

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 TUESDAY, 5TH NOVEMBER 2019 - DAY 110

110

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

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SERVICES

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4. DETECTIVE INSPECTOR MICHAEL COPPINGER
5. CHIEF SUPERINTENDENT LORRAINE WHEATLEY
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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 TUESDAY, 5TH  
2 NOVEMBER 2019:

3  
4  
5 GARDA NICHOLAS KEOGH CONTINUED TO BE CROSS-EXAMINED BY 10:11  
6 MR. MURPHY, AS FOLLOWS:

7  
8 CHAIRMAN: Good morning, Chairman. I propose to  
9 continue asking questions, with your permission, in  
10 relation to issue 18, that relates to the complaint by 10:30  
11 Garda Keogh in relation to the bullying and harassment  
12 investigation carried out by Assistant Commissioner  
13 Michael Finn.

14 1 Q. Garda Keogh, I think yesterday you made reference to  
15 your complaints in relation to how Assistant 10:30  
16 Commissioner Finn had dealt with the McHugh allegation.  
17 This is one that you focused in on in response to the  
18 Chairman's questions. First of all, can I ask you, can  
19 you be shown volume 6, page 1477, please. This is a  
20 letter dated 5th August 2014, and it's signed by 10:31  
21 Superintendent Noreen McBrien, a person against whom  
22 you have no complaints in this process. It refers to a  
23 conversation and it says "intelligence created". So,  
24 do you see at the beginning, page 1477, she refers to a  
25 question concerning correspondence received from you 10:31  
26 dated 27th July 2014, and in response to her query as  
27 to whether the informant had been registered with CHIS.  
28 Your response, which I think we dealt with earlier, was  
29 that this was not a CHIS matter and the information was

1 in the care of Assistant Commissioner Donal Ó Cualáin.  
2 Do you see that?

3 A. Yes. That doesn't have anything to do with the Liam  
4 McHugh matter.

5 2 Q. Just looking at the letter for a moment, please. I 10:32  
6 think then she refers to issues concerning intelligence  
7 entries in the second paragraph. And then in the third  
8 paragraph:  
9

10 "Conversation: I attach for your information 10:32  
11 correspondence received from Garda Nicholas Keogh dated  
12 27th July 2014 regarding Liam McHugh. He states that  
13 apart from meeting Liam McHugh on the 19th July while  
14 on the beat, he had not met him in the past three  
15 months. On the 19th July Garda Keogh sent me a text 10:32  
16 message saying, "was on the beat and McHugh came over  
17 to me". In addition I met Garda Keogh by arrangement  
18 on this date. This was the earliest opportunity we  
19 could meet."  
20 10:32

21 Just over the page, which is page 1478, she refers to  
22 the conversation that she has with you, isn't that  
23 right?

24 A. Yes.

25 3 Q. Do you remember that conversation? 10:32

26 A. Yeah.

27 4 Q. She records that she read out the allegation as  
28 outlined in the report of Garda Aidan Lyons dated 7th  
29 June 2014, and you requested to see the allegation.

1 A. Yes.

2 5 Q. She says that she allowed you to do so without  
3 disclosing the identity of the member making the  
4 complaint. But you were informed that it was a member  
5 at Athlone Garda Station. 10:33

6 A. I don't know if I was informed it was a member in the  
7 Athlone Garda Station, but I don't think I would have  
8 needed -- I think that would have been fairly obvious.

9 6 Q. Well, I understand that will be Chief Superintendent  
10 McBrien's evidence. So, insofar as your reply is 10:33  
11 concerned, your recorded by her as having replied that  
12 you knew nothing about this or any part of it, even the  
13 content of the story.

14 A. Right.

15 7 Q. And that you said that if you had the information 10:33  
16 alleged you would have put it with him, with your  
17 complaint rather, to the confidential recipient?

18 A. Yes.

19 8 Q. You also said that Liam McHugh's name is not on the  
20 complaint that you made to the confidential recipient? 10:33

21 A. That's correct.

22 9 Q. I think you also said you didn't know anything about  
23 this alleged meeting with Liam McHugh?

24 A. Yes.

25 10 Q. You also said that if you had such information, you 10:33  
26 would have used it when making your complaint?

27 A. Yes.

28 11 Q. Then I think you reiterated what you said earlier, that  
29 you hadn't seen Liam McHugh for a long time?



1 A. Yes.

2 12 Q. So, I think the position is that this is information  
3 that you're aware of in the sense of the document that  
4 has being outlined to you, the report of 2nd June 2014.  
5 Moving forward then to the Finn investigation, in the 10:34  
6 course of that investigation I think there was  
7 considerable interaction between Assistant Commissioner  
8 Finn and your solicitor, Mr. Cullen, acting on your  
9 behalf?

10 A. By way of correspondence. 10:34

11 13 Q. Correspondence communication?

12 A. Yeah.

13 14 Q. And there were also meetings, some of which you  
14 referred to yesterday?

15 A. One meeting. 10:34

16 15 Q. One meeting. In terms of this particular process, on  
17 my instructions Assistant Commissioner Finn's evidence  
18 will be that he furnished the documentation, including  
19 the report of Garda Lyons, dated 2nd June 2014 to  
20 Mr. Cullen as part of the process of the inquiry. What 10:34  
21 was furnished to you, he will say, was the unredacted  
22 version containing Garda Lyons's name?

23 A. That's correct, yeah.

24 16 Q. He will also say that in the course of his interaction  
25 with you he invited you to make comments and to revert 10:35  
26 to him on a number of occasions, and I will come back  
27 to those in due course, but that ultimately he will say  
28 that you never made any issue to him in relation to the  
29 question of Garda Lyons?

1 A. I didn't, because that's the first time I found out  
2 about Garda Lyons in relation to this. But I had  
3 already made the issue of the whole thing, so for me no  
4 matter who wrote that report, it was irrelevant. I had  
5 contested the whole report. It didn't matter who wrote 10:35  
6 the report, I contested it.

7 17 Q. You see, Garda Keogh, I have to suggest to you that  
8 Assistant Commissioner Finn's position will be that as  
9 part of this process he gave you this information and  
10 that you made no submissions to him in the course of 10:35  
11 his inquiry?

12 A. That's not the case, because from day one I've always  
13 contested this whole allegation. As I have said, it  
14 didn't matter who wrote the report at that point, I had  
15 already contested everything to do with what was in 10:36  
16 there.

17 18 Q. Is that why you didn't make a submission to him about  
18 this?

19 A. Well, it's already there. I deal with everything in  
20 relation to it. 10:36

21 19 Q. You see, Garda Keogh, we know in 2014 Superintendent  
22 McBrien didn't give your name to Garda Lyons; is that  
23 right?

24 A. That's correct.

25 20 Q. So here we have a situation where you are being given 10:36  
26 the name of Garda Lyons, again an inquiry that lasts  
27 for nearly a year, and you don't make any submissions  
28 to the person carrying out the inquiry, Assistant  
29 Commissioner Finn?

1 A. The submissions are already in writing, they're already  
2 made. As I said, whoever the author of the report was,  
3 I'd already said to the effect that everything that was  
4 contained in that report was false, so it didn't -- I  
5 mean, it didn't really matter at that point which guard 10:36  
6 wrote that report. I had already disputed everything  
7 to do with that report.

8 21 Q. Garda Keogh, I understood yesterday you were  
9 criticising Assistant Commissioner Finn for the way in  
10 which he dealt with this, suggesting that somehow you 10:37  
11 had been unable to interact with him about this in  
12 relation to Garda Lyons. Whereas, in fact, I think you  
13 now are admitting that you had the information but you  
14 chose not to make any submission to him, is that the  
15 position? 10:37

16 A. There was no -- I've already just answered the same  
17 question, Judge, twice, in relation to this. In  
18 relation to the other thing, I said yesterday that  
19 this -- where no new evidence came in relation to this,  
20 the Liam McHugh complaint, as a result of the Finn 10:37  
21 investigation it still seemed to grow arms and legs and  
22 a tail even, because by the time it got to the de Bruir  
23 thing, in the light of no new information, it appeared  
24 then that I was a perpetrator in this alleged crime,  
25 which I dispute even ever happened. 10:38

26 22 Q. Garda Keogh, I have to suggest to you that Assistant  
27 Commissioner Finn's approach towards this evidence was  
28 scrupulous and can I ask you for you to be shown  
29 page 7480, please.

1 CHAIRMAN: Just a minute, hold on, you suggested that  
2 his approach was scrupulous and Garda Keogh wanted to  
3 respond to that.

4 A. Judge, if it was scrupulous he, might have found out  
5 the names of the other two guards in this, in this 10:38  
6 whole allegation. I mean, that would be -- that would  
7 be common sense.

8 23 Q. MR. MURPHY: Garda Keogh, this is yet another new  
9 point, yesterday, at great length, an attempt was made  
10 to identify what was your complaint in relation to the 10:38  
11 McHugh incident. And now today you seem to be saying,  
12 really it didn't matter what Assistant Commissioner  
13 Finn because this had all been done in the past.

14 A. No, I didn't say -- I think you're twisting words.

15 24 Q. Garda Keogh, could you be shown please page 7480, which 10:38  
16 is in volume 25. Do you see paragraph 4, under the  
17 heading "Liam McHugh alleged complaint"?

18 A. Yes.

19 25 Q. This is Assistant Commissioner Finn's report on the  
20 issue. Can I just ask you to take a moment, just to 10:39  
21 save time, to read the heading under section 4, down to  
22 the word "findings"?

23 A. I see it, yeah.

24 26 Q. So ultimately, I think you'll agree with me, that that  
25 represents a précis of the information that had been 10:40  
26 available and was made available to Assistant  
27 Commissioner Finn. The first paragraph deals with  
28 Superintendent McBrien. The second paragraph deals  
29 with Superintendent McBrien. The documents that are

1 relevant are appendicised, do you see that?

2 A. Yes.

3 27 Q. With reference to an investigation initiated locally.  
4 The fact that Mr. McHugh was requested by Detective  
5 Sergeant Curley to make a witness statement. That the 10:40  
6 view was taken that the allegations of Mr. McHugh were  
7 not supported by the evidence from the parties  
8 involved. You knew all of this prior to Assistant  
9 Commissioner Finn carrying out his investigation, is  
10 that right? 10:41

11 A. Judge, sorry, I'm just reading the next part here, I  
12 mean, on the first line of the next page or the  
13 findings, Judge, it has --

14 28 Q. Before we get to that, Garda Keogh, just take a  
15 moment -- 10:41

16 CHAIRMAN: Hold on, no, let him finish, Mr. Murphy. We  
17 will decide the relevance or whether he's, what they  
18 call it in America, non-responsive, we will worry about  
19 that in a moment. What do you want to say about that?

20 A. Judge, the first line in "Findings" is: 10:41  
21  
22 "Garda Lyons received the intelligence in good faith."  
23

24 CHAIRMAN: Can I just ask you, Mr. Murphy is focusing  
25 at the moment on the statement of facts? 10:41

26 29 Q. MR. MURPHY: I'm just asking Garda Keogh to confirm,  
27 there's nothing wrong in that statement of fact, is  
28 there?

29 A. No, not in that, no.

1 CHAIRMAN: I am a little puzzled about the statement of  
2 facts, Mr. Murphy. I may as well tell you so you know.  
3 I thought that the essence of the complaint was the  
4 allegation that Garda Keogh was drumming up complaints.  
5 I thought that was the essence. Garda Lyons reported 10:42  
6 that Liam McHugh had imputed to the bald guard that he  
7 reminded him of an incident and said, I will support  
8 you if you make a complaint. Now, I am speaking from  
9 complete memory. But the essence of the matter that  
10 came was that it was an allegation that Garda Keogh was 10:42  
11 drumming up or potentially drumming up, if this wasn't  
12 true, he was encouraging McHugh, Liam McHugh to make a  
13 complaint, number one.

14  
15 Number two, I didn't understand Garda Lyons' report to 10:42  
16 include the allegation that Garda Keogh was one of the  
17 three. I agree that's a possible interpretation, but  
18 only a 50/50, and that's my understanding. Now, maybe  
19 I am eccentric and I'm the only one in the room who  
20 thinks this, but I thought that that was the essence 10:43  
21 and that the incident came to light. That's what I  
22 thought. I thought that the report was a report as to  
23 whether he had - now, maybe I am wrong about this, and  
24 please correct me - a report as to whether Garda Keogh  
25 had had this conversation as reported by Garda Lyons. 10:43  
26 In other words, did he have the conversation, did he  
27 say the things that were attributed to him in the  
28 report? That's what I thought was the issue. Maybe  
29 I'm alone in misunderstanding that.

1 MR. MURPHY: I think it's clear from the report I have  
2 just shown at page 1477, I think, Chairman, that the  
3 way it was approached by Superintendent McBrien was to  
4 clarify had Mr. McHugh made a complaint or not to Garda  
5 Keogh. Garda Keogh made his response and the matter 10:44  
6 ended.

7 CHAIRMAN: Does what I am saying make any sense?

8 MR. MURPHY: I think, Chairman, again subject to --

9 CHAIRMAN: If I am totally --

10 MR. MURPHY: I think there are other points, Chairman. 10:44

11 CHAIRMAN: Okay, sorry.

12 MR. MURPHY: I think this one related to whether or not  
13 Liam McHugh made a complaint.

14 CHAIRMAN: Maybe counsel might come back to that.

15 MR. MURPHY: Yes. 10:44

16 CHAIRMAN: Mr. McGuinness, maybe you will come back to  
17 that and demonstrate that I am totally in the wrong in  
18 due course when you come round to it. I just may as  
19 well tell you, I am reading that with a question mark,  
20 I am not entirely sure as to the statement of facts. 10:44

21 MR. KELLY: Judge, to try and assist, my understanding  
22 has always been that what Garda Keogh was saying is  
23 that this complaint came from Mr. McHugh, that it was,  
24 as you put it rightly, the substance, he understood  
25 was, well, he is supposed to be drumming up a 10:44  
26 complaint.

27 CHAIRMAN: Yes. His case, it's a trumped up  
28 allegation.

29 MR. KELLY: Yes. And what he is saying is that as it

1 has gone on it appears to have grown legs.  
2 CHAIRMAN: That's what he said, and arms and a tail in  
3 fact.  
4 MR. KELLY: so we reach the point here where he said  
5 before: 10:45  
6  
7 "Superintendent McBrien became aware of an  
8 allegation...certify a number of gardaí, including  
9 Garda Keogh, who seized money from McHugh."  
10 10:45  
11 That gives it a wholly different flavour. I think  
12 that's what Garda Keogh is saying.  
13 CHAIRMAN: well that's what I am saying. Because I am  
14 saying that I am not understanding the complaint and  
15 the event involving the report by Garda Lyons. I am 10:45  
16 not understanding it to be accurately summarised. But  
17 I am ready to be shown to be wrong. Anyway,  
18 Mr. Murphy, I think I may as well tell you, that's my  
19 state of mind on the matter.  
20 MR. MURPHY: Yes. 10:45  
21 CHAIRMAN: But that doesn't mean it's right.  
22 MR. MURPHY: Yes.  
23 CHAIRMAN: As I know from experience.  
24 MR. MURPHY: I think the position is in terms of the  
25 Garda Lyons complaint, I will get the reference in a 10:46  
26 moment, which I think is at page 1161, just to assist  
27 at this stage..  
28 CHAIRMAN: Yes, thank you very much. You see, one of  
29 his complaints, one of Garda Keogh's complaints and one



1 of the reasons that he says supports his contention  
2 about the illusory nature of the McHugh complaint, one  
3 of the reasons is that he says there was actually no  
4 investigation of the gardaí who might have been  
5 possibly involved in the incident. That's what he 10:46  
6 says.

7 MR. MURPHY: well, I think the answer to that is  
8 indicative of the response of Mr. McHugh, which he  
9 didn't wish to make a statement --

10 CHAIRMAN: Thank you very much. Anyway, there we are. 10:46  
11 You want to ask questions. I just thought, look, so  
12 everybody knows, that's my, what shall I say,  
13 provisional understanding of the situation. Please  
14 feel free to correct.

15 MR. MURPHY: Chairman, just again to answer your 10:47  
16 question, can I ask you to have a look at the document,  
17 please, which is on the screen.

18 CHAIRMAN: 1161.

19 MR. MURPHY: Please. There, you will see that there is  
20 a reference to the report. It says that he wished to 10:47  
21 report:

22

23 "On 31/5/2014 I was approached by Li am McHugh at  
24 Bastion Street."

25 10:47

26 CHAIRMAN: Yes.

27 MR. MURPHY: They had a general conversation. Then he  
28 says:  
29

1 "The bald guard came to me the other day and asked if I  
2 could remember the time I was searched by three guards  
3 and €800 was stolen from me and spent drinking in the  
4 castle, the bookies and casino.

5  
6 He said if I wanted to make a complaint about it he  
7 would back me up. Then I asked Liam McHugh if he was  
8 alleging this had actually happened and his answer was  
9 no, not at all, I'm not going to bring trouble on  
10 myself.

11  
12 I asked him if he was referring to Garda Nick Keogh and  
13 he confirmed he was. He went on to say he told me he  
14 was there himself when it happened and he would back me  
15 up if I wanted to make a complaint."

16  
17 So ultimately this is a statement that, if Mr. McHugh,  
18 which is accepted and ultimately he did not make a  
19 statement, suggested that he was going to say at that  
20 stage that Garda Keogh had witnessed something, not  
21 that he had taken part but that he had witnessed it,  
22 and that in those circumstances the request of  
23 Superintendent McBrien was to clarify had Mr. McHugh  
24 made that complaint and Mr. McHugh declined to make a  
25 statement

26 CHAIRMAN: Okay. Thank you very much.

27 MR. MURPHY: Subject to any submissions that may be  
28 made, that's a suggestion that Garda Keogh suggested,  
29 according to Mr. McHugh, that if he, Mr. McHugh, was to

1           come, Garda Keogh could perhaps be of assistance to  
2           him.

3           CHAIRMAN: He would back him up, yes.

4           MR. MURPHY: Yes. Now ultimately what happens is that  
5           Superintendent McBrien, who is a person against whom no 10:48  
6           complaint is made by Garda Keogh, speaks to him,  
7           clarifies the situation and it goes no further.

8           CHAIRMAN: Mr. McHugh gives a somewhat, as reported,  
9           gives a somewhat equivocal answer. I am not going to  
10          bring trouble on myself. 10:48

11          MR. MURPHY: Again this goes back I think to the  
12          perspective reality issue. In fact the way it's looked  
13          at in our submission and it's also contained in the  
14          assistant commissioner's report, page 7480, that the  
15          response is that the allegations of Mr. McHugh that he 10:49  
16          was assaulted or robbed wasn't supported by any  
17          evidence or statement from any of the parties involved.

18          CHAIRMAN: Okay. I just wanted to tell you.

19          MR. MURPHY: Sure.

20          CHAIRMAN: As to the first paragraph, the relevant 10:49  
21          paragraph, section 4 in Assistant Commissioner Finn's  
22          report at 7480, that my understanding of it is, I am --

23          MR. MURPHY: I don't believe even on Mr. McHugh's  
24          reported events in Garda Lyons' statement, I don't  
25          understand Garda Keogh to be saying that he, Garda 10:49  
26          Keogh, was guilty of complicity in any offence. On the  
27          contrary, the suggestion seems to be that he's in a  
28          position to witness something or to give assistance to  
29          Mr. McHugh.

1 WITNESS: Judge --

2 CHAIRMAN: wait now. The understanding and  
3 interpretation of the Lyons report is one thing. I  
4 intervened merely to indicate that I wasn't sure at  
5 this point that I agreed with the summary facts as 10:50  
6 stated in paragraph 4 of the facts of Assistant  
7 Commissioner Finn's report. I may turn out to be  
8 entirely wrong, in which case I am perfectly happy.  
9 But I wanted to alert Mr. Murphy to that and you.  
10 Okay. 10:50

11 WITNESS: Judge, just in relation to that last part,  
12 and I may have read things wrong in relation to the  
13 de Bruir report, but I think it goes further into the  
14 findings in the de Bruir report.

15 CHAIRMAN: Now, hold on, sorry. 10:50

16 WITNESS: Okay.

17 CHAIRMAN: Mr. Kelly may ask you about the de Bruir  
18 report. Mr. Murphy is not asking you about the de  
19 Bruir report. So we will keep things on track.

20 MR. MURPHY: Yes. 10:50

21 CHAIRMAN: We will focus on Mr. Murphy. Now,  
22 Mr. Murphy, I am sorry for that lengthy interruption.

23 MR. MURPHY: Not at all, Chairman.

24 CHAIRMAN: Please proceed.

25 30 Q. MR. MURPHY: So we know, I think, just to bring you 10:50  
26 back please to page 1478 in volume 6. I beg your  
27 pardon, at 1478 please. So here we have Superintendent  
28 McBrien, against whom you have no complaint, saying at  
29 the end of her report, that your assertion that you had

1 not been in contact with Liam McHugh was consistent  
2 with your conversation with her on 9th June 2014, which  
3 is covered in correspondence to you of the same date.  
4

5 So she is there effectively reporting up the line that 10:51  
6 she accepts what you have said and is consistent with  
7 the conversation you had with her, do you understand?

8 A. Yes.

9 31 Q. So as at that date the position is that no one is  
10 accusing you of any wrongdoing at all, there is an 10:52  
11 acceptance that Mr. McHugh is somebody who is not  
12 willing to make a statement and the matter is at an  
13 end?

14 A. Yes. Judge, I know I pointed out, I think last week,  
15 that there's nothing to preclude Garda management from 10:52  
16 asking Garda Lyons for a statement and Garda Lyons  
17 would have been obliged to give them a statement. They  
18 didn't do that, they didn't go down that road. There  
19 is an alleged theft by three members of An Garda  
20 Síochána in this. They didn't pursue it. 10:52

21 32 Q. Garda Keogh, we know that Superintendent McBrien didn't  
22 pursue an inquiry and she wasn't targeting you but not  
23 doing that?

24 A. I know.

25 33 Q. I have to say, the same way that Assistant Commissioner 10:52  
26 Finn's approach towards this was not targeting you  
27 either. Let's just look at the findings and see how he  
28 approached it very briefly. At page 7480 please, the  
29 page we just opened, book 25. Do you see that, please?

1 If I take you to the heading "Findings", which we have  
2 just been discussing before you dealt with the other  
3 matter. The first point is, Assistant Commissioner  
4 Finn says his finding is:

5  
6 "Garda Lyons received the intelligence in good faith.  
7 The district officer, Superintendent McBrien, sought to  
8 have the matter investigated because it contained  
9 allegations of inappropriate/criminal behaviour by  
10 members of An Garda Síochána." 10:53

11  
12 She reported the matter to divisional officer, Chief  
13 Superintendent Curran, who directed the matter be  
14 followed to establish if the gardaí had been given the  
15 opportunity to comment on the veracity of the 10:53  
16 information contained in the report."

17  
18 Then over the page:

19  
20 "Liam McHugh declined to make a statement when 10:53  
21 interviewed by gardaí."

22  
23 So, all of that is factually correct, isn't it?

24 A. Yes. Liam McHugh obviously is entitled not to make --  
25 to make a statement or not to make a statement. A 10:53  
26 member of An Garda Síochána doesn't have that same --  
27 doesn't have those same rights. If they are requested  
28 to make a statement, they are obliged to make a  
29 statement. Garda management, it's something Garda

1 management could have done, to request the statement.

2 34 Q. Garda Keogh, you see in the next paragraph the way  
3 Assistant Commissioner Finn approaches it, he says:

4

5 "The allegation reported by Garda Lyons..."

10:54

6

7 That's supposedly what Mr. McHugh said to him:

8

9 "... were very serious matters. The senior management  
10 would have been in dereliction of their duty had they  
11 not initiated the respective enquiries they made into  
12 the matter."

10:54

13

14 So he's saying effectively they had a duty to enquire  
15 and the enquiry resulted in nothing from the point of  
16 view of any further evidence, but at least they had to  
17 check it out.

10:54

18 A. I understand that part. There is no issue, Judge, that  
19 when Garda management receive a report like that, that  
20 they have to check it out. I don't have an issue on  
21 that part.

10:54

22 35 Q. The next paragraph, he says that:

23

24 "The actions taken by Chief Superintendent Curran and  
25 Superintendent McBrien are in keeping with their roles  
26 and responsibilities as divisional and district  
27 officers. There is no indication that the behaviour of  
28 either officer was inappropriate or reasonably capable  
29 of undermining the dignity at work of Garda Keogh."

10:54

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So, again he's applying the same logic, he is saying, look, they had a duty to investigate and that's all they did.

A. You see, where they have one version which is against me, they can't get it off the ground. But equally, Judge, I am saying from the very start that there's nothing to do this, which is also then, I mean, a serious thing, because I am then saying this is false, this is false. And they don't pursue that. They don't seem to look at whether it's false. It's just, it's no use to them because -- 10:55

36 Q. Garda Keogh, you see the next sentence they say:

"In the context of complaint made by Garda Keogh, there is no evidence to suggest that the behaviour of Chief Superintendent Curran or any of the other officers involved amounted to bullying or harassment of Garda Keogh." 10:55

So that would include Superintendent McBrien, isn't that right? 10:55

A. Well, when I had said this never occurred, there's an issue there that perhaps they ought to have looked for statements from Garda Lyons, a statement from Garda Lyons in relation to this matter. Because this is serious, and somebody is -- there's two members of An Garda Síochána -- basically someone is lying in relation to this. They should have followed this 10:56



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through.

37 Q. Garda Keogh, again just to come back to the second last paragraph, Assistant Commissioner Finn says:

"In the context of the complaint made by Garda Keogh, there is no evidence that the individual behaviour of Chief Superintendent Curran, Superintendent McBrien or any of the officers amounts to bullying or harassment of Garda Keogh."

10:56

10:56

I have to suggest to you, that's a reasonable conclusion based on the assessment of the evidence

A. That's --

38 Q. Put it this way: Here is a situation where all of the people make an enquiry and are satisfied that Mr. McHugh is not willing to make a statement and the matter ends.

10:56

A. It's not as simple as that, Judge. Just from recollection, we have dealt with this over the last few weeks, that they sent people out to try and take statements, not just once but twice from Mr. McHugh in relation to this. In the meantime, I'm saying this whole thing -- well, whenever the allegation is put to me, from that point on, I know what the allegation is, I say this is completely false, there's no --

10:57

10:57

39 Q. Again I have to suggest to you that Assistant Commissioner Finn, looking at all these facts, looking at the way in which Superintendent McBrien acted, looking at the way in which Chief Superintendent Curran

1 acted, is effectively saying there is no evidence of  
2 any corporate bullying of you. In other words, the  
3 organisation isn't seeking to bully or harass you, it  
4 is checking out something, which I think you very  
5 fairly accepted a few moments ago they had to check 10:57  
6 out, and ultimately Superintendent McBrien accepts what  
7 you say and Mr. McHugh won't make a statement and  
8 that's the end of the matter.

9 A. Well, you see, Judge, I just touched on this a moment  
10 ago. Checked it out and when it didn't suit their 10:58  
11 narrative to be able to go after me, they couldn't  
12 bring it any further. But I had already said this is  
13 false. There's obviously -- if I am then saying this  
14 is false and this whole thing is not true, perhaps they  
15 should have then looked at that and said, well maybe 10:58  
16 this isn't -- this never happened, maybe we should  
17 investigate to see whether this report is accurate.

18 40 Q. Garda Keogh, the end result of all of this, at local  
19 level, in Athlone with Superintendent McBrien, with  
20 Chief Superintendent Curran, is that your version of 10:58  
21 events is acceptable. How could that be targeting or  
22 bullying of you?

23 A. Judge, I referred to something a moment ago and it's  
24 the thing that I was to perhaps under re-examination  
25 come back to, but there is something for me to come 10:59  
26 back on that.

27 CHAIRMAN: If there is a response to Mr. Murphy, give  
28 it.

29 A. Yes. In the de Bruir report, Judge, it doesn't appear

1 that way. And again, the documents, whatever documents  
2 go, I don't know what happens behind the scenes,  
3 contacts and meetings between different people.  
4 Documents are fine, we can read what happened but we  
5 don't know how things can get twisted with arms and 10:59  
6 legs to such a level that --

7 41 Q. CHAIRMAN: I appreciate that this is a little  
8 complicated, because you first of all have the role of  
9 the officers on the spot, Superintendent McBrien and  
10 Chief Superintendent -- I understand that. You're 10:59  
11 endeavouring, you are trying to then look at that  
12 situation and your comments on that. But specifically,  
13 where we are at this moment, Mr. Murphy is exploring  
14 your complaint that Assistant Commissioner Finn got it  
15 wrong and it represented targeting and discrediting. 11:00  
16 Let's not worry about definitions and so on. Am I  
17 understanding that your complaint is that Assistant  
18 Commissioner Finn didn't investigate the possible  
19 falsity of the Lyons report?

20 A. Yes, Judge. 11:00

21 42 Q. CHAIRMAN: Now, as I say, don't just agree with it  
22 because that's my -- but that's the sense I'm getting.  
23 That's what I'm writing down as what I am  
24 understanding.

25 A. Yeah. 11:00

26 43 Q. CHAIRMAN: Hold on. Now hold on.

27 A. Sure.

28 44 Q. CHAIRMAN: But I'm not sure that that was his job. He  
29 was looking at bullying and harassment in respect of

1 the treatment up the line, if you know what I mean, by  
2 a superintendent and a chief superintendent. what  
3 would you say to that?

4 A. well, Judge, there they are inextricably linked. The  
5 whole thing is linked. 11:01

6 45 Q. CHAIRMAN: Okay. So you say, however it comes about,  
7 that's the complaint you make under the MCHugh heading,  
8 Assistant Commissioner Finn should have investigated  
9 the possible falsity of the complaint.

10 A. Yes. And, Judge, on that -- 11:01

11 46 Q. CHAIRMAN: Sorry, of the report?

12 A. The one line again, is:  
13  
14 "Findings: Garda Lyons received the intelligence in  
15 good faith." 11:01

16

17 47 Q. CHAIRMAN: Yes.

18 A. And I have a huge issue with that particular line,  
19 Judge.

20 48 Q. CHAIRMAN: Did you complain to him? I thought 11:01  
21 Mr. Murphy asked you as to whether you said to  
22 Assistant Commissioner Finn that that report was  
23 untrue, was false?

24 A. You see, I didn't know Garda Lyons -- when I met  
25 Assistant Commissioner Finn, I didn't know Garda Lyons 11:01  
26 was the author of that report. It was as a result of  
27 his investigation, where he did send out --

28 49 Q. CHAIRMAN: I thought Mr. Murphy said he gave you this  
29 material?

1 A. Yes, that's what I am getting on. He then sent out the  
2 material.

3 50 Q. CHAIRMAN: Okay.

4 A. And from that material is how --

5 CHAIRMAN: All right. 11:02

6 51 Q. MR. MURPHY: I'm wondering, Garda Keogh, he sent it out  
7 to you before he wrote this report. But I think you  
8 will agree with me, you didn't make a submission to him  
9 to say, you should investigate whether Garda Lyons was  
10 telling the truth or not? 11:02

11 A. Judge, I've said that from the very start. I mean,  
12 Garda Lyons is not the issue because I don't know it's  
13 Garda Lyons is basically saying this report is -- look,  
14 I mean, I've --

15 52 Q. CHAIRMAN: Okay. You found out that it was Garda 11:02  
16 Lyons --

17 A. Nothing changes for me, Judge, because I already said  
18 the report, the whole thing is --

19 CHAIRMAN: All right. There it is.

20 53 Q. MR. MURPHY: But I think you do agree that you never 11:02  
21 contacted Assistant Commissioner Finn and said, ah,  
22 this is new information, I think you should investigate  
23 Garda Lyons because I think he's making it up, or  
24 anything else. Yesterday you seemed to suggest, at  
25 page 75 of yesterday's transcript, sorry, Day 100, that 11:03  
26 you had --

27

28 "Aidan Lyons is a guard that would have been a clean  
29 pair of hands. They got him to write this nonsense."

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Again an allegation that isn't supported by any evidence. But I don't see anything in the papers, I think you will agree with me, you never put that to Assistant Commissioner Finn and said, this needs to be investigated. 11:03

A. Judge, as I have already said, it didn't matter who wrote the thing. If the Pope wrote the thing, I would still be standing by what I said. I said that this whole thing is false. It happened to be Aidan Lyons that was the author of the report. But I have already prior to that, all along maintained this whole thing is false, it's not done properly. Here you have two -- a guard now that is saying this is false and there's no follow up from my point of view as to, you know, to see if my side of this was in any way accurate, did this did this conversation ever happen? Or, you know, was it made up? All these questions. They were never looked at. 11:03

54 Q. You, see Garda Keogh, I have to suggest to you that what the assistant commissioner was doing, deciding the issue in relation to whether there was any bullying or harassment under the policy, he was looking at how the officers such as Chief Superintendent Curran and Superintendent McBrien had acted. You have no complaint against Superintendent McBrien. In effect, she did the same as Chief Superintendent Curran; she investigated, she came to the conclusion there was nothing to find and that was the end of it. And what 11:04

1 Assistant Commissioner Finn is saying, looking down at  
2 this, as far as they are concerned, he is looking at  
3 whether they bullied you, he is saying he is satisfied  
4 that they didn't?

5 A. Look, I dispute that part. I'm in your hands on this, 11:04  
6 Judge, because my answers are going to be pretty much  
7 the same as the last ones.

8 55 Q. Again just finally on that point, I just want to  
9 suggest to you that although you may disagree with the  
10 methodology or the approach, there is nothing in 11:05  
11 Assistant Commissioner Finn's report to demonstrate  
12 that he was irrational or unreasonable in saying here  
13 were two senior officers carrying out their duty, and  
14 there was no adverse result for you; isn't that right?

15 A. On the face of it, in writing, that's what appears. 11:05  
16 But as I said, this leads on to another report.

17 56 Q. I just want to deal with the Finn report just for a  
18 moment.

19 A. Yeah, sorry.

20 57 Q. Thank you. Can I just deal with a number of other 11:05  
21 points on the Finn report? First of all, can I ask if  
22 you can to be shown volume 14. Chairman, just for  
23 signposting in this regard, to assist the witness and  
24 you, Chairman, I am proposing to deal as briefly as I  
25 can, just with a number of aspects of the sequencing of 11:05  
26 the investigation?

27 CHAIRMAN: Thanks very much.

28 MR. MURPHY: I will try to keep this as tight as I can.

29 CHAIRMAN: Absolutely. Yes, thank you.

1 58 Q. MR. MURPHY: Just again to assist you and the Tribunal  
2 for the record, the timeline here. This is a document  
3 which is 15th November 2017. You will see on page 4128  
4 it's signed by Fintan Fanning, Assistant Commissioner.  
5 This is the formal appointment of Assistant 11:06  
6 Commissioner Finn, do you see that?  
7 A. Just 4128?  
8 59 Q. 4128, please, yes.  
9 A. Yes.  
10 60 Q. On the first page he deals with the policy and all 11:07  
11 sorts of information that doesn't concern us. But on  
12 the second page he says:  
13  
14 "On 15th November 2017, I met Mr. John Barrett,  
15 executive director HRPD. He nominated you, Assistant 11:07  
16 Commissioner Finn, in order for me to make the  
17 necessary appointment as per the policy. I am  
18 appointing you as investigator in this matter."  
19  
20 And then he gave contact details for you. Again, there 11:07  
21 is no controversy about that.  
22 A. No.  
23 61 Q. That's the letter of appointment and you have said what  
24 you said about this before. Then can you please turn  
25 forward to 4219. This is a document, I won't go 11:07  
26 through this now, this is a document we dealt with  
27 yesterday, which is the meeting on 1st December 2017.  
28 I think you dealt with that issue. But that shows the  
29 meeting in the Mullingar Park Hotel with Assistant



1 Commissioner Finn, Chief Superintendent Tom Myers,  
2 Inspector Ned Brown, yourself and Mr. Cullen.

3  
4 Then moving, please, to page 4233. Sorry 4233. This  
5 is a document of 3/12/2017 and it's a worksheet. 11:08

6 Again, just for the assistance of the Tribunal, if you  
7 flick through the next few pages, you see on the  
8 left-hand column there is a listed names. There are  
9 statements identified, there's reference to a  
10 narrative. In the right-hand column there are tasks 11:08  
11 allocated. It's a bit like a jobs like I think, isn't  
12 it, in terms of Garda investigation. Would you agree?

13 A. Yeah.

14 62 Q. So again in terms of the structure, left-hand column,  
15 you have names of people and then you will see on the 11:08  
16 left-hand column, the division of functions or  
17 responsibilities between Assistant Commissioner Finn  
18 and Chief Superintendent Myers and that proceeds then  
19 through all of the names, which are familiar to the  
20 Tribunal, moving down through the different ranks and 11:09  
21 down as far as page 4241. So ultimately that indicates  
22 the sort of disposition of work to be done and tasks to  
23 be achieved.

24  
25 Could I ask you then please to turn to page 4227? 11:09

26 A. Going backwards, 4227?

27 63 Q. Sorry, that is the wrong page, excuse me. If I can  
28 pass from that, please. If I can go to 4282 please.  
29 Again, I think we needn't dwell on the detail of the

1 letter but here I think your solicitor is writing to  
2 Assistant Commissioner Finn and he is making  
3 suggestions. He is making some complaints, I think, at  
4 that stage, about the level of early response. But you  
5 also indicate that -- if you turn over to page 4283, 11:10  
6 the last paragraph Mr. Cullen asks on your behalf that:

7  
8 "You say that you indicated to my client that you will  
9 be fair to all parties, that you will adhere to the  
10 principles of natural justice and fair procedures. In 11:10  
11 that regard we respectfully submit you might now engage  
12 in the detail and text of the complaint and kindly  
13 confirm the nature of any response from Superintendent  
14 Murray and the others to seek avoidance through  
15 diversion. " 11:11

16  
17 Ultimately I think in summary, the position is that  
18 there is a request for communication and fair  
19 procedures by your solicitor to Assistant Commissioner  
20 Finn, is that right? 11:11

21 A. Yes. Sorry, which paragraph? I am not disputing that  
22 or anything I am just trying to find it myself.

23 64 Q. The very last paragraph of 4283, please. If I can just  
24 paraphrase that, it's a request. 4283, do you see  
25 that? 11:11

26 A. Yes.

27 65 Q. There is a request for communication and fair  
28 procedures, there. Then if I can ask you to move,  
29 please, to 4292. This is one example of a number of

1 letters which the Tribunal has in its archives at this  
2 stage. This is a letter addressed to Chief  
3 Superintendent Curran on 15th December 2017 by  
4 Assistant Commissioner Finn. Basically he is saying  
5 first of all that he met with you. Then he says:

11:12

6  
7 "On 1st December 2017 I met with Garda Keogh. I  
8 received a comprehensive document outlining an  
9 extensive array of issues.

10  
11 On 7th December I sought additional information by way  
12 of clarification. Garda Keogh has confirmed he knew  
13 all of the people that he is alleging was involved in  
14 this complaint. I wish to meet with you and put to you  
15 the complaint made by Garda Keogh."

11:12

11:12

16  
17 Then he goes on to say:

18  
19 "Please note, I have advised Assistant Commissioner  
20 Fanning that I have not been in a position to complete  
21 this investigation with the timeframe set out in the  
22 guidelines for working together to create a positive  
23 working environment, but I will make every effort to  
24 complete my investigation as expeditiously as  
25 possible."

11:12

11:12

26  
27 And then asks the officer to contact him.

28  
29 Again, this is an example I think of him taking your

1 information, seeking to digest it, communicating out to  
2 the people who are under investigation and seeking to  
3 get them to engage.

4  
5 If you could turn forward, please, just momentarily as 11:12  
6 well to 4300. There we have a similar letter, I think,  
7 addressed to Chief Superintendent wheatley. So again  
8 that indicates that by that stage the communications  
9 were advancing rapidly.

10  
11 Could I ask you to be shown volume 15, please, at 4324,  
12 please. 11:13

13 A. Sorry, the page, please?

14 66 Q. 4324, please. So this is a further example of  
15 engaging, Mr. Cullen is writing to Assistant 11:14  
16 Commissioner Finn on 21st December 2017. Do you see  
17 that?

18 A. Yeah.

19 67 Q. Again he raises queries about how much more detail is  
20 being required. He also indicates that -- he says: 11:14

21  
22 "You say you're not in possession of the appendices  
23 which would appear to be incorrect, some of the  
24 appendices were on your desk."

25  
26 Then turning over the page to 4325, he raises issues  
27 about matters which may appear to be outside the scope  
28 of the investigation. He says:  
29

1 "We would be grateful if you now confirm... electronic  
2 further meetings in order."

3  
4 And then indicates that there are days thereafter,  
5 further meetings to be nominated. Again, he's seeking 11:15  
6 to engage on your behalf with the assistant  
7 commissioner. I think you would agree?

8 A. Yes, Judge. And just on that, actually, I forgot that  
9 yesterday, in relation to the notes of the meeting.  
10 That word "scoping" is another thing that cropped up 11:15  
11 that doesn't appear to be in those notes. Just to be  
12 clear. I had forgotten about it. And that's why we  
13 were looking for a subsequent meeting to be recorded,  
14 Judge, so that there would -- because there was --  
15 there is a dispute over what was said at that meeting 11:15  
16 and to avoid that for any further thing down the road,  
17 we were looking to have it recorded, so that there  
18 would be no dispute and that it was the Guards that  
19 declined to have the meeting, the second meeting  
20 recorded. 11:15

21 68 Q. Just very briefly again, Garda Keogh, could you move  
22 forward to page 4467, please? This is example again of  
23 the assistant commissioner to writing out to affected  
24 parties. He is writing to Mr. Hegarty of Ready  
25 Charleton Solicitors in relation to his client Nicholas 11:16  
26 Farrell. And again, the same type of detail that we  
27 have seen in the earlier letters and seeking engagement  
28 with those people with his inquiry. Do you see that?

29 A. 4467, yeah.

1 69 Q. Yes, please. Then could I ask you to move forward in  
2 the same volume to page 4650, please? This is in  
3 January of 2019. 4650, volume 15, the last two pages  
4 of that volume. In this case, the assistant  
5 commissioner is writing to Chief Superintendent Mark 11:17  
6 Curran?  
7 A. Sorry, I have 4650.  
8 70 Q. Yes, 4650, in volume 15?  
9 A. Yeah, volume 15. I have a chief superintendent letter  
10 to the superintendent of Athlone. 11:17  
11 71 Q. Sorry. what I have at the page -- if you just look at  
12 the letters at the bottom, 4650 at the bottom. If you  
13 just please look, Garda Keogh?  
14 MR. KELLY: That's not what we have.  
15 CHAIRMAN: It's a 2014 letter. 11:17  
16 MR. MURPHY: Sorry, I have to pass from that. In the  
17 version I have, it has that number at the bottom.  
18 CHAIRMAN: Give us the dates, Mr. Murphy.  
19 MR. MURPHY: I can pass from that, Chairman, and come  
20 back to it. 11:18  
21 CHAIRMAN: well, why don't you just ask the question.  
22 If it's not an important one, I mean if it's showing,  
23 as I am understanding you're doing, if you are showing  
24 the efforts that Assistant Commissioner Finn made with  
25 a view to supporting the proposition that he set about 11:18  
26 his work efficiently, then if you just tell us what the  
27 letter was and that he wrote to somebody.  
28 MR. MURPHY: Yes.  
29 CHAIRMAN: I think we can return, revisit it if

1 necessary at a time when its materiality can be  
2 explored.

3 MR. MURPHY: If I can hand this to the witness.

4 CHAIRMAN: Certainly. Just tell him what it is so we  
5 all know what it is. 11:18

6 MR. MURPHY: The position is, the point is made, he  
7 notifies -- Chief Superintendent Curran notifies  
8 everybody else.

9 CHAIRMAN: The date of the letter, Mr. Murphy?

10 MR. MURPHY: The date of the letter is 17th January 11:18  
11 2018.

12 CHAIRMAN: Thank you.

13 MR. MURPHY: And he says:

14

15 "I have notified the appointing officer..." 11:18  
16

17 That's Assistant Commissioner Fanning.

18

19 "...I am not in a position to complete the  
20 investigation within the timeframe set out by the 11:19  
21 guidelines. I am seeking your consent to continue to  
22 conclude the matter as soon as possible given the  
23 volume of material involved."

24

25 So I think he's acknowledging you have given a large 11:19  
26 volume of material.

27 CHAIRMAN: And it's is going to take as long as it's  
28 going to take.

29 MR. MURPHY: Yes.

1 A. I accept that.

2 72 Q. CHAIRMAN: You're happy with that?

3 A. It couldn't have been done within the normal time

4 period, I accept that.

5 CHAIRMAN: Garda Keogh says that's fair enough. 11:19

6 73 Q. MR. MURPHY: Then can I ask you, please, to move

7 forward to 4672, and that should be in volume 16.

8 These are all just by way of examples as to the

9 progress of the investigation. So, this is a letter

10 from Chief Superintendent Pat Murray, it's dated 29th 11:20

11 May 2018. It's in response to the points which are

12 made, do you see that?

13 A. 4672.

14 74 Q. Yes, please.

15 A. Yeah. 11:20

16 75 Q. Various different points are dealt with. Could you

17 please turn forward to page 4675. There you will see

18 that Chief Superintendent Pat Murray says:

19

20 "I strongly refute all the allegations made by Garda 11:20

21 Keogh against me. I believe I have always behaved in a

22 professional, supportive and caring manner towards

23 him."

24

25 He gives effectively a defence of his position at that 11:20

26 stage. Again, you will be aware of that?

27 A. That's what he says.

28 76 Q. Yes. Could you then turn forward, please, to page

29 4903. This is a letter of 13th June 2018, this is



1 where Assistant Commissioner Finn writes to Mr. Cullen,  
2 referring to earlier correspondence. He says:

3  
4 "Please find attached a copy of all witness statements  
5 and reports I have procured during the course of my 11:21  
6 investigation. I wish to afford your client an  
7 opportunity to review the material and make any comment  
8 or observation before I conclude my investigation. As  
9 alluded to previously, I am available and prepared to  
10 meet your client to clarify any issues he may wish to 11:21  
11 raise."

12  
13 I think there's no dispute between us, that letter was  
14 sent and that was part of the communications with your  
15 solicitor. Is that right? 11:21

16 A. That's correct, Judge.

17 77 Q. Then could I ask you, please, to move forward in the  
18 same volume, to page 4997? sorry, for ease of  
19 reference, I beg your pardon, Registrar, could I ask  
20 you just to start the sequence on 4996. This is an 11:21  
21 e-mail from your solicitor dated 6th September 2018.  
22 It's addressed to commissioner --

23 CHAIRMAN: This is from Assistant Commissioner Finn, is  
24 that right?

25 MR. MURPHY: No, this is from Mr. Cullen to -- 11:22

26 CHAIRMAN: I'm sorry, I have been asking Mr. Kavanagh  
27 to go the wrong way, sorry. Do you see what we are  
28 looking at here?

29 MR. MURPHY: This appears to be a reply to issues that

1 were raised in the statements that had come back from  
2 Superintendent Murray, Chief Superintendent wheatley,  
3 Chief Superintendent Curran. So this is your solicitor  
4 I think responding to the documents that he has been  
5 shown by Assistant Commissioner Finn. 11:23

6 CHAIRMAN: That's not what I am seeing, Mr. Murphy. I  
7 think Mr. Kelly isn't seeing the same thing.

8 MR. MURPHY: At page 4998, Chairman.

9 CHAIRMAN: 4998, okay, thank you.

10 MR. KELLY: All I'm seeing is the heading of an e-mail. 11:23

11 MR. MURPHY: It's the beginning of the sequence, if I  
12 just ask you to move forward two pages, please, to  
13 4998. You will see there's an address at the top. It  
14 says:

15  
16 "Dear Assistant Commissioner Finn,  
17 We refer to the letter from Assistant Commissioner Finn  
18 dated 13th June 2018, together with enclosures and the  
19 letter of the 10th August requesting clarification and  
20 comment on such." 11:23

21  
22 So this is a response, a measured response to documents  
23 that are served in June, reminders that are sent in  
24 August. Then a series of questions are set out by your  
25 solicitor over the next two pages, do you see that? 11:23

26 A. I am just looking at them here.

27 78 Q. Yes. Perhaps I will just pick one or two out. For  
28 example:

29

1 "Have you advised the penalties imposed on Garda Keogh  
2 and meetings in respect of both breaches. "

3  
4 Then questions in relation to Superintendent Murray's  
5 statement, asking what does he mean by this. But in 11:24  
6 effect these are questions raised by your solicitor in  
7 response to the material that has been sent to him on  
8 your behalf.

9 CHAIRMAN: And the date of that, Mr. Murphy?

10 MR. MURPHY: That date, Judge, is September 2018. I 11:24  
11 appreciate --

12 CHAIRMAN: 6th September.

13 MR. MURPHY: Sorry, 6th September.

14 CHAIRMAN: Thank you.

15 79 Q. MR. MURPHY: I appreciate there is a large volume of 11:24  
16 material and Assistant Commissioner Finn will say that  
17 he had to take time to explore this. He highlighted at  
18 an earlier stage that it wouldn't fit into the normal  
19 timeframe. But here he is outlining the responses  
20 which are present. 11:24

21  
22 Can I ask you then, please, to go to Volume 17, at page  
23 5033? If you just ignore the date at the top, that has  
24 been reproduced I think. If you turn back, please, to  
25 page 5032? 11:25

26 A. Sorry, just the page?

27 80 Q. 5032?

28 A. 55.

29 81 Q. 5032, please.

1 A. Sorry.

2 82 Q. This indicates on 9th October 2017, Superintendent  
3 Murray wrote back to Assistant Commissioner Finn. In  
4 the pages that follow there are a series of additional  
5 responses to queries that were raised, I think some of 11:26  
6 which come from Mr. Cullen. So again that's evidence  
7 on that date, 9th October 2018, Superintendent Murray  
8 is communicating back to Assistant Commissioner Finn.  
9 Do you see this?

10 A. Yes, yeah. Just -- 11:26

11 83 Q. CHAIRMAN: Yes.

12 A. Judge, is it October 2018 that Assistant Commissioner  
13 Finn signs off on the clearance forms to the Policing  
14 Authority?

15 84 Q. MR. MURPHY: I think there's a finalisation process 11:27  
16 taking place, there's communication between the parties  
17 at that time.

18 A. Right.

19 85 Q. Yes. Then internal assessment, could you turn forward  
20 to 5521 please, at Volume 18. 11:27

21 A. 5521?

22 86 Q. Yes, please. This is the final version of the report  
23 which is issued by Assistant Commissioner Finn and it's  
24 dated 20th December 2018, as can be seen on 5560. If  
25 you turn forward, please, to 5560. 11:28

26 A. Sorry?

27 87 Q. 5560. Again, this is a document we have seen before,  
28 but this is the conclusion, the conclusion of Assistant  
29 Commissioner Finn, where he concluded that

1 Superintendent Murray and Chief Superintendent Curran  
2 and Chief Superintendent Wheatley acted legitimately  
3 within their respective roles and responsibilities to  
4 manage the issues and policing demands of their areas  
5 of responsibility and in particular their interaction 11:29  
6 with you. So that's the final version of the report.  
7

8 Just very briefly, can I just put it to you that all  
9 those documents, and there are many, many more, that  
10 they are just a sample of them, demonstrate that 11:29  
11 Assistant Commissioner Finn took his task very  
12 seriously, communicated with your solicitor, he  
13 communicated with all the relevant parties, collated  
14 statements with his team, reviewed the evidence and  
15 came to his final conclusion, which he expressed in 11:29  
16 detail in this report.  
17

18 I have to suggest to you that all of that was  
19 consistent with good practice and did not represent  
20 targeting or bullying or any form of hostility towards 11:29  
21 you.

- 22 A. On the face of it, Judge, that's the way it appears in  
23 the written record. But, Judge, my dates may not be  
24 correct, so I won't go into the dates, but I think  
25 there is an issue here, Judge, where Commissioner Finn 11:29  
26 is signing off on the clearance forms in relation to  
27 the Policing Authority while this is under  
28 investigation. I think that would lead to a huge issue  
29 there, where he is not -- basically has the finding --

1 if I am correct, now I mightn't be correct on this,  
2 that's why I don't want to -- but if it's a case that  
3 he has cleared off on them while he is conducting the  
4 investigation, it would appear that he already has the  
5 findings made prior to the investigation being 11:30  
6 concluded.

7 88 Q. I think, Garda Keogh, you're aware that the point you  
8 just made relates to the next issue?

9 A. Right.

10 89 Q. Not this issue? 11:30

11 A. Right.

12 90 Q. But secondly, on behalf of Assistant Commissioner Finn  
13 I have to suggest to you that in fact what you suggest  
14 there is incorrect, that at every stage he approached  
15 the task seriously, fairly and partially. You accepted 11:30  
16 yesterday, you never sought to challenge his  
17 appointment or you never sought to challenge him to  
18 stand down in the course of that 12-month inquiry and  
19 you accepted that, isn't that right?

20 A. I accept that. As I stated Judge, at that stage I had 11:30  
21 to go through the motions with the Guards, that I had  
22 been in touch with GSOC. At that point in didn't  
23 matter who was doing the bullying and harassment  
24 investigation.

25 91 Q. But you see, at that time you also knew that 11:31  
26 Superintendent Murray had been promoted and was then  
27 Chief Superintendent Murray, is that right?

28 A. He was promoted in January 2018.

29 92 Q. Yes. The focus of the investigation proceeds all the

1 way through that year without objection from you?

2 A. I think it starts prior.

3 93 Q. Yes.

4 A. Yes.

5 94 Q. CHAIRMAN: Just to be fair to yourself and so I 11:31  
6 understand exactly, just tell me the last bit again.  
7 You referred to GSOC. I don't want to tell you what I  
8 think you said because I don't want to influence you in  
9 any way. Tell me about the relevance of the GSOC --  
10 you see, Mr. Murphy says, look, all these steps show -- 11:31  
11 now leave aside the promotion question, because we'll  
12 coming to that, I understand your point about that,  
13 your query about that. So, let's just park that just  
14 for the moment. But tell me about the GSOC thing,  
15 what's the relevance of that? 11:32

16 A. Prior, back, I think as far as back as 2016, when I'm  
17 trying to invoke the bullying -- make a complaint to do  
18 with bullying and harassment, because the law has  
19 changed in 2014 and a guard can now go to GSOC, I was  
20 in consultation with GSOC about bullying and 11:32  
21 harassment. The advice that I got there was that I had  
22 to invoke the Garda procedures first. So I had to go  
23 through Garda procedures first. So that's what I did,  
24 I invoked the Garda policy. So there's obviously the  
25 Finn investigation. Then later I appeal it. But when 11:32  
26 that would have been finalised, I had already, let's  
27 say, spoken to GSOC in 2016, to say, listen, I might  
28 need to come back to you in relation to this. But I  
29 had to go through the internal Garda policy.

1 95 Q. CHAIRMAN: I have to ask you, you said, I had to go  
2 through the motions?  
3 A. Yes, Judge.  
4 96 Q. CHAIRMAN: which has a certain implication; that it  
5 didn't matter, I am just going through the motions 11:33  
6 because I want to get this over in order to head off to  
7 GSOC. Is that what you meant?  
8 A. Unfortunately, unfortunately --  
9 97 Q. CHAIRMAN: I don't want to suggest something, do you  
10 understand? 11:33  
11 A. Unfortunately, judge, that would be the case. At this  
12 period I am in a fair bit of conflict with Garda  
13 management in general.  
14 98 Q. CHAIRMAN: Yes.  
15 A. So I'm not expecting a whole lot. That's why I had 11:33  
16 originally gone to GSOC.  
17 CHAIRMAN: I am torn between asking you anything  
18 further, so I think I won't. Okay.  
19 99 Q. MR. MURPHY: Chairman, just by way of conclusion, can I  
20 just it to you Garda Keogh on behalf of Assistant 11:34  
21 Commissioner Finn, that he will say that he did his  
22 duty as best he could, that he never intended to either  
23 target, discredit or damage your interest in any way.  
24 That will be his evidence.  
25 A. I can't comment on his evidence. 11:34  
26 MR. MURPHY: Chairman, those are my questions in  
27 relation to that.  
28 CHAIRMAN: Thanks very much.  
29 MR. MURPHY: Chairman, I propose to move to the next



1 issue, which is number --

2 CHAIRMAN: Just give me a moment. Now, sorry, yes,

3 Mr. Murphy.

4 MR. MURPHY: Chairman, the next issue to address is

5 number 19; whether the disciplinary investigation 11:35

6 carried out by Assistant Commissioner Anne Marie

7 McMahon constituted discrediting or targeting of Garda

8 Nicholas Keogh.

9 CHAIRMAN: Right. Am I right in thinking that this is

10 a relatively brief area. 11:35

11 MR. MURPHY: It is. It's not a ten minute issue but it

12 is a brief issue.

13 CHAIRMAN: Okay.

14 MR. MURPHY: If it was suitable for you to rise at this

15 point. 11:35

16 CHAIRMAN: If we are moving to a new point.

17 MR. MURPHY: Yes.

18 CHAIRMAN: We will give Garda Keogh a break and,

19 indeed, everybody else a break and we will come back

20 at, say, 11:45. All right. Okay. 11:35

21 MR. MURPHY: Thank you, Chairman.

22

23 THE HEARING THEN ADJOURNED BRIEFLY AND RESUMED AS

24 FOLLOWS:

25 11:49

26 100 Q. MR. MURPHY: Chairman, the next issue to be addressed

27 is issue number 19, whether the disciplinary

28 investigation carried out by Assistant Commissioner

29 Anne Marie McMahon constituted discrediting or

1 targeting of Garda Nicholas Keogh.

2  
3 Garda Keogh, I think you have given evidence in your  
4 examination-in-chief in response to Mr. Mr. McGuinness,  
5 you gave that evidence on Day 104. I wonder if that 11:50  
6 transcript could be brought up, please, on the screen,  
7 with particular reference to page 96.

8  
9 Just at the outset, Garda Keogh, I am going to go  
10 through the points which I understand you are making 11:50  
11 here, just so we are very clear about them. Then I  
12 will come back and ask questions, if that is convenient  
13 to you and the Chairman.

14  
15 So I think the first point at paragraph 96, is you say 11:50  
16 in line 23:

17  
18 "I would argue she was obliged to make an arrest at  
19 that point."

20  
21 Are we agreed, that's is the first issue? 11:51

22 A. Yes.

23 101 Q. Then the issue at page 98, at lines 7 and 8, you  
24 suggest that because Assistant Commissioner McMahon did  
25 not carry out the arrests that that was discrediting 11:51  
26 you. Do you see this at line 9? You see in response  
27 to a question from the Chairman at line 6, the Chairman  
28 asked you:

1 "CHAIRMAN: Sorry, hold on. Let's get to the bottom of  
2 this in the end. You say that's is targeting you,  
3 because she didn't arrest?  
4 A. No, but it's is discrediting, I would say  
5 discrediting."  
6  
7 So, I understood you to say it's not targeting but  
8 discrediting, is that fair?  
9 A. Yeah. Judge, there's more to play in this, in relation  
10 to -- in relation to -- there's a particular statement 11:52  
11 that is taken and they seemed to sit on it I think for  
12 five to six months.  
13 102 Q. There is a he third point at page 107, I think you are  
14 saying at line 28, when you are asked:  
15  
16 "What's the major points in relation to this issue?" 11:52  
17  
18 And you say at line 28:  
19  
20 "Chairman, two things: Dragging it out and failing to 11:52  
21 make arrests."  
22  
23 Just over the top of the next page, page 108, we have a  
24 third one, the second line:  
25  
26 "Failure to keep you informed." 11:52  
27  
28 Can we take it that those are the points that you raise  
29 on this issue?

1 A. Yes.

2 103 Q. Just to assist the Chairman to focus on those points  
3 and those points only. Very good. Can I ask you,  
4 please, then to be shown volume 20. Could you please  
5 turn to page 6005? You see here a letter from Deputy 11:53  
6 Commissioner John Twomey dated 12th May 2017. It's  
7 addressed to Assistant Commissioner Anne Marie McMahon,  
8 and it says:  
9  
10 "You are hereby appointed to pursuant to section 23 of 11:54  
11 the Garda Síochána (Discipline) Regulations 2007 to  
12 investigate the allegations as per attached form IA31S  
13 in respect of two gardaí, Garda A and superintendent."  
14  
15 Then you say: 11:54  
16  
17 "Attached report on behalf of Assistant Commissioner  
18 Nolan, recently retired, is also attached for your  
19 information."  
20 11:54  
21 Just turning over to the bottom of the page, you will  
22 see the form, IA31, and it's entitled "Appointment of  
23 investigating officer under regulation 23."  
24  
25 I think you are familiar with this type of form? 11:54  
26 A. Yes.

27 104 Q. It is a standard form into which details are placed?

28 A. I understand. I just want to bring one point to your  
29 attention, Judge. It's probably not -- it's just prior

1 to this part. It's just that Assistant Commissioner  
2 Nolan was originally appointed to do this  
3 investigation. Judge, they knew Assistant Commissioner  
4 Nolan was due to retire. I just wanted to bring that  
5 point to your -- and then it goes to Assistant 11:55  
6 Commissioner Anne Marie McMahon. I just --  
7 105 Q. well, I think as a matter of fact he did retire?  
8 A. He did retire.  
9 106 Q. Yes.  
10 A. They knew this wasn't a simple investigation, like the 11:55  
11 guard stole a Mars bar from a stop, a disciplinary  
12 thing. As we touched on in the last thing with the  
13 Finn thing, that this was going to be a lengthy,  
14 another lengthy, long and complicated thing. They  
15 appointed a person they knew was going to retire. I 11:55  
16 wanted to bring that to your attention.  
17 107 Q. That is your perception of events but I want point to  
18 you that the fact is that Assistant --  
19 A. Sorry, my perception, just on perception.  
20 108 Q. Yes. 11:55  
21 A. Like that is a fact, that they did appoint, because  
22 we're only after looking at this, it's here in the  
23 previous document that we referred to. It's at page  
24 6005. It has on behalf of Assistant Commissioner  
25 Nolan, recently retired. I was just making the point 11:56  
26 that they originally appointed him when they knew he  
27 was due to retire. That's all on that matter.  
28 109 Q. well again, just for the record, can I say, there is  
29 nothing wrong with them having done that.

1 A. No, you did say that that was my perception.

2 110 Q. Yes.

3 A. And I was just making the point that that it's there.

4 111 Q. No, two things. The fact is he was appointed before  
5 you, that's a fact. 11:56

6 A. Right.

7 112 Q. The fact that they knew that he was going to retire is  
8 your perception of events. But it's not relevant to  
9 what we're dealing with here?

10 A. Okay. 11:56

11 113 Q. So, if we can just move on please, thank you. In terms  
12 of the focus, I just want to look at this form for a  
13 moment. Would you agree with me that if you look at  
14 the middle of the document, the focus of this  
15 appointment is: 11:56

16

17 "It appears that Garda A...."

18

19 And then it details:

20 11:56

21 "...may have been in breach of discipline as set out at  
22 A and may be subject to the following disciplinary  
23 sanction:

24

25 1. Dismissal; 11:56

26 2. Requirement to retire or resign as an alternative  
27 to dismissal.

28 3. Reduction of rank.

29 4. Reduction in pay not exceeding 4 weeks pay."

1  
2  
3  
4  
5  
6  
7  
8  
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10  
11  
12  
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26  
27  
28  
29

So, just in terms of that approach, would you agree with me that the entire focus of the investigation is on the two guards who are named in that particular box, that's what it's about.

11:57

A. No, no, no. I don't think so, Judge. There's two --

114 Q. Would you agree with me that it is a disciplinary regulation?

A. Yes. But you said two guards. Judge, we've touched on this, there's four. There's one a chief superintendent, one is Garda A. Then there's two guards from the National Drugs Unit, which I have always stated, I don't know why they were ever -- they should never have been thrown into the mix.

11:57

115 Q. The position, you're aware of this, none of these parties are to be named and I'm not naming them for that purpose.

11:57

CHAIRMAN: No, in fairness, Garda Keogh has been very careful, I have to say, he has been very careful in his evidence not to name people. But he does say that there are two other gardaí.

11:57

MR. MURPHY: I don't see how this is relevant to this issue, Chairman.

A. They're blanked out, Judge, the names are blanked out on the page, I think, presuming it's them, on page 6005, which I have been referred to.

11:58

116 Q. Can I perhaps come back to that point later on. Can I just ask you confirm the focus of the investigation is discipline?

1 A. Yes.

2 117 Q. Do you agree with that?

3 A. Yes.

4 118 Q. Yes. So this is not a criminal investigation, would  
5 you agree with that? 11:58

6 A. Yes.

7 119 Q. In fact, the consequences or the outcome of an adverse  
8 finding can be seen in that block in the centre:  
9 Dismissal; requirement to retire; reduction in rank; or  
10 reduction in pay. Do you see that? 11:58

11 A. Yes.

12 120 Q. In terms of the matters to be enquired into, that's  
13 contained in the box under the heading "(a)" at the  
14 bottom of page 6006. Do you see that?

15 A. Yeah. 11:58

16 121 Q. Insofar as that's concerned, Assistant Commissioner  
17 McMahon will say that her focus therefore was on that  
18 particular approach; namely, the question of  
19 discipline, and nothing else. So, just to take your  
20 first complaint against her, your complaint that you 11:59  
21 made on the last occasion was that she was obliged to  
22 arrest people. She will say that that wasn't her focus  
23 at that time because she was dealing with a  
24 disciplinary investigation, not a criminal  
25 investigation. I think you do appreciate the 11:59  
26 difference between the two?

27 A. There is, but it's not again as simple as that. I  
28 mean, the argument, what we are dealing with here is,  
29 it's a conspiracy to supply heroin. John Gilligan is



1 the only person that I know of that was actually  
2 convicted, I could be totally wrong, that was convicted  
3 of something like this. The point I'm trying to make  
4 is: Let's say, because this did cropped up last week,  
5 that a murder or something happened during the -- and 11:59  
6 it cropped up during a disciplinary investigation,  
7 like, it's not as simple, they can't turn around and  
8 say, oh, well we're just doing a disciplinary  
9 investigation, we're not going to look at this more  
10 serious event, you know, it's nothing to do with us. 12:00

11 122 Q. In terms of the approach towards the investigation, she  
12 will say in her evidence that she effectively carried  
13 out that investigation under those regulations and not  
14 under any other focus.

15 A. Yeah. 12:00

16 123 Q. Would you agree with that?

17 A. Yeah.

18 124 Q. Yes. So, insofar as that investigation concerned you,  
19 the position is that the members that were identified  
20 in the form that I have mentioned for her 12:00  
21 investigations were Garda A and the names are blanked  
22 out on the page 5994. Can I ask you to be shown,  
23 please, 5994 at volume 20? Ultimately she will say in  
24 her evidence, as you will see in 5994, that on 2nd  
25 February 2017 she is aware that Superintendent Michael 12:01  
26 Lacey and Detective Inspector Seamus Maher, met by  
27 appoint with you, to seek consent from you to use  
28 statements previously made by you to Detective  
29 Superintendent Declan Mulcahy. Do you remember that?

1 A. Yes.

2 125 Q. She will also say that on 6th March 2018 that Detective  
3 Inspector Seamus Maher spoke with you by way of  
4 telephone call?

5 A. Judge. I am not -- I'm not sure about that. I have 12:02  
6 seen that document, it's an incredible document and  
7 I've never seen anything like it in --

8 126 Q. Did he contact you by telephone?

9 A. I have no note of it in my diary. I have a note --  
10 Judge, if I can refer to my diary note. 12:02  
11 CHAIRMAN: Yes, of course.

12 A. what date, please?

13 127 Q. MR. MURPHY: This date is 6th March 2018.

14 CHAIRMAN: 6th March '18.

15 A. Judge, on my diary note, what I have here is, on 6th 12:02  
16 March 2018:

17

18 "I received a text message from Superintendent Minnock  
19 texted me to say Inspector Seamus Maher looking for my  
20 number. Part of AC McMahon's investigation team." 12:03  
21

22 Then, on the 7th, the next morning, at 7 -- that was at  
23 13:08. So at 7:43am I got a text back saying:

24

25 "Superintendent Minnock text me. Inspector Maher tells 12:03  
26 me he okay now."

27

28 I don't have a record for that conversation. I am not  
29 -- I am not sure, I have myself mulled over all the

1 possibilities, Judge, and I do see I relapse into my  
2 weakness a few days after. I don't know. I have no  
3 recollection of that conversation. I have no note of  
4 it. I have a note from the 6th in relation to this  
5 contact and on the 7th. But either way, this document 12:03  
6 that you're referring to is an incredibly unusual  
7 document, which I have never seen before in any --

8 128 Q. CHAIRMAN: what document?  
9 A. It appears to be notes of a phone call between myself  
10 and Inspector Maher. 12:04

11 129 Q. CHAIRMAN: Okay.  
12 A. As a guard I have never seen them in the last 20 years.  
13 I doubt any solicitor or barrister has ever seen such a  
14 document, where there appears to be a phone call. It's  
15 as if there was a phone call and it was recorded and 12:04  
16 everything is written down and it seems to be presented  
17 in -- given in as some form of evidence. It's never  
18 put to me after to sign, you know, sign it, have it  
19 read out to me or to sign it.

20 130 Q. CHAIRMAN: I am sure Mr. Murphy is probably going to 12:04  
21 ask you about it?  
22 A. Yes, sorry.

23 MR. MURPHY: well actually I'm not. I'm just curious  
24 to which document the witness is referring.  
25 CHAIRMAN: He is referring to a note that you have seen 12:04  
26 of the conversation.

27 A. Yes.

28 131 Q. CHAIRMAN: which you're not sure of our you're  
29 disputing?

1 A. Yes. 12:05

2 132 Q. CHAIRMAN: Or you're denying, of 6th March 2018,  
3 Between Detective Inspector Seamus Maher and Garda  
4 Keogh. He says there's a note of that. Mr. Murphy is  
5 not asking you apparently about the note of that? 12:05

6 A. Right.

7 133 Q. MR. MURPHY: we will attempt to identify that note and  
8 will return to the witness with it?

9 CHAIRMAN: If it's is important, no doubt Mr. Kelly  
10 will take us back to it and you can reveal your 12:05  
11 reservations or comments about it in due course. But  
12 unless Mr. Murphy asks you something about it, I am not  
13 inclined to take it into account. Okay. But that  
14 doesn't stop you.

15 WITNESS: I'm sorry, I thought is was that that he 12:05  
16 was referring to.

17 CHAIRMAN: Don't apologise in the slightest, there's no  
18 need to apologise whatsoever. I can understand your  
19 thinking, oh, I know where we're going now. So that's  
20 okay, that's no problem. So, you say there was a call 12:05  
21 and it would appear at least, if I am understanding the  
22 exchanges, that Inspector Minnock was alerting you to  
23 the fact that Inspector Maher was looking for your  
24 number.

25 A. Yes. 12:06

26 134 Q. CHAIRMAN: So, he may well have phoned you, but we  
27 don't know what happened after that, unless somebody  
28 says it's relevant. Okay.

29 A. Yes, Judge.

1 MR. KELLY: Judge, what he is also saying is that his  
2 diary entry for the following day indicates that  
3 Minnock contacted him to say that it was all okay with  
4 Maher, thereby implying he never made contact.  
5 MR. MURPHY: Sorry, Chairman, that's consistent with 12:06  
6 having made contact with him.  
7 CHAIRMAN: Hold on, wait now. The implications, the  
8 inferences, we will worry about in due course. At the  
9 moment we have the evidence.  
10 MR. MURPHY: Yes. 12:06  
11 CHAIRMAN: Okay. Thanks very much.  
12 135 Q. MR. MURPHY: Garda Keogh, Assistant Commissioner  
13 McMahon will say that she did not interact with you. I  
14 think that's something you agree with?  
15 A. Yes. 12:06  
16 136 Q. She will say she carried out her investigation, she  
17 made her reports but nothing that she did in relation  
18 to that report required her to arrest anybody?  
19 A. Just, there's two, two points to that question, Judge.  
20 The first one is: when Assistant Commissioner Nolan 12:07  
21 was appointed to do the investigation, he sent me out a  
22 letter to say I am appointed to the investigation,  
23 that's fine. I never got any notification from  
24 Assistant Commissioner McMahon. I didn't know for a  
25 long period of time that it was Assistant Commissioner 12:07  
26 McMahon. I knew Assistant Commissioner Nolan had  
27 retired, I didn't know then what was -- no one had  
28 informed me.  
29 137 Q. CHAIRMAN: Yes.

1 A. Under the protected disclosures, that's one of the  
2 things, that you're supposed to be kept up-to-date.  
3 And I didn't even know who was conducting the  
4 investigation. But back to the second --

5 138 Q. MR. MURPHY: Can I take that point for a moment? 12:07

6 A. Yeah.

7 139 Q. That seems highly unlikely because, as you accept, you  
8 met with Detective Superintendent Lacey and Detective  
9 Inspector Maher on 2nd February 2017?

10 A. Yeah, but were they not for Jack Nolan's investigation? 12:08

11 140 Q. Yes, but insofar as their standing is concerned, you  
12 were aware that the investigation was taking place,  
13 were you not?

14 CHAIRMAN: No, he agrees that he knew that the Nolan  
15 investigation was taking place. 12:08

16 MR. MURPHY: I see.

17 CHAIRMAN: He says he didn't about the McMahon  
18 investigation and he says he wasn't told of it.

19 MR. MURPHY: Very good.

20 141 Q. Insofar as the position is concerned, I say that there 12:08  
21 is nothing in the evidence to indicate that Assistant  
22 Commissioner McMahon was required to arrest anybody as  
23 part of her investigative duties in this disciplinary  
24 inquiry, would you agree with that?

25 A. I'm not so sure on that, Judge. That will be -- you 12:08  
26 may have to make a decision on that, Judge. My  
27 argument, Judge, would be that in the course of that  
28 investigation, there appears -- I think in April 2018  
29 Ms. B makes an admission, which is incredible thing, in

1 the whole -- if you go back through the whole series of  
2 investigation and events of the last few years, it is a  
3 game changer here. A statement from a person that was  
4 actively involved in the supply of heroin has made a  
5 statement of admission, it's an incredible thing,  
6 Judge. 12:09

7 142 Q. Garda Keogh, my question was: There's nothing in the  
8 investigation that required Assistant Commissioner  
9 McMahon to arrest anybody because she was conducting,  
10 as you have accepted, a disciplinary investigation. 12:09  
11 You are aware of the distinction, are you not, between  
12 that and a criminal investigation?

13 A. I am aware of the distinction.

14 143 Q. Yes.

15 A. But this is a game changer, this is a different 12:09  
16 scenario here now, where you have something, it relates  
17 to the -- the disciplinary investigation crops out of a  
18 criminal investigation where theirs is something very  
19 serious. This information was not available to the  
20 criminal investigation team. So this is a -- it's -- 12:10  
21 we're into -- I don't know if we in untested waters or  
22 whatever here, but if this, as I said, was something  
23 even more serious, like a murder or that, you couldn't  
24 -- one could not just say, oh, well, I am only doing a  
25 disciplinary investigation, I'm not looking at that. 12:10

26 144 Q. I have to suggest to you that it was entirely  
27 appropriate and correct for her to do so. would you  
28 agree that this investigation wasn't about you, it was  
29 about people who were under investigation?

1 A. I understand that.

2 145 Q. Yes. She will say in her evidence that she carried out  
3 the task as diligently as she could and that she also  
4 made recommendations in relation to disciplinary  
5 matters, which were effectively passed further up the 12:10  
6 chain of command. I think you agree with me, there's  
7 nothing in her report that expressly discredits you or  
8 attacks you, harasses you, targets you in any shape or  
9 form?

10 A. I think we've clearly outlined from the outset the 12:11  
11 three matters that are to be contested.

12 146 Q. Again, I think you have no evidence from your own  
13 personal knowledge to indicate that this investigation  
14 was dragged out, as you suggest at page 107 of your  
15 testimony on Day 104. 12:11

16 A. Judge, I can't agree with that. I simply can't. I  
17 mean --

18 147 Q. Just again from your own personal knowledge, can I ask  
19 you, would you agree with me, you have no knowledge of  
20 what actually took place in the investigation itself? 12:11

21 A. From my point -- I can only give from my point of view.

22 148 Q. No, not from your point of view, from your knowledge,  
23 what you know?

24 A. From my knowledge, Judge, I am informed there is a  
25 discipline investigation, I think Detective Mulcahy 12:11  
26 informs me there is going to be a disciplinary  
27 investigation in 2015, I think at the end of 2015, if  
28 I'm correct, and here we are in, what are we, 2018, is  
29 it now, are we, for this document we're referring to?



1 I mean, that's three years later.

2 149 Q. Again, you have absolutely no idea what is taking place  
3 internally within the investigation, is that right?

4 A. Well, this even goes on into this year. I think it's  
5 only quite recently -- 12:12

6 150 Q. No, just focus on Assistant Commissioner Anne Marie  
7 McMahon for the moment. She is appointed on 12th May  
8 2017, what information do you have from your personal  
9 knowledge that says that she dragged out this  
10 investigation in an effort to discredit you? I have to 12:12  
11 suggest to you that the answer is none?

12 CHAIRMAN: No, give him a chance to answer that.

13 A. Judge, I wasn't even informed that she -- she never  
14 informed me that she -- she was obliged to inform  
15 me that she was conducting this, as Jack Nolan did. 12:12  
16 She was also obliged to at least let me know, by the  
17 way, I'm appointed now to do this investigation. There  
18 was none of that. I was writing to Donal Ó Cualáin to  
19 try and find out. He wouldn't tell me. He wrote back  
20 to say the CEO Joe Nugent will be in touch with you. 12:13  
21 I'm aware Clare Daly wrote a letter to I think the  
22 Taoiseach and the Minister for Justice in relation to  
23 it, but fair enough, they couldn't get involved, I  
24 understand, I accept that. But then I wrote to the new  
25 commissioner, Drew Harris. There was no letter ever 12:13  
26 came back to say Assistant Commissioner McMahon is  
27 investigating this.

28 151 Q. MR. MURPHY: So the answer to the question is you have  
29 no evidence to demonstrate Assistant Commissioner

1 McMahon deliberately dragged out this investigation to  
2 discredit you, isn't that correct?

3 A. Equally, I could argue there was no evidence, I would  
4 have had no evidence she was even conducting the  
5 investigation. 12:13

6 152 Q. Well, that hasn't stopped you from making a complaint  
7 against her, with no evidence?

8 A. Because I am aware obviously that she was conducting an  
9 investigation.

10 153 Q. Yes. And I have to suggest to you on her behalf that 12:13  
11 in fact the allegations that you are making in this  
12 case of dragging things out, failing to make arrests,  
13 have no foundation whatsoever?

14 A. There's a serious foundation in relation to that Ms. B  
15 statement. That Ms. B statement is an incredible 12:14  
16 document and you're saying there's no evidence?

17 154 Q. Garda Keogh, in terms of the points I put to you in  
18 relation to dragging things out and failing to make  
19 arrests, I am suggesting to you, you have no evidence  
20 to support those allegations at all? 12:14

21 A. I dispute that. Because Ms. B's statement was made in  
22 -- it was made in, was it April 2018, roughly, I  
23 mightn't have the dates right, Judge. But that  
24 statement then appears to have been just sat on for  
25 five months and then it is passed over to Detective 12:14  
26 Inspector Coppinger from the original investigation  
27 team. That in itself, that whole episode there, that  
28 six-month period has massive question marks all over  
29 it. And there is evidence.

1 155 Q. There's no evidence.  
2 A. There is.  
3 156 Q. There is no evidence that Assistant Commissioner  
4 McMahon deliberately dragged out the investigation in  
5 the way that you suggest in your answer to the Chairman 12:15  
6 on the last occasion?  
7 A. Well look, we're disputed on that.  
8 157 Q. Well, no, what's happening, can I suggest to you, what  
9 you are doing here is, you are effectively analysing  
10 things from your own perspective, but you know nothing 12:15  
11 about the conduct of the investigation, you haven't  
12 spoken on your version to anybody involved in the  
13 investigation, that's your version, apart from two  
14 members you mentioned at the outset, you don't know  
15 what course the investigation took, but still you are 12:15  
16 making an allegation that Assistant Commissioner  
17 McMahon dragged out the investigation?  
18 A. Judge, Mr. Murphy is doing the very same thing on the  
19 other side of the coin; he is following the  
20 instructions given to him. Judge, there is evidence in 12:15  
21 relation to the Ms. B statement. There is evidence in  
22 those documents that it wasn't acted on immediately.  
23 It appears to have been sat on for about five months.  
24 It's an incredible statement in the whole sequence of  
25 events that went on and then appears to be just passed 12:16  
26 over then to Detective Inspector Coppinger. So, I  
27 think we're talking about six months of a period here  
28 where they have this hot coal and they seem to be  
29 juggling it around.

1 158 Q. But, Garda Keogh, you have no idea what they were  
2 doing, isn't that the case?  
3 A. Well, I have read it in the documents.

4 159 Q. But you have no idea what was taking place at the time,  
5 do you? 12:16  
6 A. At the time, I wasn't even informed it was  
7 investigated.

8 160 Q. I am suggesting to you that there is simply no evidence  
9 to support the accusation that you made against  
10 Assistant Commissioner McMahon in relation to her 12:16  
11 investigation?  
12 A. I dispute that.

13 161 Q. Assistant Commissioner McMahon will say in her  
14 evidence, if I can refer you to, please, to page 5999  
15 of the volume, that's to say volume, 20. She will say 12:17  
16 in her evidence, if I draw your attention to the middle  
17 of page 5559, she will say in her evidence that she can  
18 say that her investigation was progressed as  
19 expeditiously as possible and that she rejects any  
20 assertion, implied or otherwise, that her investigation 12:17  
21 was substandard or delayed or negatively impacted in  
22 any manner whatsoever. That will be her evidence.

23 A. Judge, at the very top paragraph on page 5999, treble  
24 9, Judge, there's a thing here:  
25 12:18  
26 "Within the body of the letter of Nicholas Keogh, I  
27 note there his reference to Olivia O'Neill and alleged  
28 interaction..."  
29

1 162 Q. CHAIRMAN: I am not with you, sorry. I am not with  
2 you. Tell me where we are.  
3 A. It's at the top paragraph of page 5999.  
4 CHAIRMAN: Yes, "I know there is a reference", yes,  
5 yes, yes. Thank you. 12:18  
6 A.  
7 "...and alleged interactions between Garda A and Ms. B.  
8 I can state that this information was not previously  
9 known to me and my discipline investigation team and  
10 has only come to my attention as part of the 12:18  
11 documentation received from the Chief State Solicitors  
12 on 8th March 2019."  
13  
14 163 Q. CHAIRMAN: Yes.  
15 A. Judge, that's a massive thing. That's a massive thing. 12:18  
16 So like, essentially --  
17 164 Q. MR. MURPHY: Garda Keogh, all she is doing there is  
18 indicating when information was brought to her  
19 attention. How on earth can you ascribe something  
20 negatively to her in that regard? 12:19  
21 A. What discipline investigation was she conducting if she  
22 didn't know about Garda A and Ms. B? I mean -- and the  
23 first -- like she's appointed in what, is it April or  
24 May 2017, and the first that she becomes aware of --  
25 Assistant Commissioner McMahon becomes aware of this is 12:19  
26 8th March 2019. Judge, bear in mind at that point they  
27 know this Tribunal is coming up.  
28 165 Q. Her position is she will indicate in her evidence that  
29 the substantive investigation file concerning Garda A

1 was submitted for the attention of the deciding officer  
2 on 27th February of 2019. Isn't it the case that you  
3 understand full well that in this situation -- sorry,  
4 isn't it the case that you understand full well that a  
5 person in Assistant Commissioner Anne Marie McMahon's 12:20  
6 position has the capacity to make recommendations at  
7 the end of the process of investigation?

8 A. That's fair enough. -

9 166 Q. What recommendation do you understand she made?

10 A. Judge, can I get that, the date you called out first. 12:20  
11 You called a date out there.

12 167 Q. 27th February 2019?

13 A. 27th?

14 168 Q. Of February 2019.

15 A. Judge, can I just write that date on this? 12:20

16 169 Q. CHAIRMAN: Absolutely. Yes.

17 A. So, Judge, now it appears that Assistant Commissioner  
18 McMahon has made a recommendation on 27/2/2019.

19 170 Q. CHAIRMAN: Yes.

20 A. And she's not aware of interactions between Garda A and 12:20  
21 Ms. B until 8th March 2019.

22 CHAIRMAN: You're suggesting that as a reading of a  
23 line. I am not accepting it, agreeing it or not  
24 agreeing it. I am simply receiving that that's your  
25 interpretation of that statement. 12:21

26 MR. MURPHY: Yes. well, I think the position is  
27 that --

28 171 Q. CHAIRMAN: Do you understand me?

29 A. Sorry?

1 172 Q. CHAIRMAN: Let me be absolutely clear. I don't know  
2 whether that means the information in relation to  
3 Olivia O'Neill and alleged interactions wasn't known to  
4 Assistant Commissioner McMahon. That's one  
5 possibility. The second possibility is the inference 12:21  
6 or implication that you're putting on it, which is to  
7 say that she wasn't aware of the relationship or the  
8 alleged relationship between Garda A and Ms. B. So, as  
9 I am seeing it, rightly or wrongly, I am reading it,  
10 and you take one meaning from it, which may be correct, 12:22  
11 I do not know, we will have to hear the evidence. But  
12 as a piece of an analysis of the statement, that's the  
13 way it appears to me, there are two possible meanings.  
14 A. Judge, I understand and I agree.

15 173 Q. CHAIRMAN: No, I don't expect you to agree with me now 12:22  
16 but I am saying, you are taking, it seems to me, a  
17 meaning from it. I have to say, I have to reserve  
18 judgment as to the correctness of that meaning. It  
19 doesn't seem irresistible to me, it seems another  
20 possibility. 12:22  
21 A. Judge, if you were to take either of those scenarios,  
22 Judge, I would still argue that it is incredible that -

23 174 Q. CHAIRMAN: Okay, I have the point, yes.  
24 A. - the recommendations are made on the 27/2/19 and that  
25 this new information comes on 8th March 2019. As I 12:22  
26 said, Judge, at this point An Garda Síochána are aware  
27 that this Tribunal is approaching.

28 175 Q. MR. MURPHY: Garda Keogh, again that's entirely  
29 supposition on your part. What I am suggesting to you

1 is that Assistant Commissioner McMahon will say,  
2 considering the complex nature of the investigations  
3 conducted, that the timeframe in which she operated was  
4 not inordinate or excessive.

5 176 Q. CHAIRMAN: well, you don't agree with that. 12:23

6 A. No.

7 177 Q. MR. MURPHY: And that will be her evidence. So  
8 finally, I just have to suggest to you that nothing in  
9 the criticisms you have made of her are supported by  
10 any material evidence. That ultimately she will say 12:23  
11 she carried out her investigation in good faith, that  
12 she never sought to target you. What was the outcome  
13 of her investigation?

14 A. I don't think there was -- I think she recommended --  
15 from recollection. 12:23

16 178 Q. Yes.

17 A. She may have recommended a board of inquiry..

18 179 Q. Exactly. So you do know that?

19 A. Yeah.

20 180 Q. I think you will agree with me that that recommendation 12:23  
21 wasn't something that was hostile to you or  
22 discrediting you. On the contrary, I presume that's a  
23 conclusion you would have welcomed?

24 A. It's not that I would have welcomed. There's no  
25 welcoming. Judge, there's no welcoming, it's not that 12:24  
26 I'm delighted or anything, because this thing has  
27 dragged on now years and years. I mean, from going  
28 back -- this starts for me on -- even prior to the  
29 2014, but officially on 8th May 2014.



1 181 Q. Garda Keogh, a very simple point I am going to put to  
2 you, I have to suggest to you that Assistant  
3 Commissioner McMahon's recommendation could in a way be  
4 regarded as an attempt to discredit you?

5 A. On the recommendation, I am not in dispute with you on 12:24  
6 that.

7 MR. MURPHY: Thank you. Chairman, those are the  
8 questions I propose to ask on this issue.

9 CHAIRMAN: Thank you very much.

10 MR. MURPHY: There may be one issue I may seek to raise 12:24  
11 later on, just based on instructions, but that's the  
12 last question I am going to ask at this stage.

13 Chairman, in terms of the next phase, we're moving to a  
14 much longer piece and this might be an appropriate time  
15 to break. The issue I'm coming to here is number 20, 12:25  
16 it's complaints by Garda Nicholas Keogh in relation to  
17 the promotion of Superintendent Pat Murray.

18 CHAIRMAN: Is this the last item that you will be --  
19 wait now, we have -- what's the position? Just remind  
20 me of the position, Mr. McGuinness, remind me of the 12:25  
21 position about 21 and 22. Well, we can worry about  
22 those. I suppose you might have a word with your  
23 colleagues about particularly 22. Have we covered that  
24 before? It looks like that's a matter for the  
25 department, doesn't it? 12:25

26 MR. MURPHY: Yes, Chairman.

27 CHAIRMAN: Mr. Kelly, would you have a look at item 22.  
28 Possibly we have mentioned it. Have we mentioned it  
29 already?

1 WITNESS: I may be of assistance, Judge, there. If  
2 that's the section 41 matter.  
3 CHAIRMAN: Yes.  
4 WITNESS: I think that's gone.  
5 CHAIRMAN: I think so too. I was going to give 12:26  
6 Mr. Kelly a chance to get in there.  
7 WITNESS: Sorry.  
8 MR. KELLY: I think that went. I have a memory of you  
9 at one point saying that it was a matter, since it was  
10 a section 41 report, for the Minister as to whether it 12:26  
11 should or shouldn't --  
12 CHAIRMAN: Yes. And even if the Minister was wrong in  
13 holding it, it couldn't be targeting by senior Gardaí.  
14 MR. KELLY: well, at the time it was then -- there was  
15 no point in it being advanced further with you. 12:26  
16 CHAIRMAN: Very good.  
17 MR. KELLY: we accept that it is purely for the  
18 Minister.  
19 CHAIRMAN: Very good.  
20 MR. KELLY: where it's a Tribunal of Inquiry. But 12:26  
21 there's no point in going there.  
22 CHAIRMAN: Thank you.  
23 MR. MURPHY: Chairman, I understood that in fact what  
24 was left was 20 and 21. So I agree with Mr. Kelly.  
25 CHAIRMAN: Very good. So the remaining ones are 20 and 12:27  
26 21.  
27 MR. MURPHY: Yes.  
28 CHAIRMAN: Very good.  
29 WITNESS: Judge, can I just ask, I know what 20 is,

1 what's 21?  
2 CHAIRMAN: 21 is, was the disclosures order  
3 deliberately withheld from you? Sorry:  
4  
5 "Complaints by Garda Nicholas Keogh that the disclosure 12:27  
6 Tribunal order was deliberately withheld from him."  
7  
8 WITNESS: I thought we dealt with that.  
9 MR. MCGUINNESS: We did.  
10 CHAIRMAN: Did Mr. Murphy deal with that? 12:27  
11 MR. MCGUINNESS: No, Mr. Murphy hasn't dealt with that.  
12 The Tribunal did deal with that and we took some short  
13 evidence on it.  
14 CHAIRMAN: Absolutely, you dealt with that.  
15 MR. MCGUINNESS: Yes. 12:27  
16 CHAIRMAN: 21 is still there. Are we clear? So,  
17 Mr. Murphy, you think it would be a good idea to take a  
18 break at this point and come back at two o'clock.  
19 MR. MURPHY: It will be lengthy, Chairman, so I do  
20 think that it would be one which will go for a number 12:28  
21 of years.  
22 CHAIRMAN: In fairness, I should say, my attitude is to  
23 be a bit conscious that Garda Keogh has been sitting  
24 here now, this is his third week, so I am quite  
25 conscious as well. He has a lot of material to deal 12:28  
26 with. So I am quite happy to deal with that.  
27 MR. MURPHY: Chairman, can I raise one matter, I  
28 probably should put a document to the witness, it's  
29 just in relation to the recommendation that I

1 mentioned.

2 CHAIRMAN: Yes. So we are going back for a moment  
3 before we break to Assistant Commissioner McMahon.

4 MR. MURPHY: Yes. volume 42, please, at page 11894.

5 CHAIRMAN: 11894.

12:28

6 MR. MURPHY: Please.

7 182 Q. CHAIRMAN: Yes. It's just in relation to the issue  
8 that we just dealt with a few moments ago. Can I just  
9 point you to paragraph 5.47 please? 5.47 relates to,  
10 as we've seen, Chairman, at 11879, an allegation that  
11 Garda A frustrated the investigation of a public order  
12 --

12:29

13 CHAIRMAN: Yes.

14 MR. MURPHY: In terms of paragraph 5.7:

15

12:29

16 "Even in the absence of a witness statement of Ms. B,  
17 on the balance of the probabilities based on the  
18 evidence gleaned from this investigation, I am of the  
19 opinion that there is substance to this allegation  
20 resulting in a potential serious breach of the Garda  
21 Síochána (Discipline) Regulations and that a board of  
22 inquiry is established under section 25 to further  
23 examine the matter."

12:30

24

25 Sp, there is nothing in that recommendation that  
26 targets you and I understand, in fact, it's something  
27 that you don't disagree with?

12:30

28 A. I can't disagree with that. I mean, what else could be  
29 said?

1 183 Q. That's precisely my point; that there is nothing in the  
2 allegation made against Assistant Commissioner McMahon  
3 at all. Thank you.

4 A. I think we disputed some of the other stuff.

5 CHAIRMAN: Don't worry. Don't worry. I do understand. 12:30  
6 All right. So, two o'clock?

7 MR. MURPHY: Or 1:30, Chairman, if that suits you.

8 CHAIRMAN: Oh! Certainly, if you like. Well,  
9 Mr. McGuinness, what do you suggest? We will  
10 compromise, 1:45. We will leave our existing 12:30  
11 arrangements, 1:45. That will allow us to give a break  
12 in the middle of the afternoon.

13 MR. MURPHY: Thank you, Chairman.

14 CHAIRMAN: Thank you very much.

15 12:31

16 THE HEARING THEN ADJOURNED FOR LUNCH AND RESUMED, AS  
17 FOLLOWS:

18  
19 CHAIRMAN: Now. Thanks very much. Just sit down there  
20 for a moment. Just before we begin this afternoon, I 13:49  
21 want to say something but I want to be as careful as I  
22 can in what I say. I don't want to give the impression  
23 of being over critical. But, I am uneasy about  
24 correspondence that we are receiving in the Tribunal  
25 from Mr. Cullen. I am uneasy about it and I simply 13:49  
26 want to express unease. I don't want to be critical,  
27 but let me just say from the outset, my understanding  
28 is that I am entrusted to carry out an inquiry. Who is  
29 carrying out the inquiry? I am. Assisted by a very

1           able team, to whom I am very grateful. It is not an  
2           action inter partes. There is nothing to stop, and I  
3           think this was made clear in the procedures document  
4           and at an our preliminary hearing, there is nothing to  
5           stop any party from writing to us to suggest an           13:50  
6           appropriate witness, be it expert or otherwise. It is  
7           arguably, arguably -- it is certainly inappropriate, it  
8           seems to me, that the Tribunal should be sent documents  
9           without any covering letter, not even the courtesy of a  
10          covering letter, simply, not even a "herewith copies of   13:51  
11          material I have sent", just send it in.

12  
13          Number two, it seems to me to be inappropriate,  
14          certainly without any notice, for one party to engage a  
15          person as an expert without any reference to the           13:51  
16          Tribunal. It is inappropriate and arguably, it seems  
17          to me, improper, arguably, for a party to take a large  
18          bundle of materials, including witness statements, and  
19          send them to a person outside the jurisdiction, for  
20          that person to peruse and comment on.                   13:51

21  
22          So, I say these things are arguably, because I don't  
23          want to be in a situation that would be -- I am very  
24          reluctant to say this, especially when Garda Keogh is  
25          being cross-examined at this moment. But I have to put   13:52  
26          a stop to this volume of material with which the  
27          Tribunal is being, in my view, inundated, and without  
28          any permission being sought.

1 Now, I am not one for getting over fussy, but a line  
2 has to be drawn and I am now drawing a line. As I say,  
3 there is nothing to stop anybody from applying for any  
4 particular facility or for any particular person or  
5 thing. I think that was made clear at the procedures 13:52  
6 hearing that we had on the 11th April. Certainly this  
7 mode of proceeding is, in my view, not acceptable,  
8 certainly it's not acceptable in this fashion. And so,  
9 I am saying no more.

10  
11 Applications in writing, please, mentioning to counsel,  
12 if necessary, the matters can be circulated to other  
13 counsel and parties can have a comment on it, insofar  
14 as that may be relevant. All present, please note,  
15 particularly Mr. Cullen 13:53

16 MR. KELLY: Chairman, thank you very much for that.  
17 would you mind rising? Might I see the correspondence  
18 in order that I can familiarise -- I am in the dark at  
19 the moment.

20 CHAIRMAN: Certainly. 13:53

21 MR. KELLY: If you would be kind enough to rise and let  
22 me see it.

23 CHAIRMAN: Mr. Kelly, I will tell you what I think I  
24 will do, I will give you the material and at four  
25 o'clock, if you like, if you choose to mention it, 13:54  
26 having had a little break in the middle, well and good.  
27 But you will understand, I don't want to be over  
28 critical. I don't want to get myself into a situation,  
29 and particularly I am conscious that Garda Keogh is

1 here being cross-examined, but at the same time, it's  
2 bad enough to get stuff on the 1st, but there was  
3 nothing to reply to in that, we didn't even have the  
4 courtesy of a covering note, then to get the material  
5 on the 5th, today, and then to discover, I think it's  
6 64 pages of material that went out.

7  
8 So, if you want an opportunity to have a look at it,  
9 Mr. Kelly, be my guest. I will rise. I will rise, and  
10 I'll tell you, I will give you 15 minutes, but please  
11 bear in mind, the last thing I want to do is to be  
12 getting into a big battle over something, do you  
13 understand. My whole instinct is to avoid controversy,  
14 believe it, even sometimes where I shouldn't be  
15 avoiding controversy. Anyway, thank you very much.

16  
17 THE HEARING THEN ADJOURNED BRIEFLY AND RESUMED, AS  
18 FOLLOWS:

19  
20 MR. KELLY: Chairman, thank you very much for the 14:43  
21 opportunity to look at that material and for sight of  
22 it. Unfortunately, I find myself not in a position to  
23 proceed further today, this matter having arisen. We  
24 need the opportunity to consider the position generally  
25 and our own position as counsel. With reluctance, for 14:43  
26 that reason I ask you not to sit for the rest of the  
27 day.

28 CHAIRMAN: well, the best thing I can do is to say  
29 nothing at all. So, I will accede to that request.



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Counsel will no doubt communicate with each other, I understand. So we will adjourn until tomorrow in those circumstances. Very good.

THE HEARING THEN ADJOURNED UNTIL WEDNESDAY, 6TH  
NOVEMBER 2019 AT 10:30AM

14:44

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