11:55
16 there. And again, it's just --
17 201 Q. CHAIRMAN: I mean who was the superintendent in
18 Athlone?
19 A. In '14, Superintendent McBrien.
20 202 Q. MR. MURPHY: A person against whom you make no 11:56
21 complaint.
22 A. It's usually from the chief's office that you would get
23 a commendation down.
24 203 Q. CHAIRMAN: How does it go? Does it go from the
25 superintendent to the chief superintendent? 11:56
26 A. No, I think it just -- the way I've got them in the
27 past, it seems to be just the chief superintendent in
28 the office.
29 204 Q. CHAIRMAN: Okay.

1 A. Glances at a file, events that perhaps happened --

2 205 Q. CHAIRMAN: But somebody has to send it to the chief
3 superintendent?

4 A. No, you see they can see everything on Pulse. The
5 chief, when he comes into work, will see everything in 11:56
6 his division. The chief is in Mullingar, but he can
7 still see all the incidents in Athlone or Delvin or
8 wherever within, let's say, Westmeath. So he can see
9 the different categories of crimes and things like
10 that. And where there's a burglary like that one and 11:56
11 where the burglar is actually caught at the scene. And
12 the reason he was caught at the scene is because myself
13 and Garda Dempsey were out on patrol, doing our job and
14 we were actually -- when we got the call, we just
15 happened to be in the right place at the right time. 11:57
16 CHAIRMAN: I understand.

17 206 Q. MR. MURPHY: Garda Keogh, just three points arising
18 from that. You have accepted is that Superintendent
19 McBrien was the superintendent when this incident
20 occurred and you make no complaint against her, isn't 11:57
21 that correct?

22 A. Yes.

23 207 Q. You make no complaint against any member of your own
24 station or unit who was on duty with you on that date
25 in 2014, is that correct? 11:57

26 A. How could I make a complaint against any of --

27 208 Q. That they didn't recommend you for a commendation?

28 A. No. But sure, I wouldn't -- that's not the way, that's
29 not the way it works. As I said, I am just after

1 stating, it's the chief in Mullingar that would have
2 spotted good police work there and would have just --
3 it's a little sheet of paper. And I presume he would
4 just say to someone in his office, give that fella --
5 give them lads a commendation. Someone presses a 11:57
6 button, it's sent out, we get a piece of paper and it
7 just says commendation, good police work. And that's
8 it.

9 209 Q. Yes.

10 A. It's nota major deal. 11:58

11 210 Q. Garda Keogh, I have to suggest to you that you are
12 wrong in that regard, because under the commendation
13 system any member of An Garda Síochána may initiate the
14 commendation system in relation to a colleague. Any.
15 Let's pause for the moment. Take the example we have 11:58
16 looked at in relation to the commendation of a
17 detective unit. That started from the sergeant and
18 moved its way up the system. It didn't come from the
19 top down. What I have to suggest to you is, there is
20 actually no evidence to suggest that the chief 11:58
21 superintendent in Mullingar was under a legal duty to
22 seek out and find commendations at ground level. On
23 the contrary, the preponderance of these, the majority
24 of these come up from the ground up for evaluation?

25 A. Judge, to address the first question in that, if every 11:58
26 member of An Garda Síochána -- any member of An Garda
27 Síochána can commend another member. Judge, if that
28 rule was to be applied, every day there would be guards
29 all across the country recommending each other for

1 commendations.

2 211 Q. CHAIRMAN: There might be, yes.

3 A. The whole system would collapse.

4 212 Q. CHAIRMAN: Okay, but your case is simple, you say the 11:59
5 chief superintendent in Mullingar should have seen this
6 incident on Pulse and, without more, should have issued
7 a commendation to you and your colleague. That's your
8 case?

9 A. Yes.

10 CHAIRMAN: Okay. 11:59

11 213 Q. MR. MURPHY: I have to suggest to you, you have no
12 legal basis or basis in principle to suggest that
13 except your own opinion?

14 A. I'm in your hands on this, Judge.

15 CHAIRMAN: Okay. 11:59

16 214 Q. MR. MURPHY: Chairman those are my questions on that
17 issue.

18 CHAIRMAN: Thanks very much. Very good. Okay.

19 MR. MURPHY: with your permission, can I address issue
20 17, that is to say complaints by Garda Keogh in 12:00
21 relation to the criminal investigation carried out by
22 Assistant Commissioner Donal Ó Cualáin?

23 CHAIRMAN: Yes, okay. Thanks very much.

24 215 Q. MR. MURPHY: Now, Garda Keogh, you have given evidence
25 on the first day of your cross-examination in relation 12:00
26 to the approach adopted by Detective Superintendent
27 Mulcahy. I went through at some length with you the
28 detail of what Detective Superintendent Mulcahy did in
29 the investigation when he was under the control of

1 Assistant Commissioner Ó Cualáin. Again, just to
2 shorten matters, because I don't want to waste the
3 Tribunal's time on this issue, you very fairly accepted
4 that Detective Superintendent Mulcahy did a stellar job
5 as far as you were concerned? 12:01

6 A. Yes.

7 216 Q. You were unstinting in your praise for Detective Garda
8 Coppinger as a trained investigator. I think you
9 accepted readily when I opened to you all of the
10 detail, the communications, the updates, the following 12:01
11 up of leads, the consultations they had with you
12 throughout the course of their investigations. I think
13 you very fairly acknowledged the good forensic work
14 which they did following the leads which you gave them?

15 A. Yes, that's correct. 12:01

16 217 Q. So, it seems, does it not, that the case that you're
17 seeking to make, the residual case that you're seeking
18 to make in this case, as I understood your evidence
19 last week when you spoke to Mr. McGuinness, was that
20 you were suspicious that Assistant Commissioner Ó 12:01
21 Cualáin had somehow sabotaged his own investigation or
22 attempted to do. Is that the core of your complaint
23 against Assistant Commissioner Ó Cualáin?

24 A. Judge, essentially, essentially. I know it's a very
25 unusual and strange, outrageous allegation. But that's 12:02
26 my position, Judge.

27 218 Q. Again, Garda Keogh, you have been very helpful to
28 indicate to us on a number occasions where you are
29 coming from, but is this your view based on knowledge

1 or suspicion?

2 A. Judge, I was present, I was present there for parts of
3 the investigation. I have gone into evidence last week
4 in relation to some of the insane things and way that
5 the parts of that investigation -- the way it was 12:02
6 conducted.

7 219 Q. Again, is your criticisms of his delay in certain
8 matters or the time in which it took to do certain
9 things, but have you any evidence that he knowingly set
10 out to sabotage the investigation of which you were so 12:02
11 praiseworthy in the course of your testimony?

12 A. Judge, haven't I given evidence last week about -- the
13 investigation team are in Athlone Garda Station,
14 conducting the investigation into Garda A, Garda A is
15 on duty, he's hanging around the station, he doesn't 12:03
16 leave the station, and they're then calling other
17 guards in to make statements about Garda A. I at times
18 was able to see, Judge, because I smoke myself, Garda A
19 was smoking in the back area, he was actually walking
20 up and down and around the back part of the station and 12:03
21 he was actually able to see members, whoever they were
22 bringing in and out of the investigation team. An
23 example of this is when Garda Lyons was interviewed by
24 the investigation team, he then -- like, he's Garda A's
25 partner there and -- ah look, Judge, that part of the 12:04
26 investigation, it was just insane.

27 220 Q. Again, I have to take issue with you on that. First of
28 all, can I ask you, is it your evidence that Assistant
29 Commissioner Ó Cualáin was engaged in those interviews,

1 the ones that took place in Athlone?

2 A. No.

3 221 Q. Right. So I think we will agree that he wasn't present
4 when you saw those interviews taking place. Two, would
5 you agree with me that in his statement to the Tribunal 12:04
6 and will be his evidence here, that as soon as you
7 raised concerns about Garda A being present in Athlone
8 Garda Station while statements were being taken, that
9 he directed, he directed, that all future interviews
10 would be conducted away from the station? 12:04

11 A. Now, just for clarification, who is 'he'.

12 222 Q. He is Assistant Commissioner Ó Cualáin?

13 A. I don't know the answer to that, because it was
14 Detective Superintendent Mulcahy that I had -- I have
15 gone into this again. For example, when Detective 12:04
16 Superintendent Mulcahy and Detective Inspector, DI
17 Coppinger were in the public office in Athlone, there
18 was four people in the public office at this particular
19 time. There was me, there was Detective Superintendent
20 Mulcahy, DI Coppinger, and Garda A was beside us at the 12:05
21 photocopier and he was doing whatever he was doing at
22 the photocopier. Then myself and the D/Super Mulcahy
23 went down to a back room in the station and that's
24 where I had a conversation with Detective
25 Superintendent Mulcahy and I said, this is just insane, 12:05
26 the way this is going on. Because there was -- they
27 had other detectives from the investigation team taking
28 statements while this incident was going on. And when
29 I made my -- expressed my concerns to Detective

1 Superintendent Mulcahy and I opened the door and Garda
2 A was out -- this is the back part of the station,
3 Garda A was then walking around with, walking by, he
4 walked by the door, like when I opened the door he was
5 outside walking. I just looked back at Detective 12:06
6 Superintendent Mulcahy there, because he would have
7 seen him there as well, and I don't think I said
8 anything, I don't think I had to say anything. I was
9 already after pointing out this to him. It was
10 absolutely insane, Judge. 12:06

11 223 Q. Garda Keogh, that's your view. The position is that
12 when you made your views known, it was Assistant
13 Commissioner Ó Cualáin, when it was reported to him,
14 directed that the future interviews should be conducted
15 away from the station. And the people who were 12:06
16 conducting those interviews were in fact people against
17 whom you are making no complaints, Superintendent
18 Mulcahy, Inspector Coppinger? Do you see the
19 illogicality in that?

20 A. I've made no complaint against any member of the 12:06
21 investigation team. But, Judge, to point out, what's
22 being said to me here is that Ó Cualáin kind of --
23 sorry, Assistant Commissioner Ó Cualáin just decides
24 that this shouldn't be done this way. That's not
25 possible. 12:07

26 224 Q. Garda Keogh, listen to my question.
27 A. Sorry.

28 225 Q. Can I help you in that regard. Could you be shown
29 volume 25, page 7339, please? Just to show to you

1 exactly what the assistant commissioner is saying.
2 That's volume 25, 7339, please.
3 MR. McGUI NNESS: Chairman, just before Mr. Murphy goes
4 into that, I wonder, Chairman, could you rise for some
5 five minutes, I just want to consider an issue that we 12:07
6 may need to discuss.
7 CHAIRMAN: Certainly, if you say so.
8 MR. McGUI NNESS: Thank you.
9 CHAIRMAN: I will come back at 12:15.
10 MR. McGUI NNESS: Thank you, Chairman. 12:07
11 CHAIRMAN: Very good.
12
13 THE HEARING THEN ADJOURNED BRIEFLY AND RESUMED, AS
14 FOLLOWS:
15 12:19
16 CHAIRMAN: Thank you.
17 MR. McGUI NNESS: Chairman, thank you for the few
18 minutes to allow me consult with my team fully. It has
19 resulted in our giving consideration to an issue which
20 we brought to your attention. 12:19
21 CHAIRMAN: Yes.
22 MR. McGUI NNESS: Relating to an issue of disclosure.
23 CHAIRMAN: Yes. Thanks very much. I think the
24 situation, if I understand it, correct me if I am wrong
25 in anything I say, Mr. McGuinness: Obviously the 12:20
26 Tribunal has continued its investigations as time has
27 gone on. So when queries arise or apparent queries, we
28 seek to resolve them and to sort out what may possibly
29 be relevant, and in regard to what is potentially

1 relevant, obviously we draw everybody's attention to
2 that. Mr. McGuinness and Mr. Murrinan have drawn my
3 attention to some material that could, I don't say
4 would, is or will be, but could be relevant to the
5 issues that are now being canvassed and being discussed 12:20
6 in cross-examination. I don't want to say too much
7 about it. I don't want to either hype it up into
8 something hugely significant or treat it as of no
9 importance. I am simply saying that counsel are
10 satisfied, and I agree with them, that this is 12:21
11 potentially relevant and ought to be brought to the
12 attention of the relevant parties, so as to enable them
13 to know what the situation is.

14
15 That seems to me entirely proper and in those 12:21
16 circumstances, I think it wouldn't be satisfactory to
17 proceed with this issue, with the cross-examination on
18 this issue in fairness to all concerned. It's also not
19 satisfactory to embark on some further issue when we
20 actually have started on this one. 12:21

21
22 So, what we propose to do, as I say, counsel will
23 explain it and then we will endeavour to make the
24 material available in the most convenient form to the
25 parties. This is a good time to recognise that. So, 12:21
26 what I propose to do is to adjourn now and we will
27 resume on Monday week. What date is Monday week?

28 MR. MCGUINNESS: The 4th November, Chairman.

29 CHAIRMAN: The 4th November at 10:30. So you will have

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a break and we will resume, the parties will be able to
be appraised of this information in the meantime.
Thank you very much. Very good.

THE HEARING THEN ADJOURNED UNTIL MONDAY, 4TH NOVEMBER 12:22
2019 AT 10:30AM

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