

TRIBUNAL OF INQUIRY INTO PROTECTED DISCLOSURES MADE UNDER
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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 THURSDAY, 7TH NOVEMBER 2019 - DAY 112

112

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

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I N D E X

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1 THE HEARING RESUMED, AS FOLLOWS, ON THURSDAY, 7TH
2 NOVEMBER 2019, AS FOLLOWS:

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

6
7 1 Q. MR. MURPHY: Good morning, Chairman. Good morning,
8 Garda Keogh. I wonder if the witness could be shown
9 volume 25, please, at page 7304. Chairman, just to
10 indicate to the Chair and to the witness, what I 10:33
11 propose to deal with briefly is just a reference to
12 issues raised by the witness that nothing was taking
13 place in Garda Headquarters at the time involved, to
14 address some of those points, if I might, in sequence.

15
16 Garda Keogh, the position is that in October of 2017
17 there were a number of people working in the Garda
18 force who weren't guards, who were civilians working in
19 senior management, I think you were aware of that,
20 aren't you? 10:33

21 A. Well, I'm not sure exactly what went on.

22 2 Q. Sure. For example, you're aware from reading the
23 papers and from your knowledge that Mr. Barrett was
24 involved in human resources at that time?

25 A. Yes. 10:33

26 3 Q. Mr. John Barrett. I think you were also aware that
27 Mr. Joe Nugent was involved as well in administration?

28 A. Yes, I'm aware of him.

29 4 Q. In fact, he was the chief administrative officer, the

1 CAO of An Garda Síochána, and had been appointed to
2 that position in August of 2016?

3 A. Yes.

4 5 Q. I think this was part of a policy, again of which
5 you're aware, whereby there were attempts to recruit 10:34
6 people from civilian life who had expertise in
7 particular areas of administration and bring them into
8 work in the force?

9 A. Yes.

10 6 Q. This statement, which is at page 7304, deals with 10:34
11 evidence of Joseph Nugent, who is the CAO of An Garda
12 Síochána. Could I just draw your attention to a number
13 of points, again to assist the Tribunal to understand
14 what was taking place in October and November of 2017.

15 A. Judge, he'd be classed as the number three in An Garda 10:34
16 Síochána, technically.

17 7 Q. Thank you.

18 A. Yeah.

19 8 Q. Can I draw your attention to the final paragraph. He
20 will say in his evidence that in October 2017, acting 10:34
21 Commissioner Ó Cualáin asked him to oversee matters
22 relating to various complaints made by you and the
23 liaison with the Policing Authority in respect of
24 request for information in respect of their
25 consideration of the promotion of Superintendent Murray 10:35
26 to the rank of chief superintendent. Were you aware of
27 that at the time; that he had a role in this regard?

28 A. Oh yes.

29 9 Q. You were?

1 A. Yes.

2 10 Q. So that is something that you were aware of and were
3 notified about?

4 A. I have already given in evidence that when we
5 through -- I think it was through my solicitor wrote to 10:35
6 assistant commissioner, or deputy commissioner or
7 acting commissioner at the time, to try and find out
8 the name of the -- formally find out the name of the
9 assistant commissioner that was conducting the
10 disciplinary investigation, whether it was the 10:35
11 affidavit or collusion, I'm not sure what, whatever.
12 But he replied that Joe Nugent would respond, which he
13 never did. But Joe Nugent, from reading the documents,
14 I understand Assistant Commissioner Ó Cualáin, if I am
15 correct, had a conflict of interest there and Joe 10:35
16 Nugent....

17 11 Q. Not insofar as a conflict of interest, but he
18 considered it best that matters be dealt with by one
19 person who was not involved in previous aspects of the
20 inquiries? 10:36

21 A. Yes.

22 12 Q. Thank you. So just in terms of the net bit, he will
23 also say in evidence that he was particularly tasked to
24 deal with queries that might arise in respect of
25 complaints made by you against Superintendent Murray 10:36
26 and Commissioner Ó Cualáin did this because he was
27 conscious of his previous involvement in aspects of
28 this issue, in particular the Ó Cualáin investigation,
29 of which you have given evidence.

1 A. Yes.

2 13 Q. Then I wonder if you could be shown book 36, please?

3 A. 7336.

4 14 Q. No, sorry, book 36.

5 A. Oh sorry. 10:36

6 15 Q. I think just in terms of sequence, the position is that
7 I think on the 3rd October, if you look, please, at
8 page 10101. That's 10101. Sorry, Judge, that doesn't
9 appear to be it.

10 A. An e-mail? 10:37

11 16 Q. 10101, please. It should be an e-mail. It's at tab 2
12 of book 26. Thank you. Garda Keogh, the position is
13 that Mr. Nugent will say that effectively a case
14 conference was called for 3rd October 2017. You will
15 see this is an e-mail confirming actions to be taken 10:37
16 after that meeting. If I just ask you to note first of
17 all, will you agree with me that the addressees include
18 John Barrett, Fintan Fanning, Tony McLoughlin, Alan
19 Mulligan, Ken Ruane, James McCarthy, that's Inspector
20 McCarthy? 10:38

21 A. Yes.

22 17 Q. James Donlon, Michael Broderick, sorry, Michael Donlon
23 and Fiona Broderick. You will see there that Fiona
24 Broderick appeared to be the sergeant who was involved
25 in effectively annotating the details. She indicates 10:38
26 that she is directed by Mr. Barrett, executive director
27 of Human Resources?

28 A. Judge, it is probably nothing, but can I just see,
29 there's a thing at the bottom of that page, e-mail,

1 yeah, there's something written there. It could be a
2 mistake.

3 18 Q. It appears to be a photocopying issue. If you look on
4 the right-hand side, there is also a tab reference as
5 well. Could I ask you then please to turn to document 10:39
6 10102, please. You will see there that there is a list
7 of actions arising from the meeting. Mr. Nugent will
8 say that these actions were as outlined in this
9 memorandum. First, that an assistant commissioner was
10 to be assigned to conduct the investigation and this 10:39
11 needed to commence with a statement from you. It was
12 agreed that Mr. Barrett would appoint an assistant
13 commissioner, do you see that?

14 A. Yes.

15 19 Q. The second point was that a letter was to be drafted to 10:40
16 your solicitor addressing matters and how it is
17 proposed that An Garda Síochána will proceed and
18 Mr. Barrett was going to deal with that?

19 A. Okay.

20 20 Q. He will say, do you see that there was a litigation 10:40
21 matter with the head of litigation services and
22 Mr. Ruane, who is a solicitor in Garda headquarters,
23 was going to deal with that?

24 A. Yes.

25 21 Q. Fourth, it was agreed that a visit to you would take 10:40
26 place, and you were to be verbally informed about the
27 case conference and what was being proposed?

28 A. Yes.

29 22 Q. It was agreed that Inspector McCarthy would visit you

1 to do that?

2 A. Yeah.

3 23 Q. I think he did so in the end; is that right?

4 A. Yes.

5 24 Q. That's just again so the Chairman has this in context. 10:40
6 That's the same Inspector McCarthy we referred to
7 yesterday, who visited you, I think you, said five
8 times in 2017?

9 A. Just for clarification, I said roughly five times. I
10 don't know how many times, but in and around. 10:40

11 25 Q. But he visited you on the instructions of Assistant
12 Commissioner Fanning?

13 A. Yes.

14 26 Q. Then the fifth was that Internal Affairs would be
15 contacted with respect to the discipline GSOC matter 10:40
16 and Chief Superintendent McLoughlin was to progress
17 that task?

18 A. Okay.

19 27 Q. Again, just to put this in context, you have agreed you
20 were told all about this by Inspector McCarthy? 10:41

21 A. Judge, we're going back to 2017 now, again I can't
22 recollect every word.

23 28 Q. But you do accept it?

24 A. I'm not disputing anything so far.

25 29 Q. I just want to move this as expeditiously as I can. 10:41
26 The next point is that the files at hand would be
27 checked to see what has been sent to the DPP on matters
28 raised by you, and Sergeant Donlon was assigned to that
29 task?

1 A. Yes.

2 30 Q. The sixth issue is the issue of the superintendent and
3 chief superintendent in the westmeath division is
4 raised and their relationship, and Chief Superintendent
5 McLoughlin outlined the matters currently to be looked 10:41
6 at. Then the final issue, he will say, was sick leave
7 recorded in relation to yourself. And Mr. Mulligan,
8 will followed this matter up with Ms. Carr, not a guard
9 we've heard about before, she was involved with all
10 questions to do with pay related issues and that a 10:42
11 manual sick certificates was to be conducted.
12
13 So, ultimately I have to suggest to you that Mr. Nugent
14 will say in his evidence that far from doing nothing,
15 in fact, under his watch there was an elaborate meeting 10:42
16 and a wide variety of tasks identified and people were
17 assigned those tasks and you were told about that. I
18 think there is no dispute, isn't that right?
19 A. I haven't disagreed so far with anything.

20 31 Q. Thank you. Could I ask you then please to turn forward 10:42
21 to page 10118? These are minutes of that meeting. And
22 again, Mr. Nugent will give evidence in relation to
23 this aspect of things. Basically, if I just identify a
24 number of points. First of all, I think you will note
25 that Assistant Commissioner Fanning outlined that he is 10:43
26 still in the file with respect to an allegation of
27 bullying and harassment and he notes that you had been
28 in contact with his office. Was that contact through
29 your solicitor or was that directly by you?

1 A. It wouldn't have been directly by me.

2 32 Q. Yes. I think that Assistant Commissioner Fanning then
3 indicated to the meeting that he had received a file,
4 that a number of issues arose, and he got Chief
5 Superintendent Scanlan to meet with you. He outlined a 10:43
6 concern he had with respect to the issues raised by you
7 and that in his view the bullying and harassment policy
8 didn't cover all matters raised.

9 A. Yes.

10 33 Q. I think you're aware of that view? 10:43

11 A. Yes.

12 34 Q. I think he also indicated at the meeting that he
13 thought there needed to be a bigger investigation
14 carried out, as per previous cases?

15 A. Yes. Again, I am aware of all of lot of this having 10:43
16 read the volumes.

17 35 Q. Yes. But I presume that Inspector McCarthy would have
18 told in the briefing at the meeting that this was the
19 view?

20 A. Yes. I still -- the way it's sort of being portrayed 10:44
21 here is that as a result of my meetings with Inspector
22 McCarthy that I knew everything that was going on.
23 That is not the case.

24 36 Q. But you did know about this meeting?

25 A. Sorry? 10:44

26 37 Q. You did know about this meeting because Inspector
27 McCarthy was asked to speak to you about it?

28 A. I presume, yeah, I presume he told me that there was a
29 meeting but wouldn't have gone into the details on

1 anything.

2 38 Q. Sure. Then do you see there is a reference to
3 Mr. Barrett, outlining that he and Chief Superintendent
4 McLoughlin had spoken to your solicitors?

5 A. Em... 10:44

6 39 Q. In the middle of the page?

7 A. I would be aware of that, yeah.

8 40 Q. So again, this is a situation, it's not that your
9 solicitor wasn't being contacted, Mr. Nugent will say
10 there had in fact been contact by Mr. Barrett and 10:44
11 Mr. McLoughlin.

12

13 Then you will see there's references to Mr. Barrett
14 seeking a clarification from Assistant Commissioner
15 Fanning on the criminal aspect of things. Mr. Nugent 10:45
16 will say that Assistant Commissioner Fanning outlined
17 his views that -- he noted that you had said that you
18 had been victimised by people since you had made the
19 protected disclosure and he expressed a concern about
20 making an appointment under the bullying and harassment 10:45
21 policy. He thought that the investigation should be
22 made under the Byrne McGinn model, which encompasses a
23 wider investigation?

24 A. Yes.

25 41 Q. Were you aware of that in October 2017? 10:45

26 A. I don't know when I was aware of it, but I know I
27 definitely became aware of it at some stage. I'm not
28 sure if it was -- as I've said, I had become aware of
29 it, I don't know when I became aware of it.

1 42 Q. Again, in the next paragraph Mr. Nugent will say that
2 there was a discussion by Mr. Barrett about the files
3 being sent to the DPP's office. Mr. Barrett also
4 spoke, he said, on 2nd October 2017 to your solicitor,
5 were you aware of that at the time? 10:45

6 A. Just one second, sorry.

7 43 Q. Sure.

8 A. Can you go back a second? Did you say -- where is the
9 part where it says files to the DPP's office.

10 44 Q. Just above that, in the sentence beginning: 10:46
11
12 "Harassment - John Barrett outlined that two files
13 would be forwarded to the DPP"?
14

15 A. Two files? 10:46

16 45 Q. That's what it says.

17 A. Okay. Judge, can I just underline that?

18 46 Q. Of course you can. But if you just turn to the next
19 line, please, which is what my question is about.
20 Mr. Barrett saying he had spoken to your solicitor the 10:46
21 day before, on the 2nd October, weren't you aware of
22 that?

23 A. Sorry, I was thinking of something else there. Excuse
24 me, sorry.

25 47 Q. Please just focus on my question, if you wouldn't mind. 10:46
26 A. Yes.

27 48 Q. In terms of the 2nd October, it's recorded there that
28 Mr. Barrett had spoken to your solicitor Mr. Cullen on
29 the 2nd October, the day before the conference, were

1 you aware of that?

2 A. I mean, I can't dispute it.

3 49 Q. And that your solicitor had given Mr. Barrett a
4 handwritten letter from you with issues that he
5 believed had not been resolved? 10:47

6 A. I think that's what we covered yesterday.

7 50 Q. That's right.

8 A. Where the wording that emanated from me, I presume
9 that's what we are talking about. Yeah.

10 51 Q. Then it's also recorded Mr. Nugent will say that 10:47
11 Assistant Commissioner Fanning outlined that a person
12 needed to be appointed to deal with all matters and
13 that a statement needed to be taken from you and a
14 process followed. Do you note that, in the next
15 sentence? 10:47

16 A. This is where he outlines a statement needs...

17 52 Q. Yes:
18
19 "He outlines a statement needs to be taken from Garda
20 Keogh and a process followed. Someone neutral needs to 10:47
21 carry out an investigation."
22

23 A. Yes.

24 53 Q. Mr. Nugent will then say that Assistant Commissioner
25 Fanning suggested a full statement be taken and sent to 10:47
26 the DPP and to outline what had already been submitted
27 on the file, and then when the DPP came back, all of
28 the matters should be looked at under relevant policies
29 and Mr. Barrett agreed with that?

1 A. Okay.

2 54 Q. Mr. Nugent will say, turning over the page, that
3 Assistant Commissioner Fanning expressed concern that
4 things had been going on for a long time, he thought
5 that everything needed to be investigated. Were you 10:48
6 aware that was his view at that time?

7 A. I don't know -- like I don't know what he knew at that
8 time. As I said yesterday, from my meeting with
9 Inspector McCarthy, at first when we met, Judge, you
10 have to understand it would have been the same as 10:48
11 myself and Detective Superintendent Mulcahy, there's
12 probably mistrust and that, so it takes time. But,
13 from my conversation, Judge, I think they were in the
14 dark in Athlone, Inspector McCarthy and Assistant
15 Commissioner Fanning. That's my take on it. 10:48

16 55 Q. You see, I have suggest to you that this document
17 indicates that's incorrect.

18 A. Okay.

19 56 Q. They are fully informed, they're at the table with
20 everybody else. You will see -- 10:48

21 A. Just in relation, you're probably just talking about in
22 relation to bullying and harassment, I am talking about
23 the whole heroin thing and all the rest.

24 57 Q. Let me put it to you, you've agreed with me, that this
25 note is clearly referring to lots of different issues. 10:49
26 We have seen the action points, it's not just bullying
27 and harassment.

28 A. I am not even sure, because that thing, this is the
29 first I twigged that two files have been forwarded to

1 the DPP. Now I'm aware in relation to the collusion
2 case that the file was sent and was resent a second
3 time but...

4 58 Q. Garda Keogh, that's a distraction from what we are
5 asking here. 10:49

6 A. Okay.

7 59 Q. I am asking you to look at this meeting and to agree
8 with me that this note, and Mr. Nugent's evidence, I am
9 putting to you, will be that a wide range of issues
10 were discussed at the meeting, not just bullying and 10:49
11 harassment?

12 A. Okay.

13 60 Q. There's an attempt to coordinate a response to your
14 various letters and complaints, would you agree, that's
15 what this shows? 10:49

16 A. Yes.

17 61 Q. And would you agree that it shows that, for example, in
18 the middle of the page, 10109, that Chief
19 Superintendent McLoughlin says there was nothing to
20 preclude the organisation from conducting an 10:49
21 investigation and it was agreed that an assistant
22 commissioner should be appointed to investigate and get
23 a full statement from you?

24 A. Yeah.

25 62 Q. So again, here's Garda headquarters analysing the 10:50
26 problem, coming back with a collective response. Then
27 Mr. Barrett is recorded as being in agreement with the
28 investigation. It was decided he would appoint someone
29 at assistant commissioner level to do the

1 investigation.

2 A. Yeah.

3 63 Q. Yes. You see again it's recorded, as you I think
4 accept, that Inspector McCarthy was assigned to meet
5 with you and to inform you about this meeting and he 10:50
6 did so?

7 A. Yes.

8 64 Q. You will see, therefore, and again, there is no need to
9 go through each of these issues, but you will see that
10 various other parties, Chief Superintendent McLoughlin, 10:50
11 Sergeant Donlon, Mr. Mulligan, they are all dealing
12 with different issues. Just over the page, at 10120,
13 we have that action list again. Do you see that?

14 A. Sorry?

15 65 Q. 10120? 10:50

16 A. Yeah.

17 66 Q. Can I ask you to look at that and confirm that you
18 agree that that's the action that we talked about, with
19 the various tasks being assigned, Mr. Nugent will say
20 they were at the time. 10120? 10:51

21 A. Well, I can't agree, just I would have to read it
22 before I can agree.

23 67 Q. Garda Keogh, just hold on for a moment.

24 A. Yeah.

25 68 Q. Let's be very clear about this? 10:51

26 A. Yeah.

27 69 Q. You accept you were briefed about this meeting?

28 A. Yes.

29 70 Q. You were told about this meeting?

1 A. Yes.

2 71 Q. You knew all about this meeting?

3 A. No, no, not all about. I knew there was a meeting. I
4 knew there was a meeting.

5 72 Q. So there's no mystery about this, this is the meeting 10:51
6 you were told about. So again you have given the
7 impression at certain stages that you thought that the
8 Gardaí wasn't responding to you, wasn't answering your
9 letters, that you had no idea what was going on. I am
10 just putting these questions to show that certainly at 10:51
11 this stage we had very serious attention being given to
12 what you are saying?

13 A. Yes, but on this matter, that's fair enough. On the
14 other matter, in relation to Joe Nugent, and I have
15 already said this, Judge, that where I wrote to -- we 10:51
16 wrote to Commissioner Ó Cualáin to ask who was
17 conducting the disciplinary investigation, the letter
18 we go back was, Joe Nugent will be in touch with you
19 and Joe Nugent never followed up on that. There was
20 nothing more on that. So, in relation to this part, 10:52
21 this is fair enough. I don't dispute anything here.

22 73 Q. That's the part we're talking about. So, insofar as
23 that's concerned, I have to suggest to you that that
24 indicates a comprehensive assessment of all of the
25 complaints, and there were many of them, which you had 10:52
26 made up to that time, would you agree with that?

27 CHAIRMAN: Say that again, Mr. Murphy, I didn't catch
28 that.

29 MR. MURPHY: That this reflects a comprehensive

1 assessment by Gardaí headquarters of the very many
2 complaints and different issues which had been raised
3 by Garda Keogh?

4 A. Yeah.

5 74 Q. Thank you. 10:52

6 A. Just for clarification, like I wasn't at that meeting,
7 so I don't know what -- I'm accepting this, what's
8 being put to me, but.

9 75 Q. CHAIRMAN: I know you weren't at the meeting, are you
10 saying you weren't aware of this? 10:52

11 A. Oh no, I was aware, inspector had called down, called
12 to me and he would have said there was a meeting and he
13 would have given me at different times paperwork.

14 76 Q. CHAIRMAN: I mean I don't expect you to remember
15 everything about it. 10:53

16 A. Yes.

17 77 Q. CHAIRMAN: But Mr. Murphy is saying were you aware that
18 this was going on?

19 A. Oh yeah. Yes. Yes.

20 78 Q. CHAIRMAN: Not with every specific element. Okay. 10:53

21 79 Q. MR. MURPHY: Just to help you on that, Garda Keogh,
22 could I ask you please to be shown 10103, please.

23 A. 10103?

24 80 Q. Yes. Please. This is a letter I think from Inspector
25 McCarthy or Assistant Commissioner Fanning addressed to 10:53
26 you on the 4th October, the day after the meeting. Do
27 you see that?

28 A. Yes.

29 81 Q. Do you remember getting that letter?

1 A. This is one of the letters I would have just mentioned
2 a minute ago, that there were letters that he gave on
3 headed paper. I literally just said it a moment ago,
4 Judge.

5 82 Q. In would've been not just a letter, Garda Keogh, there 10:53
6 is also a reference in the second paragraph to a phone
7 conversation on the day of the meeting, on the 3rd. Do
8 you see:
9

10 "I refer to our phone conversation yesterday and our 10:54
11 discussion regarding the outcome of the meeting held in
12 Garda Headquarters on the 3rd October concerning
13 ongoing matters and I wish to update you accordingly."
14

15 A. Yes. 10:54

16 83 Q. Do you remember having a conversation with Inspector
17 McCarthy on the day of the conference?

18 A. Can I check my diary, please?

19 84 Q. Please.

20 A. Em, my note, Judge, here is, for the 3rd is: 10:54
21
22 "Barrett called strategy meeting. Fintan and
23 McLoughlin. AC to be appointed."
24

25 85 Q. So, I think we can agree, therefore, that Inspector 10:55
26 McCarthy efficiently and promptly contacted you, spoke
27 to you, wrote you a letter and kept you apprised of
28 developments, isn't that correct?

29 A. Yes.

1 86 Q. As you said yesterday, you had been in frequent contact
2 with him throughout 2017 as well?
3 A. Inspector McCarthy?
4 87 Q. Yes.
5 A. Yes. When we say frequent, Judge, it's not on a daily, 10:55
6 it's not even on a weekly basis.
7 88 Q. I think you said five in 2017 yesterday.
8 A. Roughly.
9 89 Q. I mean, had you been in touch with him, for example, in
10 2016? 10:55
11 A. I don't think so. I don't know, wherever it's first
12 written in my diary is the first time I had been in
13 contact.
14 90 Q. I see. Normally you record the first time that you
15 meet somebody in your diary? 10:55
16 A. Sorry?
17 91 Q. Normally you record the first time that you meet
18 somebody in your diary, is that right?
19 A. I'd like to think so.
20 92 Q. Yesterday, just on that point, I think yesterday -- I 10:55
21 wonder if transcript of Day 111 could be just brought
22 up for a moment, please. At page 157. Thank you.
23 Could you scroll down please to line 9 please. You
24 remember yesterday I asked you a question:
25
26 "Q. Can I ask you to indicate to the Chairman what
27 communication you had with Assistant Commissioner
28 Fanning before that date in 2017?"
29

1 You replied:
2
3 "A. Judge, I don't think I would have had any."
4
5 So, are you sure that that's right? Is that true? 10:56
6 A. No, no, no Judge, I don't know what way this -- I see
7 what way it's written here. I met Assistant
8 Commissioner Fanning in Athlone Garda Station in I
9 think 2015, and we're talking about somewhere between
10 one to two minutes passing through the station and I 10:57
11 would have a note of that.
12 93 Q. Yes. I wonder if we could refer now please to volume
13 47, at page 1335. This is your 2015 diary, the entry
14 is for 30th November 2015, which I think is a Friday.
15 Do you have that? 10:58
16 A. I have Monday for the 30th -- 30th November '15?
17 94 Q. I beg your pardon, it could be the 30th October, I'm
18 very sorry. It has November at the top of the page but
19 in fact it's the end of October, my mistake.
20 A. Yes. 10:58
21 95 Q. So, again just help us with your handwriting, please,
22 if you wood. It says:
23
24 "5pm to 3pm P.O. "
25 10:58
26 what does that mean?
27 A. Public office.
28 96 Q. Public office. So this is indoor duties?
29 A. Yes.

1 97 Q. In terms of the next one, could you please read that
2 for the record?
3 A. Yes.
4
5 "9pm AC FF..." 10:58
6
7 which is Assistant Commissioner Fintan Fanning.
8
9 "...came into station. He knew who I was even though
10 we never met. He said he appreciates what I am doing. 10:58
11 We couldn't really talk."
12
13 98 Q. Then the next bit?
14 A. Yeah, the next bit is:
15
16 "Printed reclassifications. Copied hidden in the 10:58
17 station other smuggled baton pocket."
18
19 I know what that's about. It's nothing to do with the
20 top part, Judge 10:59
21 99 Q. CHAIRMAN: what is it to do with?
22 A. It's to do with the reclassifications, I presume it's
23 to do with the reclassifications of --
24 100 Q. CHAIRMAN: would you read it again?
25 A. The whole lot. It's: 10:59
26
27 "9pm..."
28
29 101 Q. CHAIRMAN: No, just the last two lines?

1 A.
2 "printed Pulse reclassifications. Copied hidden in
3 station other smuggled in baton pocket."
4
5 It sounds bad but I can explain it. 10:59
6 102 Q. CHAIRMAN: No, it doesn't sound bad, I am just
7 wondering what it is?
8 A. When I printed the documents off Pulse, Judge, just for
9 clarification, in Garda HQ they're able to monitor the
10 Pulse computers and I would have obviously have known 10:59
11 my pulse computer was being monitored. So, when I
12 printed off the documents, the reclassification
13 documents, what I did was I printed off the documents
14 and then I obviously photocopied them and I hid one
15 batch in the station, Judge, and the other batch, 11:00
16 Judge, there's a baton pocket in a Garda trousers, I
17 rolled them up and I would have sneaked -- put them
18 into the baton pocket to leave the station with them,
19 in case someone would have perhaps tried to intercept
20 them. 11:00
21 103 Q. CHAIRMAN: What were you going to do with them?
22 A. Oh, hand them over to Wallace or Daly.
23 104 Q. CHAIRMAN: Oh right.
24 A. I think these are the declassification, I think, stuff,
25 that we previously mentioned, to do with 11:00
26 reclassification of crimes.
27 105 Q. CHAIRMAN: Okay.
28 A. It's not as simple as you just press print and can walk
29 out. I'm aware of another incident with former

1 Commissioner Callinan and there was a similar type of
2 incident, which I won't go into, Judge, but the reason
3 is, I would have been aware that the Pulse computers
4 would be monitored.

5 106 Q. CHAIRMAN: There would be a record of who went in and 11:01
6 took a copy?

7 A. They would actually live see it up in Dublin, they
8 would be able to see everything was watching, they
9 would be able to when I printed off on Pulse. So I had
10 to move fast. And I had to hide one batch in the 11:01
11 station, as I said, one copy in the station because
12 obviously it was the last place I thought they'd look
13 and the other copy I left the station with in the baton
14 pocket, if that makes sense.

15 107 Q. MR. MURPHY: Just to assist the Tribunal, who were you 11:01
16 hiding this documentation from?

17 A. Oh Garda management.

18 108 Q. And Garda Headquarters?

19 A. Sorry.

20 109 Q. And Garda Headquarters? The Pulse system is 11:01
21 effectively monitored there, is it?

22 A. Yes.

23 110 Q. Can we take you didn't have permission to do that?

24 A. I didn't need permission to do that because this was to
25 do with corruption and I was invoking Section 62 of the 11:02
26 Garda Síochána Act. So I was acting fully within the
27 law, Judge.

28 111 Q. To whom did you invoke that?

29 A. Sorry?

1 112 Q. whom did you speak to that about first?
2 A. I would have gone to Deputies Wallace and Daly.
3 113 Q. I see?
4 A. And would I have spoken to Jockey -- John Wilson,
5 Judge, because he knew all about the Section 62 Garda 11:02
6 Síochána Act.
7 114 Q. Did Mr. Wilson advise you then about how to go about
8 taking the material from Pulse?
9 A. No, no, but that's common sense, how to take material
10 is a matter of -- 11:02
11 115 Q. The plan to give it to the TDs, did he advise you about
12 planning to give it to TDs?
13 A. There was no plan to give it to the TDs. No, he did
14 not. This was me. Me. I have already gone into this,
15 Judge. 11:02
16 116 Q. CHAIRMAN: Yes.
17 A. Where, on the back foot of Superintendent Murray's
18 reclassification thing on that robbery from the person,
19 and when I discovered that had been reclassified, I
20 then went to look to see what else had been 11:03
21 reclassified.
22 117 Q. CHAIRMAN: How did you do that search?
23 A. I went through all my cases to see what --
24 118 Q. CHAIRMAN: All your cases?
25 A. Yeah, because I type in my registration number on the 11:03
26 Pulse.
27 119 Q. CHAIRMAN: So, any of my cases, have they been
28 reclassified?
29 A. Yes, my cases.

1 120 Q. CHAIRMAN: Yes.

2 A. And I saw a lot of my cases, recent cases had been
3 reclassified. One, which I already mentioned.

4 121 Q. CHAIRMAN: Yes.

5 A. It was to do with a burglary in Kilbeggan at a petrol 11:03
6 station and Superintendent Murray classified that down
7 to criminal damage. It was actually the GIFC in
8 Castlebar, the garda information services --

9 122 Q. CHAIRMAN: Don't get lost for a moment?

10 A. Yes. 11:03

11 123 Q. CHAIRMAN: You first checked your own cases?

12 A. Yes.

13 124 Q. CHAIRMAN: Your own recent cases; is that right?

14 A. Yes, yes.

15 125 Q. CHAIRMAN: Then what did you do? 11:03

16 A. I checked other cases as well.

17 126 Q. CHAIRMAN: How did you choose the other cases to check?

18 A. It would have gone through incidents in Athlone. Let's
19 say, if I typed in burglary, all the burglaries within
20 the one period for Athlone district or sub-district, I 11:04
21 can basically -- I can find on Pulse, if I wanted to
22 look at burglaries in Buncrana, I could find them, or
23 in Bray, you know, I would be able to find anything.

24 127 Q. CHAIRMAN: But specifically what you were doing in this
25 case was to see if any were in the Athlone district? 11:04

26 A. For other reclassifications based on the
27 reclassification that I had found.

28 128 Q. CHAIRMAN: Okay.

29 A. Based on the documents Superintendent Murray was

1 writing.

2 129 Q. CHAIRMAN: Hold on, I don't know the system.

3 A. Right. Sorry.

4 130 Q. CHAIRMAN: No, no, no. You picked burglaries; is that
5 right? 11:04

6 A. No -- yeah, burglaries was --

7 131 Q. CHAIRMAN: I am asking you a simple question.

8 A. Yeah.

9 132 Q. CHAIRMAN: I understand your own cases.

10 A. Yes. 11:04

11 133 Q. CHAIRMAN: You said, look, you're going to be familiar
12 with those ones and you looked up those cases. Okay.

13 A. Yeah.

14 134 Q. CHAIRMAN: How did you choose which other cases to
15 check? 11:05

16 A. You see it was mainly my cases.

17 135 Q. CHAIRMAN: Do you understand me?

18 A. I do.

19 136 Q. CHAIRMAN: How did you pick them?

20 A. Well, I just had to click on to every one of them and
21 read were they reclassified or not. It was very
22 simple. 11:05

23 137 Q. CHAIRMAN: On your cases?

24 A. I could do it on my cases but I could do it on anybody
25 else's cases. 11:05

26 138 Q. CHAIRMAN: So who else cases did you choose? Sorry, I
27 mean, how did you -- I don't know how the system is.
28 How did you choose? There must be millions or
29 thousands of cases?

1 A. Yes.

2 139 Q. CHAIRMAN: How did you pick the others? If it's not
3 possible to answer it, that's okay, forget it.

4 A. No, it's very easy.

5 140 Q. CHAIRMAN: How did you pick up the other cases that you 11:05
6 were going to check up to see if they had been
7 reclassified?

8 A. By way of example, Judge, if I typed in burglary, I
9 would have typed in burglary and, let's say, the month
10 of -- we're here on, let's say, October 2015. 11:05

11 141 Q. CHAIRPERSON: Yes.

12 A. So I just have to type in burglary between 1st October
13 to the end of October and I type in Athlone, it'll
14 bring them up.

15 142 Q. CHAIRMAN: All burglaries will come up? 11:06

16 A. Yes. And I just have to click on to every one of them.
17 It only takes a second.

18 143 Q. CHAIRMAN: Yes.

19 A. And I can then see if it was reclassified or if it
20 wasn't or what's the thing. 11:06

21 144 Q. CHAIRMAN: And how do you know if it should have been
22 reclassified or if it shouldn't?

23 A. Well, you see, it would say in the narrative.

24 145 Q. CHAIRMAN: If it's not your case?

25 A. It would say on the narrative, theirs is a little box 11:06
26 where it would say reclassified.

27 146 Q. CHAIRMAN: And?

28 A. Updated, reclassified as per direction of.

29 147 Q. CHAIRMAN: And ? How do you know that's wrong?

1 A. Well I don't until I read it.

2 148 Q. CHAIRMAN: Okay.

3 A. There could be a legitimate reason for reclassifying

4 them as well, of course. But on the examples that I

5 had given, there was no legitimate reasons. 11:06

6 149 Q. CHAIRMAN: Okay. As far as you can recall it was

7 burglaries you were talking about?

8 A. Burglaries and obviously the robbery issue, the main

9 robbery case.

10 150 Q. CHAIRMAN: So robberies would be different from 11:06

11 burglaries?

12 A. Yes. It's obviously a different category, robbery.

13 151 Q. CHAIRMAN: Okay?

14 A. Then even, Judge, there's sub categories because

15 obviously there is robbery from a person. 11:07

16 152 Q. CHAIRMAN: Clearly.

17 A. Burglaries are the same, you could have aggravated

18 burglary, attempted burglary.

19 153 Q. CHAIRMAN: Robbery is always from a person, isn't it?

20 A. What? 11:07

21 154 Q. CHAIRMAN: Robbery is always from a person?

22 A. Yes, but the --

23 155 Q. CHAIRMAN: Aggravated robbery. Am I right? It's a

24 while since I was wrestling with these matters, but I

25 thought -- 11:07

26 MR. MURPHY: It would, Chairman, it would be theft by

27 violence.

28 CHAIRMAN: It would be one, of many others, in what

29 used to be the 1916 Larceny Act, I know that has been

1 replaced, in case somebody wants to tell me, but the
2 one I was particularly familiar with. Anyway, that is
3 just me reminiscing.

4 A. A bank robbery, for example, wouldn't be robbery from a
5 person, just to answer. It wouldn't be under robbery. 11:07
6 If I was to go into a bank --

7 156 Q. CHAIRMAN: Look, we won't worry too much.

8 A. Yeah. It's just the classifications, Judge.

9 CHAIRMAN: I know. Okay.

10 157 Q. MR. MURPHY: Garda Keogh, just in relation to the entry 11:08
11 in the diary, why did you make this entry in the diary
12 at that time?

13 A. Which part?

14 158 Q. The part about meeting with Assistant Commissioner
15 Fanning and what he said to you? 11:08

16 A. He's an assistant commissioner. I met -- I mean, I
17 take a note of I think any senior officer that I am
18 meeting with. It's a fairly significant thing I
19 thought. Because firstly, as I said, assistant
20 commissioner came into the station, he knew who I was 11:08
21 even though he have never met. He said he appreciates
22 what I am doing and couldn't really talk. So like I
23 recall the conversation because where it occurred was,
24 I was in the public office and another -- at some stage
25 I went into the back CCTV room, he asked me just to 11:08
26 show him around. This is the CCTV, the back part,
27 where there was the issue with the gun safe that is
28 disputed. But anyway. It was there, that's where he
29 said he appreciates what I'm asking. Then some other

1 guard walked in and that was it. That was the end of
2 it. When the other guard walked in, that was pretty
3 much it. Like, it was only -- it was even a minute.

4 159 Q. Is there any connection between that conversation down
5 the bottom of the page, where you are referring to the 11:09
6 printing Pulse --

7 A. Oh, no, absolutely not. Definitely not, no. No, no,
8 Judge, I have explained that. Absolutely not.

9 160 Q. Just to help us to understand the position, you
10 regarded it as a friendly approach by the commissioner? 11:09

11 A. Yes. Well, like in my position, Judge, for an
12 assistant commissioner to come up and -- I know in the
13 public arena Nóirín O'Sullivan was coming out with all
14 this stuff publicly, but reality internally what was
15 happening in the Guards was totally the opposite. But 11:09
16 for an assistant commissioner to actually say that to
17 me, that -- he was the only one and to this day he's
18 the only one.

19 161 Q. Sure. You considered that to be a big event. So why
20 did you say yesterday when you were asked the question, 11:10
21 what communication did you have with Assistant
22 Commissioner Fanning and you said:
23
24 "Judge, I don't think I would have had anything."
25 11:10
26 And you were asked:
27
28 "None at all?"
29

1 And you said:
2
3 "I don't think so."
4
5 How could you forget this meeting in 2015? 11:10
6 A. I don't know what the sequence of questions that
7 happened before that, perhaps over the phone or
8 something like that. Judge, I have always
9 maintained -- I never disputed that meeting. I think
10 it even cropped up last week. 11:10
11 162 Q. CHAIRMAN: And it's there in your diary?
12 A. Oh yeah.
13 CHAIRMAN: which has been circulated.
14 163 Q. MR. MURPHY: Then I think you refer to a second
15 meeting. When was that meeting? 11:10
16 A. The second meeting was this year. It was a
17 disciplinary meeting, it was discipline for treble
18 homicide, Judge.
19 164 Q. I will come back to that. Very good. Just moving back
20 to volume 36, I wonder if you could be shown 10110. 11:10
21 This is a RTÉ broadcast, it's a transcript of a RTÉ
22 broadcast, 6th October 2017. The heading is
23
24 "Recording of sick leave of Garda Nicholas Keogh."
25 11:11
26 Do you see in the first paragraph it says:
27
28 "According to documents seen by RTÉ's This Week
29 programme, Garda Nicholas Keogh. . . ."

1
2
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11
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21
22
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24
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29

And your number is places, your Garda number is placed.

"... absence from work from An Garda Síochána was recorded from all of 2015 as flu/virus and from December 2015 onwards and for the following 200 days approximately of work it is recorded as mental health."

11:11

Then there's details about your sick certificates and other materials.

11:11

A. Yes.

165 Q. Is it the case that this is information that you provided to RTÉ?

A. Yes, to John Burke, I see his name there, yes.

166 Q. Is that information you provided to him after the case conference of the 3rd October?

11:12

A. I don't know.

167 Q. Sorry?

A. Like I don't know when I provided the information.

168 Q. Is it possible that information was given after --

11:12

A. It's possible.

169 Q. In terms of this letter, this is a letter, it's addressed to the Press Office and there's a series of questions which are indicating materials there. Turning over to the second page, 10111, you will see there is reference to correspondence from July 2017 to Mr. Barrett?

11:12

A. Judge, sorry 10111?

170 Q. The very next page, please, 10111.

1 A. Yes.

2 171 Q. There's reference there to a letter to Mr. John Barrett
3 of 9/7/2017?

4 A. Just which paragraph, sorry?

5 172 Q. The third paragraph, please? 11:13

6 A. Okay.

7 173 Q. Starting with "In his letter.."?

8 A. Oh yeah.

9 174 Q. So, can you confirm that that's documentation that you
10 would have provided to RTÉ as well? 11:13

11 A. I presume I did. I mean, I can't remember but I recall
12 talking to Mr. Burke. I don't know, I'm not sure about
13 the documentation but.

14 175 Q. And if you look down further to the next paragraph and
15 the paragraph after that, will you agree with me that 11:13
16 that indicates that there's a reference to
17 correspondence to your solicitor, Mr. Cullen?

18 A. Okay.

19 176 Q. That obviously was correspondence which, I think you
20 will agree, you furnished to RTÉ as well? 11:13

21 A. More than likely.

22 177 Q. So, at this stage then was it standard practice for you
23 to copy documentation that you received from An Garda
24 Síochána and copy it to the press?

25 A. Look at the year. What year? We're into 2017 now, and 11:14
26 all this thing is still going on. I mean this started
27 on the 8th May '14, '15, '16, we're now into '17 at
28 this stage. So, I mean, I'm making no apologies if I
29 spoke to the media or anything like that.

1 178 Q. I have to suggest to you again this is all again
2 calculated to effectively target Superintendent Murray?
3 A. No, no.
4 179 Q. It's a complaint --
5 A. No, no, this is showing what has happened to me. You 11:14
6 know, this is showing what happened to me. That
7 here -- like I mean this goes back to these case
8 conferences and all this craic. I am being marked out
9 with the flu, viral flu, and my doctor certificates are
10 work related stress. 11:14
11 180 Q. Garda Keogh --
12 A. That's a fairly big issue.
13 181 Q. We have covered the certs before. I am just asking you
14 to confirm that in the light of all this information
15 this was material you were hoping would be broadcast by 11:15
16 the press in an effort to damage Superintendent Murray,
17 at that time, isn't that right?
18 A. Judge, I can't -- you see, there was a slight twist on
19 this. This is not just -- I said yesterday,
20 Superintendent Murray was -- it was Ó Cualáin was the 11:15
21 person I hold responsible even for a lot of
22 Superintendent Murray's actions. But, an issue in that
23 Superintendent Murray should not have been on the
24 promotion list until the investigation was over. That
25 has always been my statement. And, Judge, as well, 11:15
26 what was put yesterday to me, to bring down
27 Superintendent Murray and all the rest. That is not
28 the case. It was merely that he should not be promoted
29 until the investigation is over.

1 182 Q. You see, I have to suggest to you, as I did yesterday,
2 Garda Keogh, that in fact it's much more than that and
3 it's clear that you were attempting to bring down, your
4 words, to bring down Superintendent Murray. But can I
5 put it to you that at this stage, this is just an 11:16
6 example of what I am putting to you, is a pattern of
7 action by you to seek to damage Superintendent Murray.
8 But here we have a situation, will you agree that, that
9 Mr. Nugent, Inspector McCarthy, Garda management are
10 all dealing with you, writing to your solicitor, 11:16
11 speaking to you, meeting you in some cases, seeking to
12 address your complaints, but your response is to copy
13 the correspondence they sent to you and send it to the
14 media. Because this is part, I have to put it to you,
15 that this is part of a pattern of putting effort and 11:16
16 pressure on the authorities to block the promotion of
17 Superintendent Murray?
18 A. Judge, I have answered all this. This is what, we're
19 into 2017, I made that -- I've reported that bullying
20 and harassment back in 2016. You know, I don't 11:16
21 think -- I don't know where was that bullying and
22 harassment investigation at this stage? I don't know.
23 But either way...
24 183 Q. Can I ask you to turn forward to page 10121, please?
25 A. 112? 11:17
26 184 Q. 10121. This is a letter from Mr. John Barrett
27 addressed to Mr. Cullen, your solicitor?
28 A. Yes.
29 185 Q. It's dated 13th October 2017?

1 A. Mm-hmm.

2 186 Q. You have seen this letter before, haven't you?

3 A. I'm sure I would have.

4 187 Q. Yes. The first point is that your solicitor is writing
5 saying: 11:17
6
7 "Chief Superintendent McLoughlin..."
8
9 Sorry, I beg your pardon, the writer is saying, that is
10 to say Mr. Barrett is saying: 11:17
11
12 "Chief Superintendent McLoughlin very much appreciated
13 your time to engage with in the course of our telephone
14 call on 2nd October 2017."
15 11:18
16 So, were you aware that your solicitor had had a
17 telephone call with Mr. Barrett and Mr. McLoughlin on
18 that date?

19 A. I'm sure I was.

20 188 Q. Yes. 11:18
21 A. Because at some period, Judge, we had a meeting with
22 Chief Superintendent McLoughlin and Mr. John Barrett.

23 189 Q. If just turn over the page, to deal with this as
24 swiftly as we can, but in terms of the next page,
25 that's 10122, I have to suggest to you that it's clear 11:18
26 that Mr. Barrett specifically addresses in
27 chronological order matters raised by you in your
28 letter of 17th September 2017, do you see that?

29 A. What number again?

1 190 Q. That's 10122?
2 A. Yes, but what --
3 191 Q. The next page?
4 A. Yes, but what paragraph.
5 192 Q. You will see there's paragraphs 1 through 7, do you see 11:18
6 those?
7 A. Yes.
8 193 Q. I don't propose to read them into the record, but would
9 you agree with me that they are responses to seven
10 points which -- 11:18
11 A. Oh yes.
12 194 Q. So He here is an example where you have written a
13 letter in September, do you agree? Do you agree? You
14 wrote a letter on the 17th September?
15 A. Well, I may not have, but my solicitor may have. 11:19
16 195 Q. It's followed up by a discussion between Mr. Cullen and
17 very senior management, Mr. Barrett and Chief
18 Superintendent Mr. McLoughlin, do you agree with that?
19 A. Yes.
20 196 Q. It's then followed up with a letter, this letter, 11:19
21 indicating what response is to be made, point by point,
22 isn't that correct?
23 A. That's what it appears to be.
24 197 Q. Then if you turn over the next page, please, 10123:
25 11:19
26 "A further update. It has been agreed that regular
27 contact with the employment assistance service will be
28 supplemented by a visit, as has happened in the past,
29 to your client from Inspector McCarthy and this will

1 take place shortly."
2
3 A. Yeah. There's no issue there.
4 198 Q. Then finally, you are being told:
5 11:19
6 "This office. . . ."
7
8 That's Mr. Barrett's office:
9
10 "...has now assumed coordinative responsibility for the 11:19
11 matters at issue and will seek to progress the issue
12 transparently with all due Élan."
13
14 Do you see that?
15 A. Yes. 11:19
16 199 Q. So again, here is your solicitor and you being informed
17 that very elaborate steps are being taken by Garda
18 management at the highest level to respond to your
19 various queries?
20 A. At that point. 11:20
21 200 Q. At that point. And I have to suggest to you that's a
22 far cry from the picture you sought to paint in the
23 course of your evidence of your complaints going
24 unheard and not responded to?
25 A. No, no. No, no, we agreed, Judge, just there at that 11:20
26 point. There was huge issues going on. Bear in mind,
27 I made -- this is 13th October '17, I reported that
28 bullying and harassment in '16, I didn't get to make a
29 statement until, was it March '17, here we are on the

1 13th of October and it's still -- so it's not as
2 simple. And I think under the policy document, Judge,
3 I think it's all to be done within 28 days. Now, we
4 have agreed that it would impossible to do this in 28
5 days, but there's a lot of problems. So I am agreeing 11:20
6 with Mr. Murphy just up to this point.

7 201 Q. Garda Keogh, would you agree with me, parallel with
8 this correspondence and these meetings with Garda
9 management, at the same time and in the same month, as
10 we have seen yesterday, you're doing things to leak 11:21
11 information to the press, speak to TDs, provide them
12 information, in the hope that they will target and
13 criticise Superintendent Murray?

14 A. Judge, there's a number of other things parallel going
15 on as well. Because there's the GSOC investigation is 11:21
16 somewhere there, I don't know what happened with that.
17 Again, back then, in 2017, I didn't know what was going
18 on with that either. Then there is the disciplinary
19 investigation. I don't even know who was appointed to
20 investigate that. Because that's - where are we? 11:21
21 October 2017, Jack Nolan is retired. So I'm trying to
22 find out what's going on with that. Then there's this
23 whole thing as well. Like I mean, I am trying to
24 highlight a whole load of issues here. It's not just
25 one particular matter. There's a number of stalling 11:21
26 points that I have to highlight.

27 202 Q. What you are trying to do is provoke critical
28 conclusions in relation to Superintendent Murray. Can
29 I ask you to turn forward to page 10141, please. This

1 is a letter of 18th October 2017. Just by way of
2 example of cause and effect. Perhaps if I can first of
3 all ask you, have you read this letter before?
4 A. Em, I may have read it in the documents but I'm not au
5 fait with this. 11:22
6 203 Q. Right. Perhaps to help you and perhaps to help you
7 just to summarise matters in this letter?
8 A. Right.
9 204 Q. First of all, will you agree that this is a letter sent
10 by the Department of Justice on behalf of the Minister 11:22
11 to the Commissioner, acting Commissioner Ó Cualáin,
12 asking him for a report on matters raised by you?
13 A. Yes.
14 205 Q. This is known as a Section 41 request?
15 A. Just for clarification, is this under Minister 11:22
16 Fitzgerald's? This is under Minister Fitzgerald.
17 206 Q. It's a Section 41 request?
18 A. Yes, I'm aware. Yes, yes.
19 207 Q. So, up to this state, all the things that you had been
20 doing have given rise to this letter. Can I just ask 11:23
21 you to look at this for a moment and see, first of all,
22 there's a reference to previous requests in the second
23 paragraph, do you see that? Just take a moment to read
24 the second paragraph. It says:
25
26 "In July 2016 a request was made by the then Minister
27 under Section 41 for a report..."
28
29 On the matters raised by you.

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"...and how these matters had been dealt with by the Gardaí to date. Reports were submitted on 9th September 2018."

11:23

A. Sorry, just one moment. Sorry, you said the second paragraph.

208 Q. Yes. The first paragraph:

"I am to refer to the department's requests".

11:23

A. Right. Okay, sorry.

209 Q. The second paragraph "In July 2016"?

A. I saw there is July down in the last paragraph. Excuse me, my fault.

11:23

210 Q. No difficulty. And there you will see that the reports were submitted on 9th September 2016, 11th October 2016.

"These reports provided details of the investigation by An Garda Síochána of the allegations made by Garda Keogh, as well as welfare interventions regarding Garda Keogh."

11:23

Do you agree with that?

11:24

A. Yeah, there were reports sent, Judge, I'm aware there were reports.

211 Q. Do you see that in the second, sorry, the third paragraph, again without reading it into the record,

1 will you agree with me that that suggests that there
2 was also communications in December 2016?

3 A. Yeah. Judge, just one second. I have an issue here,
4 Judge, with these reports.

5
6 "Reports were submitted on 9th September 2016 and the
7 11th October."
8

9 Judge my recollection of that is, the 9th September
10 report was an internal report, the 11th October was a
11 more detailed report. Now, what is written here is:
12

13 "These reports provided details of the investigation by
14 An Garda Síochána of allegations by Garda Keogh as well
15 as welfare interventions regarding Garda Keogh."
16

17 Judge, my recollection of having read those reports and
18 those volumes is there were more -- there wasn't a
19 whole lot of detail in them, more or less the Guards
20 weren't telling the Minister a whole lot in those
21 reports. It was more put a lot of words on paper.
22

22 212 Q. You see, I have to suggest to you that in fact the
23 Minister was being fully reported to by the Gardaí.

24 A. I don't think so.

25 213 Q. If you look, please, at the next paragraph, there is a
26 reference to somebody who I think you make no complaint
27 about, that's Chief Superintendent Tony McLoughlin. Do
28 you see the reference to him?

29 A. Yeah.

1 214 Q. what's recorded there, I put it to you, is that it's
2 indicated that:
3
4 "Garda Keogh was advised to forward it to Chief
5 Superintendent McLoughlin." 11:25
6
7 As you didn't wish to refer to your own chief
8 superintendent, and that an investigating officer would
9 be appointed on receipt. It was reported that you were
10 happy with developments and that you be put back on the 11:25
11 payroll?
12 A. Yeah.
13 215 Q. That is Chief Superintendent McLoughlin's report?
14 A. Yeah.
15 216 Q. Then also that the department had been advised that a 11:25
16 chief superintendent had been appointed to investigate
17 Garda Keogh's bullying complaint. Do you see that?
18 A. Yeah.
19 217 Q. Then there's a reference to the department looking for
20 an update in July 2017, after your solicitor wrote to 11:26
21 the Minister in similar terms in relation to your case?
22 A. Yeah. Judge, I think I mentioned yesterday in relation
23 to Minister Fitzgerald, she was -- she did -- any time
24 I wrote to say -- as I said, I was able -- felt that I
25 was actually able to, as a guard, write to the Minister 11:26
26 and Tánaiste, she would always -- there was always a
27 reply and she was very fair. There's no issue in that
28 part. The issue I have is what the Guards were telling
29 the Minister.

1 218 Q. Garda Keogh, just turning over the page. On 17th
2 August 2017, your solicitor submitted further
3 correspondence, isn't that right, complaining about the
4 absence of progress in relation to the bullying and
5 harassment case? 11:26
6 A. Okay.
7 219 Q. Do you agree with that?
8 A. Wait, just can I find -- where are we now?
9 220 Q. The first paragraph, page 10142?
10 A. Sorry. 11:27
11 221 Q. I think there's no dispute here, Garda Keogh, this
12 confirms that your solicitor was writing to the
13 Minister.
14 A. Yeah.
15 222 Q. Making further complaints? 11:27
16 A. Okay.
17 223 Q. Then, do you see further down, two levels, it says:
18
19 "The Minister has continued to received correspondence
20 from Garda Keogh's solicitor on this these matters." 11:27
21
22 So there is more correspondence taking place.
23 A. Yes.
24 224 Q. Then in October there's a report in the Irish
25 Independent, we referred to it yesterday, that 11:27
26 references will be made in the Dáil to an allegation
27 that the harassment complaint from you had not been
28 received by the head of Human Resources?
29 A. Yes.

1 225 Q. Again, all of those things are part of a pattern that
2 we've discussed over the last 24 hours of action by
3 you?
4 A. Sorry, Judge, that's is not --
5 226 Q. Can I draw your attention to the last part. 11:27
6 CHAIRMAN: Hold on a moment. You have made a
7 suggestion, Mr. Murphy, he is entitled to respond to
8 that.
9 MR. MURPHY: Sure.
10 CHAIRPERSON: Respond. 11:27
11 A. Sorry, Judge, the way that this it being worded now is
12 not entirely accurate. Judge, in relation to the
13 bullying and harassment, the investigation, Judge, two
14 chief superintendents were appointed. One was Chief
15 Superintendent John Scanlon, one was Chief 11:28
16 Superintendent Gerry Roche. So there was stuff going
17 on there where there was -- I don't know was going on.
18 But there were two. There were problems behind the
19 scenes there anyway. And in relation to --
20 227 Q. CHAIRMAN: I'm not understanding when you say problems 11:28
21 behind the scenes. I am not understanding what that
22 means.
23 A. It should have been only one chief superintendent.
24 228 Q. CHAIRMAN: Did one replace the other?
25 A. You see, I'm not sure what happened. I don't know. 11:28
26 MR. KELLY: Judge, if it helps you, the reference to
27 Chief Superintendent Roche will you find in Volume 35,
28 9902.
29 CHAIRMAN: 9902. Thanks very much.

1 MR. KELLY: It will just make it easier for you.
2 CHAIRMAN: Thank you very much. Thanks, Mr. Kelly.
3 229 Q. But you think you would have expected one to be
4 appointed?
5 A. Yes. 11:29
6 230 Q. CHAIRMAN: It's questionable why two?
7 A. Judge it's only to take a statement. You'd only
8 appoint one chief.
9 231 Q. CHAIRMAN: whatever it is, you think it doesn't appear
10 on the face to make sense to appoint two? 11:29
11 A. Yes. There appears to be some communication problems.
12 I don't know, Judge, I can't...
13 232 Q. MR. MURPHY: we can see and I have to put it to you,
14 Garda Keogh, we can see in the last paragraph of this
15 letter that the effect of all of this conduct that I 11:29
16 have been taking you through is that the Minister looks
17 for an urgent update report from the Gardaí, in the
18 last paragraph. Do you see that?
19 A. She did, in fairness.
20 233 Q. So, I have to suggest to you at this stage what's 11:29
21 happening is that you are ratcheting up the pressure in
22 relation to all matters but particularly at this time
23 it's important to you, I have to suggest, that
24 Superintendent Murray's promotion is what you are
25 trying to stop and impede? 11:29
26 A. As I said, there's three strands, three strands now.
27 Sorry, there's three strands and out of the third one,
28 which is the bullying and harassment thing, one of the
29 subjects of that complaint which I made in March 2017,

1 is on the promotion list. Then, of course, this is in
2 the time period roughly where the cabinet, the
3 government, hand over control of promotions to the
4 newly formed Policing Authority, it happened somewhere
5 within the time period that we're talking about, Judge. 11:30

6 234 Q. So just in terms of the documentation, can I ask you to
7 turn forward, please, to page 10149 in the same book.
8 So, here we have another case conference, this is on
9 23rd October 2017?

10 A. Yes. 11:31

11 235 Q. You see the agenda:
12
13 "The commissioner requires an update from the
14 department all strands not an in depth analysis."
15 11:31

16 Do you see that reference?

17 A. Can you point me to it?

18 236 Q. Have you seen this document before?

19 A. I am sure I've read it in the -- I am sure I have read
20 it. I will just familiarise myself with it. The only 11:31
21 place like I would have read it is in the volumes and I
22 just can't -- obviously I can't recollect everything.
23 CHAIRMAN: what do you want to ask him about it anyway.
24 We can read it as we go along.
25 MR. MURPHY: Very good. 11:31

26 237 Q. Garda Keogh, I put it to you that in the course of that
27 Mr. Nugent is referred to as CAO and he will say in his
28 evidence that he queried whether there were grounds to
29 proceed with a bullying and harassment claim at that

1 stage. And that became the subject-matter of debate,
2 were you aware of that?

3 A. Yes, Judge. I have read some stuff in relation to
4 Mr. Joe Nugent, the CAO, and it would be fairly
5 concerning. I think he was trying -- the person who 11:32
6 was trying to do scoping exercises in relation to -- to
7 divide all the bullying and harassment stuff up, just
8 as it appears they may have done with the original
9 criminal complaint in relation to the heroin, where
10 they're dividing up all the strands of evidence, which 11:32
11 weakens the whole case. It appears Mr. Nugent -- it
12 appears to me Mr. Nugent was using the same tactic here
13 in the bullying and harassment thing, the scoping
14 thing.

15 CHAIRMAN: Let's find the particular part first of all. 11:32
16 As to whether it's right or wrong is another day's
17 work. Where are you talking about, Mr. Murphy?

18 MR. MURPHY: Chairman, that's at the end of this page,
19 10149.

20 CHAIRMAN: 10149, fact-finding piece. 11:32

21 MR. MURPHY:

22
23 "Do we have grounds to proceed. Each segment is being
24 dealt with. Adhere to the policy."

25 11:33
26 Mr. Nugent will say that that's a reference to him to
27 indicating that he felt it would be wiser at that stage
28 to follow the policies, as he had outlined. You
29 understand that, don't you?

1 A. Sorry.

2 238 Q. You understand that Mr. Nugent was suggesting --

3 CHAIRMAN: This is what the words say.

4 MR. MURPHY: Yes.

5 CHAIRMAN: what he understands. I am not sure I 11:33

6 understand. I think most people would probably think

7 adhere to policy was probably a pretty good idea, if

8 you knew what the policy was and what its relevance

9 was. I think Garda Keogh says it's a bit late in the

10 day to be decided on, but maybe all will be revealed in 11:33

11 due course. But that's what Mr. Nugent says, be it

12 right or wrong, that's what he wrote or that's what he

13 said at the time. Anything else about this one,

14 Mr. Murphy.

15 239 Q. MR. MURPHY: Yes. Are you aware of the fact -- just 11:33

16 turning over to the next page, please.

17 A. I've just seen a remark:

18

19 "Assistant commissioner Corcoran, opening remark, Garda

20 Nicholas Keogh it is bigger than..." 11:34

21

22 CHAIRMAN: Hold on, wait until you find out what he is

23 asking you first of all. The document is there. We

24 can come back to it, that's not a problem. Now, what

25 do you want to ask about this, Mr. Murphy? 11:34

26 240 Q. MR. MURPHY: On the next page, can I ask you to look

27 down to subsection D?

28 CHAIRMAN: Right. Down to D we go and only D. Okay.

29 241 Q. MR. MURPHY: FF, Fintan Fanning is referred to there,

1 Assistant Commissioner Fanning, he was raising points
2 in relation to the number of files in play at present
3 and that no file at present on the protected
4 disclosures was there before them, do you see that?
5 CHAIRMAN: Do you see point D? 11:34
6 A. I do.
7 242 Q. CHAIRMAN: The first dash.
8 A. Can I read that, Judge.
9 CHAIRMAN: Yes, absolutely. Okay. What is your
10 question about this, Mr. Murphy? 11:35
11 243 Q. MR. MURPHY: Garda Keogh, I think it's clear, do you
12 accept that at that meeting the various parties were
13 there discussing different ways your complaint could be
14 dealt with?
15 A. I accept that. 11:35
16 244 Q. Just turning over to the next page, we know from the
17 previous page, just at the end of the previous page,
18 Mr. Nugent will say that it's recorded that he queried
19 whether there were grounds to have a bullying and
20 harassment investigation done and that Assistant 11:36
21 Commissioner Fanning will reply that he was the one to
22 decide given that he had been tasked with that issue
23 up-to-date?
24 A. Just where in that?
25 245 Q. I'm sorry, in fact it should be at the bottom of the 11:36
26 previous page.
27 CHAIRMAN:
28
29 "JM querying if there is grounds."

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MR. MURPHY: Yes.

CHAIRMAN:

"Querying if there are grounds to have the B&H investigation done."

11:36

To which he says that's a decision for me to make.

246 Q. MR. MURPHY: Garda Keogh, were you aware that there was a disagreement as to what the correct approach was at that time, between Mr. Nugent and Assistant Commissioner Fanning?

11:36

A. I don't know if I was aware at that time. I doubt if I was aware at that time what was going on.

247 Q. I see. Then would you just turn over to the next page please, very briefly on this paragraph, can I ask you to look at the top third of the page. Do you see there's two blanked out areas, if you move to the second blanked out area you will see "FF"?

11:36

A. Sorry, page 10152?

11:37

248 Q. This is 10152. You will see there are two blanked out pieces on the top of the page. If you look at the second one?

A. Judge, I don't have that. 10152, this is what I have.

249 Q. Sorry, 10151 it should be, I beg your pardon?

11:37

A. Sorry.

CHAIRMAN: I don't know what page this is.

250 Q. MR. MURPHY: It's 10151, Chairman, sorry. Do you see the point, "FF" is referred to there at the end of the

1 second line.

2 A. Yes.

3 251 Q. Mr. Nugent will say that it was noted also that
4 Assistant Commissioner Fanning noted that the content
5 of your statements were far wider than bullying and 11:37
6 harassment and a discussion arose as to how that was
7 all connected to bullying and harassment. Do you see
8 that? Apart from this recording of a debate and a
9 discussion, can I just point you to one thing and ask
10 you whether you can agree with what's said here. It 11:37
11 says:

12

13 "FF noting that he [Assistant Commissioner Fanning],
14 had ensured that you [Garda Keogh] had been
15 communicated fully through the process by him." 11:38

16

17 A. Yes.

18 252 Q. Is that correct?

19 A. Yes. But there's a lot of problems with stuff here
20 that I don't know what's going on with. And there were 11:38
21 a lot of problems which originally I had to make but
22 from his -- whenever he -- he did send Inspector
23 McCarthy out to me and he was updating me. But, Judge,
24 there's an awful lot of stuff I didn't know, they
25 weren't updating me with absolutely everything, because 11:38
26 there's stuff there I only read in the documents.

27 253 Q. I have suggest to you that it's clear at this stage
28 that Assistant Commissioner Fanning was saying to the
29 management that Inspector McCarthy and he has kept you

1 communicated fully throughout the process?

2 A. There's no issue, Judge. I know I was updated, but for
3 example, they weren't giving me copies of the likes of
4 this stuff, you know, it was a general update and that
5 was it. 11:39

6 254 Q. You see, I have to suggest to you that in fact contrary
7 to the complaints you have made to the Chair throughout
8 the course of the last couple of days, it's clear from
9 this that Assistant Commissioner Fanning did keep you
10 updated? 11:39

11 A. I'm not disputing that.

12 255 Q. Not partially, but fully?

13 A. Yeah. I haven't --

14 256 Q. I wanted to put your complaint in context in that
15 sense. Could you turn forward, please, to page 10235? 11:39

16 A. 101235.

17 257 Q. No, 10235, please.

18 A. Okay.

19 258 Q. This is a letter from chief executive administrative
20 officer Joseph Nugent on 2nd November 2017. Now we 11:39
21 have moved forward to the 2nd November. I think in
22 this situation, Mr. Nugent will say that he had a
23 discussion with Assistant Commissioner Fanning in
24 relation to your complaints and that there was
25 correspondence following the meeting on the 23rd 11:40
26 October, which we have dealt with. Were you aware that
27 there had been such a conversation or discussion?

28 A. Between?

29 259 Q. Assistant Commissioner Fanning and Mr. Nugent?

1 A. Mr. Nugent, I don't think so.

2 260 Q. Okay. You will see Mr. Nugent will say in his
3 evidence, just putting to what he will say, he will say
4 that he had proposed a particular course of action. If
5 you look down, please, at the second half of the 11:41
6 letter, just to confirm this. He will say that he
7 proposed that Assistant Commissioner McPartlin will be
8 tasked with a piece of work to examine the totality of
9 matters complained of by you. That was the first
10 point? 11:41

11 A. A piece of work. Judge, I just mentioned a moment ago
12 about where I had read somewhere where his scoping
13 exercise -- he was trying to divide it all up. Judge,
14 just this part here, where, you know, he's giving a
15 piece of it to Oral a McPartlin, Assistant 11:41
16 Commissioner, but either way...

17 261 Q. I am just putting to you at that time this is what
18 Mr. Nugent says he was proposing. He will also say, in
19 the second part he will say that he had asked,
20 following a letter of 13th October 2017 to your 11:41
21 solicitor, that he, Mr. Nugent, had asked Mr. Barrett
22 to liaise with Mr. Cullen and you on welfare matters.
23 Weren't you aware of that?

24 A. It would have been very helpful if Mr. Nugent was able
25 to tell me who was conducting the disciplinary 11:42
26 investigation into the heroin matter that I made back
27 in 2014. Which he didn't do.

28 262 Q. Garda Keogh, that's another diversion.

29 A. It's not, it's related to the welfare matter, Judge.

1 263 Q. Please just look at this question, if you would. He
2 will say that he asked the director of HRPD to liaise
3 with Assistant Commissioner Fanning to progress matters
4 and documents and that he accepted what you raised was
5 broad in context.

11:42

6
7 Now, just turning over the page please, to page 10236,
8 here he is referring to the meeting on the 23rd
9 October, he says:

10

11:42

11 "I do not share your views on the need to inform Garda
12 Keogh of the holding of the aforementioned meeting,
13 particularly where legal issues to include ongoing
14 civil litigation on behalf of Garda Keogh were
15 discussed at such meetings and will take place in a
16 legally privileged context."

11:43

17

18 He will say that it was being suggested that details of
19 the 23rd October meeting, which involved a solicitor
20 and the litigation, should be discussed with you?

11:43

21 A. Basically he says keep him in the dark.

22 264 Q. No, what he says ultimately -- what he says in this
23 letter is ultimately that the meeting dealt with issues
24 affecting privilege and litigation?

25 A. Yeah, but it means the same thing, just keep him in the
26 dark.

11:43

27 265 Q. Did Assistant Commissioner Fanning tell you that that
28 is what he had said?

29 A. What do you mean?

1 266 Q. Did he speak to you about this conversation with
2 Mr. Nugent at any stage?

3 A. No.

4 267 Q. Very good. Can I ask you then please to turn
5 forward to --

11:43

6 A. Judge, I have already explained the details with
7 Assistant Commissioner Fanning. He's after -- it's
8 like a trick question, did Mr. Fanning tell you, when I
9 already stated I only met Assistant Commissioner
10 Fanning twice, you know.

11:43

11 CHAIRMAN: I am understanding that when he says
12 Assistant Commissioner Fanning, he means either him or
13 his agent lawfully authorised thereto.

14 A. My apologies.

15 CHAIRMAN: i.e. Inspector McCarthy. That is what I am
16 understanding Mr. Murphy to say. Maybe I'm wrong but
17 that's what I am understanding him to say.

11:44

18 A. I may have taken you up wrong, Mr. Murphy, on that.

19 268 Q. MR. MURPHY: would you turn forward, please, to page
20 10237?

11:44

21 A. 10 --

22 269 Q. -- 237. I put to you there is a further example of an
23 attempt by An Garda Síochána to engage with you and
24 Chief Superintendent Duff is effectively in Mullingar
25 at this stage, on 10th November 2017, and he is
26 reporting back from Superintendent Minnock and
27 Superintendent Minnock will say that it wasn't possible
28 to arrange for the introduction of Inspector Foalan to
29 you as had been originally envisaged as a liaison

11:44

1 inspector, because you said you didn't wish to have a
2 member of An Garda Síochána to be appointed as liaison
3 inspector to you and you decided your contact with the
4 welfare service and Garda Michael Quinn as well as
5 communications from your office as being sufficient? 11:45

6 A. That's correct.

7 270 Q. So there was an attempt, you will agree, to have a
8 liaison officer?

9 A. Yes.

10 271 Q. And you rejected that? 11:45

11 A. Yes. On the grounds, Judge -- just to explain. Judge,
12 I had my -- I was in regular contact with Garda Mick
13 Quinn, the welfare officer, and, as I said, he was
14 brilliant and everything was working fine there. It
15 became apparent to me at some point that this -- the 11:45
16 inspectors calling out to the house on the basis of
17 welfare was nothing more than a spying mission. I
18 actually read, it cropped up yesterday on the screen,
19 about where Inspector Minnock writes back I was using
20 four phones. Now, why that would have to go into a 11:46
21 welfare report, I do not know.

22
23 But, Judge, in relation to Chief Superintendent Duff,
24 when he made -- he made contact to me via
25 Superintendent Minnock and at that point I had told -- 11:46
26 I was telling Inspector Minnock, I was trying to say
27 listen, stay out of this, keep away from it. I said
28 the same thing, can you pass this on to Chief
29 Superintendent Duff, not to get involved in this stuff,

1 this is going to be messy stuff. That was the basis
2 for it.

3 272 Q. In the second paragraph, is it correct to say that you
4 said to Inspector Minnock at the time, Superintendent
5 Minnock that communication outside of the areas you 11:46
6 referred to amounted to harassment?

7 A. Yes, Judge. That's when I had to, more or less, excuse
8 the term, put the foot down with Inspector Minnock.
9 Because, as I said, we had a good relationship under
10 Superintendent McBrien's rein in Athlone, but that did 11:46
11 change under Superintendent Murray's rein in Athlone.
12 Inspector Minnock was -- Judge, I could sense it was no
13 longer about my welfare or anything, it was spying
14 issues he was up to at that stage. And that's where I
15 ended up saying to Inspector Minnock, please don't call 11:47
16 around again. But equally, on the other side, I had
17 always tried to tell Inspector Minnock and the words I
18 would have used was: Stay out of this. Do not get
19 involved in this stuff please. Because it's going to
20 get messy. 11:47

21 273 Q. And again I just have to put it to you that
22 notwithstanding that, that Chief Superintendent Duff
23 indicated in the middle of the letter, that he
24 corresponded directly with your solicitor, advising him
25 of his obligations to you under the Safety Health and 11:47
26 Welfare at Work Act, and requested a meeting with your
27 solicitor with a view to resolve the issue, to see if
28 it was possible to come to amicable agreement with
29 regard to future engagement?

1 A. That's correct.

2 274 Q. Did that meeting happen?

3 A. No. But he did -- that part is accurate, Judge.

4 275 Q. Yes. So, at this stage these are overtures, I suggest
5 to you, being made to you to try and help resolve 11:48
6 issues, but you're rejecting those. One further
7 element, please turn forward to page 10247, the 13th
8 November. So here we have a reference to a letter
9 addressed I think to Mr. Barrett by Assistant
10 Commissioner Fanning. He refers to previous 11:48
11 correspondence. Then he refers to you. And he says
12 that he provided a summary of the allegations that you
13 had made:

14

15 "Including corresponding with Garda Keogh as per 8.4 of 11:48
16 the policy in relation to procedures, harassment,
17 sexual harassment and bullying."

18

19 Then he says this:

20

21 "This sets out the two options available in attempting
22 to resolve the complaint through either mediation or
23 investigation. As you are aware, Garda Keogh indicated
24 he would not accept mediation and requires the matter
25 fully investigated. Copy attached." 11:49

26

27 So, can I ask you just to indicate when you
28 communicated to him that you did not want to go with
29 mediation?

1 A. That was with -- Inspector McCarthy called out to me
2 at, oh I don't know when, but he offered -- he made the
3 offer, you can either have it done this way or that
4 way, mediation or full investigation, and I told him a
5 full investigation. I think he may have said, we're 11:49
6 going to need that in writing. I'm not sure if that's
7 where I just wrote it out on a piece of paper there and
8 then and it was later typed up.

9 276 Q. So, again I think we agree that's another attempt by
10 Garda Headquarters to try and resolve matters, but you 11:49
11 rejected that?

12 A. Not -- I wanted --

13 CHAIRMAN: He disagreed, he said, no, I don't want it
14 resolved that way, I want to resolved this way. I
15 would have thought there was very little chance that it 11:50
16 was going to be resolved. But what do I know?

17 277 Q. MR. MURPHY: Then can I just ask you to turn to page
18 10245, this is a document that we have seen yesterday.
19 It's a report from the Irish independent, November
20 13th. Do you remember yesterday we went through some 11:50
21 of this article.

22 A. Yes.

23 278 Q. This article refers to, I have to suggest to you, a lot
24 of details in relation to the meeting on 23rd October
25 2017. Can I just ask you to confirm, you weren't aware 11:50
26 of the details of that meeting of the 23rd October at
27 that stage, were you?

28 A. I don't think -- I know -- I just know I remember
29 reading this article in the paper. From what I

1 remember, I got a call or something, maybe to say there
2 was something in the Independent.

3 279 Q. Yes.

4 A. And I would have got it, read it.

5 280 Q. You can confirm, none of that detail came from you, 11:51
6 because you wouldn't have known this information?

7 A. No, no. And obviously I was delighted when I read it
8 because for the first time it had that an assistant
9 commissioner was actually backing me. Well, appeared
10 to me to be backing me and I was delighted with that. 11:51
11 Because at that point all I had really was the support
12 of the public, let's say, in Athlone because Garda
13 management had gone into so much conflict at this stage
14 with -- we're talking about -- I know it's mentioned
15 here, a lot of mention about Superintendent Murray and 11:51
16 that, but really it's Nóirín O'Sullivan, Donal
17 Ó Cualáin, the ones at the top, Judge.

18 281 Q. So, is it the case then when you looked at this detail,
19 you will accept I think that there is chapter and verse
20 about what happened at the meeting, a lot of detail? 11:51

21 A. I would have to read it. I haven't read this article
22 since, whenever, 2017.

23 282 Q. Yes.

24 A. I accept it's in the volumes there, Judge. But because
25 I had read it before, I didn't read it again. 11:52

26 283 Q. For example, if we just take a few examples, if we look
27 at, for example, the second paragraph, there is a
28 reference to tense meetings in Garda Headquarters in
29 recent days. There's no way would you have known about

1 that at that stage?

2 A. No.

3 284 Q. It had to be somebody who was involved in one of those
4 meetings, would you agree?

5 A. Well, I mean, I presume -- 11:52

6 MR. KELLY: Judge, I wonder whether there is any point
7 in inviting this witness to absolutely speculate to
8 this. I know nothing about it at all

9 CHAIRMAN: I agree. I mean, Mr. Murphy, in this
10 situation, and I don't mean this in any disrespectful 11:52
11 way, but what difference does it make whether the
12 witness agrees or not?

13 MR. MURPHY: Insofar as the article is concerned.

14 CHAIRMAN: In fairness, the witness in the situation
15 doesn't know about the meeting, he says, oh absolutely, 11:52
16 I tell you, it had to be somebody at the meeting, no
17 doubt about it, what difference does it make? It's his
18 opinion, which technically is inadmissible because he's
19 not an expert.

20 MR. MURPHY: Yes. 11:53

21 CHAIRMAN: Anyway. Mr. Kelly is right, Mr. Murphy.

22 MR. MURPHY: I simply wanted to ask the question
23 to witness to confirm, and he has, that he wasn't
24 responsible.

25 CHAIRPERSON: He wasn't responsible, but he has, 11:53
26 indeed.

27 MR. MURPHY: Can I ask you then please to move on to
28 10264?

29 CHAIRMAN: 10264. This is Mr. Cullen's letter.

1 MR. MURPHY: Yes.

2 CHAIRMAN: Okay.

3 285 Q. MR. MURPHY: will you confirm that Mr. Cullen wrote
4 this letter on your instructions, which was to
5 effectively raise an application I think under the Data 11:53
6 Protection Act or the Freedom of Information Act,
7 looking for minutes of these meetings which had taken
8 place in Garda Headquarters, do you see that?

9 A. Yeah, I see that. Yeah.

10 286 Q. And were you aware of the fact that, for example, it 11:54
11 says:
12
13 "It appears that two recent meetings were convened in
14 Garda HQ by Mr. Nugent to determine the possibility of
15 processing Garda Keogh's bullying complaint by way of 11:54
16 what is known as a scoping exercise only rather than in
17 compliance with the standard grievance procedure."
18
19 where did you and Mr. Cullen find out that information?

20 A. I presume he would have heard it from me, I presume. 11:54

21 287 Q. where would you have heard it from?

22 A. I don't know. I don't know.

23 288 Q. You don't know. So you were aware of the detailed
24 information about the scoping exercise proposed by
25 Mr. Nugent but you don't know where you heard it from, 11:54
26 is that fair?

27 A. Judge, I have given -- as I said yesterday, Judge, I
28 had an awful lot of guards all over the country that I
29 was in communication with and a lot of those guards

1 would have been in contact with other people and
2 whatever. But I was -- I would have -- obviously I had
3 a lot of information coming in to me, I would have
4 evaluated it, some of it was false, some of it was
5 true. 11:55

6 289 Q. CHAIRMAN: Mr. Murphy is asking you where the source of
7 that is and he is seeking you to tell him how you found
8 out that piece of information, because Mr. Cullen can
9 only get it from you?

10 A. Yeah. 11:55

11 290 Q. CHAIRMAN: And you're saying well, sources and things,
12 people?

13 A. If I just check my diary.

14 291 Q. CHAIRMAN: Okay.

15 A. Is the only thing, I think. 11:55

16 CHAIRMAN: Have you a bit more to go?

17 MR. MURPHY: I have.

18 CHAIRMAN: That's all right. We will take a little
19 break then. Just finish this one, first of all.

20 WITNESS: I don't know. 11:55

21 CHAIRMAN: I will take a wild guess and find there
22 isn't an answer in your diary to say, got this
23 information urgently from -- I don't mean to be
24 flippant.

25 WITNESS: You're correct, Judge, I don't have it there. 11:55

26 CHAIRMAN: I am taking a wild guess. All right.
27 Thanks very much. So we will take a little break then
28 and come back 12:10. All right. Thank you.
29

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

3
4 292 Q. MR. MURPHY: Garda Keogh, just coming back 10264 for
5 the moment. Can I ask you to look at the third 12:11
6 paragraph of Mr. Cullen's letter, which was written on
7 the basis of your instructions, which says:

8
9 "The commissioner was sufficiently informed of the
10 agenda of such meetings that he absented himself due to 12:11
11 what he described as conflicts of interest. The
12 Commissioner further, however, then left his office
13 manager at the meetings (thereby defeating the express
14 purpose of his absence). It is clear in any event
15 therefore that the Commissioner concurred in the agenda 12:11
16 of both meetings."

17
18 I have to ask you, who told you about the Commissioner
19 leaving his office manager at the meetings?

20 A. I'm not sure if this was based on a letter where he had 12:11
21 sent us to say Joe Nugent would be dealing with all
22 these matters.

23 293 Q. What letter was that?

24 A. I'm not sure. That's what I said, I'm not sure if that
25 is what it refers to. 12:12

26 294 Q. But you told us I think that you had given this
27 information to Mr. Cullen and someone else had given
28 this information to you?

29 A. I am presuming.

1 295 Q. Yes.

2 A. I think it's fair to presume that that is what
3 happened.

4 296 Q. We know that any letters written by Mr. Nugent at that
5 time would have been written to Mr. Cullen; isn't that 12:12
6 right?

7 A. I don't know.

8 297 Q. So, just leaving that to one side. Can you explain to
9 the Chairman how you came into possession of
10 information in relation to the agenda of both meetings, 12:12
11 meetings that you weren't present at, meetings that
12 weren't detailed in the newspaper, where did you get
13 this information, please?

14 A. I don't know. I don't know. Because -- I don't know.
15 In relation to -- I'm trying to think. You see, I 12:12
16 don't know about these meetings.

17 298 Q. You see, Garda Keogh, I have to suggest to you that's
18 simply not credible. This is an important piece of
19 information, your solicitor is writing to the
20 Commissioner and you have been given this information 12:13
21 by somebody, it's sufficiently important for it to be
22 put in a letter and I suggest to you it's not credible
23 that you can't tell the Chairman today who gave you
24 that information?

25 A. No, what's not credible is -- Judge, I just can't -- I 12:13
26 haven't a note of where I got the thing and I can't --
27 this is back, what, three years saying, I can't
28 remember.

29 299 Q. Garda Keogh --

1 A. To explain, Judge, there's the other two big
2 investigations going on. This is just one strand of
3 what's happening as well. So I can't actually remember
4 everything.

5 300 Q. Garda Keogh, I again have suggest to you that it's 12:13
6 unbelievable that you can't tell the Chairman who gave
7 you the information. I suggest to you that the office
8 manager had been left at the meetings?

9 A. I presume I heard it from someone within An Garda
10 Síochána. Where they heard it or whatever, I just 12:13
11 don't remember. I don't -- I don't recollect that.

12 301 Q. You see, I have to suggest to you, Garda Keogh, that
13 that's just not believe?

14 A. But sure if I knew, Judge, I'd say it. There's no
15 point of me throwing out a name when I'm not sure. 12:14

16 302 Q. Well, is it the name of somebody you're trying to
17 protect?

18 A. There's no protection in this. I have been upfront as
19 far as I can go but I can't go into it could be this
20 person, it could be that person. 12:14

21 303 Q. Well, it has to be a very small number of people. It
22 has to be, I suggest to you, it's likely to be someone
23 at the meeting; isn't that right?

24 A. I'm sure it emanated from someone that was at the
25 meeting but, but how I heard it is a different thing. 12:14
26 Because, as I said, I would have been in contact with a
27 lot of guards in various places throughout the country.
28 So, I mean, it could have been from any of those I may
29 have heard it.

1 304 Q. Garda Keogh --

2 A. Judge, I, of course, was trying to find out as much as
3 I could?

4 305 Q. Garda Keogh, is that believable? Are you seriously
5 suggesting to the Chairman that this type of 12:14
6 information was known by guards all around the country?

7 A. No, no, no.

8 306 Q. I think you'll agree with me, therefore, by inference
9 that this information was known to a very small number
10 of people, isn't that correct? 12:15

11 A. I would accept that.

12 307 Q. And yet you had this information. I have to suggest to
13 you it seems likely that it must have been from one of
14 the people who was at the meeting?

15 MR. KELLY: Again, we're in the same realms of 12:15
16 speculating.

17 CHAIRMAN: I understand. It's a slightly difficult
18 one.

19 MR. KELLY: I wonder how it actually helps you in the
20 end. 12:15

21 CHAIRMAN: He is asking who told you? That's what he's
22 asking.

23 308 Q. MR. MURPHY: I am putting it forward as a question of
24 creditability.

25 CHAIRPERSON: He is suggesting that is hiding the name. 12:15
26 That's what he is suggesting. I don't know if that's
27 correct, I don't know if it's important, I don't know
28 if it's unimportant. But for what it's worth, it looks
29 like a very specific information.

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Let me just tell you the way it works. As I say, for what it is worth, important or otherwise, I don't know. It looks like a very specific piece of information. I can't understand how guards all over the country or any guard in the country would be aware of this specific piece of information and able to tell it to you. That's number two. 12:16

Number three, it seems like the sort of thing that a person would remember. That's the way it looks. But how far that goes, how important that is. That's what Mr. Murphy is suggesting 12:16

A. I understand.

309 Q. CHAIRMAN: He is suggesting that you are able to remember but don't want to remember, that you don't want to say. That's what he's suggesting. As I say, look, how important that is, I don't know. We will worry about that in due course. But that's really what the situation is, Mr. Murphy. We can all read it, we can all draw the inferences of the situation that you suggest, a small number of people, maybe there will be other argument about that, who knows, maybe there will be arguments that it got circulated or might have got -- whatever, I don't know about any of that. But that is the situation at the moment. 12:17

A. Yes.

310 Q. CHAIRMAN: You say, look, I do not know who.

A. Judge, I have no note and I can't remember this, just

1 exactly who told me.

2 311 Q. CHAIRMAN: Okay. As I say I'm trying to stay as
3 neutral as I can and say I don't know what the
4 importance of the issue is going to be or may turn out
5 to be. Okay. 12:17

6 312 Q. MR. MURPHY: Can I suggest to you that it's likely that
7 the person who gave this information to you was
8 somebody who was friendly to you or you considered to
9 be an ally?

10 A. I presume on the second term you would probably be 12:17
11 correct. I would presume.

12 313 Q. That's a term you have used in your diary?

13 A. Yes, yeah, yeah. And I'm not disagreeing with that. I
14 mean that would -- but as for who exactly it was that
15 told me, I cannot remember. 12:18

16 314 Q. That kind of narrows the field, Garda Keogh, doesn't
17 it, because it has to be an ally and it has to be
18 somebody who is in the meeting. So, perhaps you will
19 just tell the Chairman who in your circle of trust
20 would fit into that category? 12:18

21 MR. McGUI NNESS: Chairman --

22 CHAIRMAN: Is that entirely fair, Mr. Murphy, as a
23 way -- surely -- I mean, we have to be fair to
24 everybody here.

25 MR. MURPHY: Yes. 12:18

26 CHAIRMAN: I will go back to something that Mr. Kelly
27 said, I am anticipating that Mr. McGuinness may have
28 concerns about. I wouldn't want to have a situation
29 made where an allegation was made or induced where

1 there is no evidence.

2 MR. MURPHY: Yes.

3 CHAIRMAN: Further challenges, cross-examinations of
4 witnesses may take place, I have no problem about that,
5 and further light may be thrown on this matter, to the 12:19
6 extent that it's is relevant. But Mr. Kelly's
7 objection about a discussion with the witness as to the
8 likely source is really something calling for him to
9 speculate, calling for him to draw an inference,
10 calling for him to express an opinion, it seems to me. 12:19
11 I don't think that's appropriate. I don't say it's an
12 improper question but I think it's not an appropriate
13 question and it is probably not a legally legitimate
14 question in cross-examination.

15
16 So, I am going to close down on that. We can all in
17 due course, as I say, to the extent that it's relevant,
18 and then Mr. Kelly, Mr. McGuinness or Mr. Marrinan may
19 make a submission about it, anybody else may make a
20 submission about it and we will see where we are going. 12:20
21 Sorry to make a speech about that, but we will leave
22 that where it is. Okay.

23 MR. MURPHY: Chairman, could I explain, just for the
24 avoidance of doubt, the purpose of my question is not
25 to achieve the desired result which you have outlined, 12:20
26 but rather to test the credibility of the witness in
27 what he is saying to you. So in that sense it's a
28 question as to credit.

29 CHAIRMAN: You have made a challenge to the

1 credibility of Garda Keogh to say, in respect of this
2 particular item you have suggested that he's not being
3 candid, he is not being truthful with the Tribunal.
4 MR. MURPHY: Yes. And that's as far as I put it.
5 CHAIRMAN: I understand. 12:20
6 WITNESS: Judge, can I respond to that?
7 CHAIRMAN: Yes.
8 WITNESS: Judge, I have been asked here earlier on in
9 relation to the RTÉ thing.
10 CHAIRMAN: Yes. 12:20
11 WITNESS: I said it was me that spoke to John Burke in
12 relation to that thing. In relation to yesterday's
13 matter, the question to do with the Policing Authority,
14 I said it was me that was behind it, that came from,
15 emanated from me. Judge, I cannot remember this part. 12:21
16 CHAIRMAN: I understand. But where we stand at the
17 moment, you say I can't remember.
18 WITNESS: Yes.
19 CHAIRMAN: I don't know. Mr. Murphy says on this
20 specific topic he is suggesting that you're not telling 12:21
21 the truth about that.
22 WITNESS: I understand.
23 CHAIRMAN: That's where we stand at the moment. He's
24 not suggesting that in respect of everything else or,
25 indeed, in respect of anything else you are not being 12:21
26 truthful. He is suggesting you are wrong or your
27 interpretation is wrong. Do you understand me.
28 WITNESS: Yes.
29 CHAIRMAN: So at least that's my understanding of the

1 present situation. Until somebody suggests otherwise,
2 that's what I am thinking. If Mr. Murphy at a later
3 stage or anybody else says, because Garda Keogh was not
4 candid about that, he mustn't be believed about
5 something else. That's a different story and it would 12:22
6 be very difficult for somebody to make that case if
7 they hadn't actually suggested to you that you were
8 lying about some other event. So, are you with me on
9 this?

10 WITNESS: Oh, I am totally with you. 12:22

11 CHAIRMAN: Okay.

12 WITNESS: I would have -- obviously I would -- I could
13 presume, you know, where I heard it from, but because I
14 can't actually remember where, I cannot.

15 CHAIRMAN: Hold on. You don't have to test that any 12:22
16 further. We know where we stand on that. I tried to
17 say earlier, I said earlier what the importance of such
18 conclusion is, is quite another day's work. Do you
19 follow me?

20 WITNESS: Yes, Judge. 12:22

21 CHAIRMAN: Okay. That will be in a compartment and I
22 will be waiting for somebody to demonstrate, to show
23 the evidence, an evidential basis and secondly, to show
24 the consequence. Do you follow me?

25 WITNESS: Yes, Judge. 12:23

26 CHAIRMAN: Anyway, that's where we stand on that,
27 Mr. Murphy. Thank you very much.

28 315 Q. MR. MURPHY: The last question on this letter just
29 relates not to a question of credibility but just as a

1 matter of fact. The second last paragraph, I think you
2 will agree with me, Garda Keogh, is the letter from
3 Mr. Cullen, repeated the questions asked previously,
4 and it says:

12:23

5
6 "I address specifically to Commissioner Ó Cualáin only.
7 We submit for the reasons outlined that only the
8 Commissioner can answer such questions."

9
10 So, would you agree with me that the last paragraph 12:23
11 suggests that this freedom of information request and
12 the questions raised in previous letters were all
13 targeted at acting Commissioner Ó Cualáin only?

14 A. Sorry.

15 316 Q. All these questions were directed towards Commissioner 12:23
16 Ó Cualáin only?

17 A. That's the way it's worded.

18 CHAIRMAN: That is what it says, Mr. Murphy.

19 MR. MURPHY: Thank you.

20 A. I didn't draft this letter but it is a letter sent on 12:23
21 my behalf.

22 CHAIRMAN: Okay. Well, we all agree that's what it
23 says.

24 317 Q. MR. MURPHY: I think you've indicated in other 12:24
25 questions previously that part of your world view at
26 that stage was to bring down Assistant Commissioner Ó
27 Cualáin, isn't that right? In your earlier evidence.

28 A. Judge, I made reference to that while I was under the
29 influence of the alcohol.

1 318 Q. Can I ask you please then to turn back to volume 8, at
2 page 2073 -- sorry, 2074.

3 CHAIRMAN: 2071, Mr. Murphy?

4 MR. MURPHY: 2074.

5 CHAIRMAN: 2074?

12:25

6 MR. MURPHY: Yes, please.

7 CHAIRMAN: Thank you.

8 319 Q. MR. MURPHY: This is Chief Superintendent Murray's
9 statement. Can I put it to you that he will say that
10 on 28th November 2017 he highlighted his concerns to
11 the Garda organisation because he felt at this stage
12 that there was an orchestrated effort to prevent his
13 promotion. He could see from the media and from the
14 other reports that these all appeared to be part of an
15 orchestrated effort to prevent his promotion.

12:25

12:25

16 A. He has said that, yes.

17 CHAIRMAN: He has said that. Yes..

18 320 Q. MR. MURPHY: In terms of his position, I suggest to you
19 that the person who is responsible for orchestrating
20 that was you?

12:25

21 A. The man who couldn't hold a pen and sign his own name!
22 Okay.

23 321 Q. When he wasn't drinking. So, in terms of the position,
24 I suggest to you that you were orchestrating an effort,
25 do you accept or reject that?

12:25

26 A. Judge, in the context of what I said, prevent the
27 promotion while the bullying and harassment thing is --
28 I have said this so many times, Judge. It's still the
29 thing. If they were going to do with the promotion, do

1 it legitimately. Do it the proper way. Not while
2 there is this pending case and there's a serious
3 complaint made against the superintendent. As I have
4 given in evidence yesterday, there were persons in
5 Garda management that appeared to be misleading the 12:26
6 missing authority in relation to this promotion and
7 there was a lot of skullduggery going on behind the
8 scenes and I was trying to highlight the fact, I have a
9 complaint here which should be investigated first and
10 then we can do the promotion. 12:26

11 322 Q. Could I ask you to turn forward to page 2076, please?
12 This is on 22nd December 2017. Just to put it to you
13 again, Superintendent Murray's evidence will be that he
14 received a phone call from Ms. Helen Hall of the CAO of
15 the Policing Authority and he was informed that the 12:27
16 Authority were again, for the second time, passing him
17 over in the order of merit and promoting a person
18 further down the list at number 9.

19 A. I see that.

20 323 Q. He will say that also he was informed for the first 12:27
21 time the issues affecting his promotion were the
22 complaints made by you?

23 A. Okay.

24 324 Q. So you do accept that the complaints being made by you, 12:27
25 in the pattern that we have been describing over the
26 last three years, was having an effect; it was causing
27 the Policing Authority to pass over Superintendent
28 Murray, do you accept that?

29 A. Judge. I just answered this question. Look, the

1 answer I gave just a moment saying, Judge, is the same
2 answer I would give to this question again.

3 325 Q. Well, the question I'm asking is: Do you accept that
4 it had an effect on the Policing Authority, what you
5 were doing? 12:28

6 A. It appears, yes, to have had an effect.

7 326 Q. And in the course of that discussion he will say that
8 that was the first time he was aware of this. Because
9 he will also say --

10 A. Excuse me, aware that there was a complaint against him 12:28
11 and that he was under investigation?

12 327 Q. Aware of the fact that your campaign was ultimately
13 having an effect on the Policing Authority?

14 A. Judge, I had already sent my complaint to the Policing
15 Authority. 12:28

16 CHAIRMAN: Yes. I understand. Mr. Murphy, isn't that
17 more a matter for the Policing Authority? Just let me
18 say, I was thinking about something that arose
19 yesterday or the day before. The question was: Was it
20 not an unfair procedure or unfair generally or 12:28
21 unreasonable for Garda Keogh to write to various people
22 but not to include Superintendent Murray? That was the
23 question.

24 MR. MURPHY: Yes.

25 CHAIRMAN: It did occur to me afterwards, and I should 12:29
26 mention this to you, that I don't see any obligation on
27 him. He is protesting about an event, rightly or
28 wrongly, and all questions on that are open, he is
29 protesting about something and he writes in to the

1 authority, isn't it a matter for the Authority to
2 behaviour in a fair and reasonable manner?
3 MR. MURPHY: Oh yes.
4 CHAIRMAN: I mean the protestor can scarcely be
5 criticised for not notifying the person against whom he 12:29
6 or she is complaining. But I can see the point about
7 the Authority receiving this may well have -- let's
8 face it, those would be easy enough questions for any
9 lawyer.
10 MR. MURPHY: I agree, Chairman. 12:29
11 CHAIRMAN: Okay.
12 MR. MURPHY: But I think my point in relation to
13 unfairness generally applied also to the speeches in
14 the Dáil.
15 CHAIRMAN: I understand. 12:30
16 MR. MURPHY: That's a matter for submissions.
17 CHAIRMAN: You can say, listen, was that a bit much,
18 was a bit unfair or whatever it is.
19 MR. MURPHY: Yes.
20 CHAIRMAN: But on a sort of procedural, legal basis, it 12:30
21 seemed to me that it's more for the Authority dealing
22 with it. That's only a tentative view, Mr. Murphy,
23 anybody can suggest otherwise.
24 MR. MURPHY: Perhaps I will can refer to that in
25 submissions, Judge. 12:30
26 CHAIRMAN: Of course. Anyway there it is.
27 328 Q. MR. MURPHY: Can you please turn forward to page 2077?
28 On 29th January 2017, Superintendent Murray will say
29 that he received a call from the Policing Authority,

1 who informed him that there had been a meeting on the
2 26th January and that following that the Authority
3 decided to promote Superintendent Murray and backdate
4 that promotion to 26th October 2017. When did you find
5 out about that decision?

12:31

6 A. Oh, I would imagine, it was day -- I know exactly,
7 Judge, it was the day he was promoted. That was the
8 day in January, I found out on that day. I recollect
9 that day very well.

10
11 Judge, to point out here with all this conspiracy
12 stuff, no one from the Policing Authority ringing me to
13 inform me what's going on or what's happening. Like,
14 they're in contact here with Superintendent Murray.
15 But there's nobody from the Policing Authority, you
16 know, informing me what's is going on. I just wanted
17 to make that point.

12:31

12:31

18 CHAIRMAN: Sorry, Mr. McGuinness, wants to
19 say something.

20 MR. MCGUINNESS: Yes. Chairman, I should perhaps draw
21 to the attention of all the legal representatives here
22 and the witnesses that the actions of the Policing
23 Authority aren't in any way within the scope of the
24 Tribunal. So there is no question of --

12:31

25 CHAIRMAN: There is no suggestion they behaved wrongly.

12:32

26 MR. MCGUINNESS: No.

27 CHAIRMAN: There is no imputation and they're not
28 before the Tribunal.

29 MR. MCGUINNESS: Exactly.

1 CHAIRMAN: Nobody has made a complaint that the
2 Policing Authority didn't do its job and we're not
3 getting into it.
4 MR. MCGUINNESS: Indeed.
5 MR. MURPHY: Absolutely, Chairman. My questions are 12:32
6 not directed towards the Authority, they are directed
7 towards Garda Keogh.
8 CHAIRMAN: Okay. What is your question, Mr. Murphy,
9 how did he find out?
10 329 Q. MR. MURPHY: I asked Garda Keogh to confirm in his 12:32
11 answer when did he first find out and he has confirmed
12 it was the same asked
13 CHAIRMAN: The same day. Yes, okay.
14 WITNESS: Judge, can I check my diary. I know it's
15 January 2018, just exactly. 12:32
16 CHAIRMAN: By all means check your diary, yes.
17 WITNESS: Sorry, what was the date?
18 CHAIRMAN: 29th January 2018.
19 MR. MURPHY: In fact, Chairman, it's page 1337 in
20 volume 47. If that could be placed on the screen. 12:33
21 That is the entry. I think it's in the diary for the
22 30th.
23 WITNESS: So it's on the 30th, Judge, I found out that
24 Superintendent Murray --
25 CHAIRMAN: Okay. 12:33
26 330 Q. MR. MURPHY: what you have recorded in your diary is:
27
28 "Pat Murray promoted, backdated to October last."
29

1 A. Yes.

2 331 Q.

3 "Drank, first in 19 months."

4

5 A. First time, yeah. 12:33

6 332 Q. I think that follows the next few weeks as well. So,

7 just briefly then, at this point Superintendent Murray

8 is now Chief Superintendent Murray. Can I just make

9 two further points by way of questioning, can I ask you

10 to be shown 2910. Garda Keogh, I have to suggest to 12:33

11 you that even after Superintendent Murray is promoted,

12 Deputy Daly continues to refer to him in an adverse

13 way. This is a reference which can be seen in the

14 middle of the page, about five lines down, under her

15 name, she said: 12:34

16

17 "It is a fact that the person who made the allegation

18 is out sick and his senior manager has been recently

19 promoted despite being the centre of allegations of

20 bullying and harassment." 12:34

21

22 Did you ask Deputy Daly to make that speech at that

23 time?

24 A. I wouldn't have asked Deputy Daly to make the speech,

25 but I definitely would have informed her what has 12:34

26 happened. I see nothing wrong with --I think what she

27 has said there appears to be very accurate.

28 333 Q. At 2925, please, Deputy Daly, again in the Dáil, asked

29 a question relating to incidents which had occurred in

1 the Garda college and referred to the promotion of
2 Superintendent Murray. Did you speak to her before she
3 did that?

4 A. Judge, in relation to the Garda college instance, I
5 know about that. Absolutely zero. I had nothing to do 12:35
6 with it, know nothing about it. I would have only
7 spoken about my own stuff.

8 334 Q. So did you speak about Superintendent Murray to Deputy
9 Daly in March of 2018?

10 A. I'm sure I would have. I'm sure I would have. 12:35

11 335 Q. Were you aware that she was going to speak about
12 Superintendent Murray in the Dáil?

13 A. Judge, in relation to that Templemore thing, as I said,
14 that had nothing to do with me. I saw a newspaper
15 article in the thing, I didn't even read it, I'm aware 12:36
16 of something, but it has nothing to do with me and I
17 don't know anything to do with it. And Deputy Daly
18 never asked me.

19 CHAIRMAN: She never told you?

20 A. No, no, no, she never told me, I knew nothing about 12:36
21 that. Nothing.

22 336 Q. CHAIRMAN: So that's something you knew nothing about?

23 A. Absolutely zero.

24 CHAIRMAN: Okay.

25 337 Q. MR. MURPHY: Just finally I think in relatio to 12:36
26 Superintendent Murray's statement, could I ask you
27 please to go back to --

28 A. Sorry, just for clarification, I don't have a note of a
29 meeting with Deputies Wallace or Daly in March 2018.

1 338 Q. I think it's the case you make, you didn't note
2 everything in your diary, isn't that right?
3 A. Well, I would have noted if I was going up to meet
4 them.
5 339 Q. CHAIRMAN: You think if he had met them, you probably 12:37
6 would have made a diary entry?
7 A. I would have.
8 340 Q. CHAIRMAN: And you don't have a diary entry?
9 A. No.
10 341 Q. CHAIRMAN: So the probability is that you didn't meet 12:37
11 them. I mean nothing is certain?
12 A. That's a probability, yeah.
13 342 Q. CHAIRMAN: Okay.
14 A. This is just surmising on what has cropped up is, some
15 other issue has cropped up in relation to Templemore. 12:37
16 They're already aware of my situation and what I had --
17 343 Q. CHAIRMAN: I understand.
18 A. I presume if they were bringing it up they'd roll them
19 into together. But that's again only presumption from
20 me. 12:37
21 344 Q. CHAIRMAN: I understand.
22 A. But, as I said, that other Templemore thing has nothing
23 to do with me whatsoever.
24 345 Q. MR. MURPHY: Just finally on this part of
25 Superintendent Murray's evidence, and this will relate 12:37
26 to evidence of Superintendent Minnock also, can I ask
27 you please to turn to page 2079?
28 A. 20 --
29 346 Q. Sorry, in the first instance could I ask for volume 4,

1 page 708, volume 4 please.

2 CHAIRMAN: volume 4, 708.

3 A. Okay. Judge, can I just ask, whose statement is this?

4 CHAIRMAN: I have no idea. Is this Superintendent
5 Murray's?

12:38

6 MR. MURPHY: Minnock.

7 CHAIRMAN: Superintendent Minnock's statement. Okay.

8 347 Q. MR. MURPHY: Superintendent Minnock will say that on
9 the 17th July of 2018 he received a call from Garda
10 Greene who said he had been speaking to you and he said
11 that you had been drunk and had been ranting on a bit.
12 But also he said that you had been talking -- you told
13 him that you were talking to Assistant Commissioner
14 Fanning and that he was going to look after all of
15 them. Is that what you said to Garda Greene?

12:39

12:39

16 A. I don't know what I said to Garda Greene, but that's
17 definitely not true, that part is a hundred percent not
18 true.

19 348 Q. Garda Greene, Inspector Minnock told him that -- he
20 said that you had asked Garda Greene if he wanted to
21 come on board and he'd look after him too. Did that
22 conversation happen?

12:39

23 A. I can't speak in relation to what I may have told Garda
24 Greene. As briefly I touched on yesterday, Judge, a
25 lot of the stuff -- I was aware Garda Greene was
26 spending a lot of time in the superintendent's office.
27 So at that point I did use the word yesterday
28 misinformation and that is a common police tactic.

12:39

29 349 Q. CHAIRMAN: Sorry?

1 A. Misinformation. Judge, the part in relation to -- I
2 can't -- I'm not denying that I would have said that to
3 Garda Greene. But what I will say is, that part of me
4 talking to Assistant Commissioner Fanning, I may have
5 said that to Garda Greene but that did not happen. 12:40
6 CHAIRMAN: Okay. So you may have said it to him?
7 A. Yes.
8 350 Q. CHAIRMAN: But if you did, it wasn't correct?
9 A. Yes, Judge.
10 351 Q. CHAIRMAN: Or said in drink or whatever it was? 12:40
11 A. Yeah, it could also have been -- it could have also
12 been deliberate misinformation as well. Because I was
13 aware that he was running back with everything. So at
14 that stage...
15 352 Q. MR. MURPHY: Garda Greene told him that you said that 12:40
16 you got a phone call from the reporter John Mooney of
17 the Sunday Times?
18 A. Okay.
19 353 Q. Is that correct?
20 A. I would have been in contact with John. The first time 12:40
21 I was in contact with John Mooney was in September
22 2016, Judge.
23 354 Q. Had he phoned you and told you to stop drinking, to get
24 your act together?
25 A. I think he did, Judge, on that part. Yes. I recollect 12:41
26 that actually.
27 355 Q. Yes.
28 A. He did actually. Judge, just for clarification, when
29 John Mooney contacted me in September, it was in

1 relation to this issue of the report, which I have
2 mentioned and won't go into, but he wrote articles
3 based on a report that is not here. I again, obviously
4 trying to find out from John Mooney what was going on,
5 he knew a lot more than that I did in respect -- but 12:41
6 over the time period, John Mooney and myself, it wasn't
7 constantly Garda stuff we were talking about. 50% of
8 any conversation I had with Mr. Mooney was in relation
9 to wildlife and environmental issues, because whatever
10 way it came up, we had almost identical views on those, 12:42
11 so we had a kind of a rapport there. So, not every
12 conversation -- not all of every conversation was to do
13 with Guards. 50% would have been, Judge.

14 356 Q. MR. MURPHY: Garda Green said that you said that all of
15 this was going to come to a head soon. That Mr. Mooney 12:42
16 had told you all of this was going to come to a head
17 soon and that you needed to be ready. What was that
18 about?

19 A. I don't know. Well, I presume all this. I mean, I
20 presume this. Is this it not coming to a head? You 12:42
21 know. Just to clarify, to help, from the top of my
22 head, can we go to page 11352, please?

23
24 Judge, these are notes from Deputy Commissioner Donal
25 Ó Cualáin. This is a note he has made on Saturday, 1st 12:43
26 October 2016. Now, the relevance of that date is, it's
27 on 2nd October 2016 John Mooney prints on front page of
28 Sunday Times,
29

1 "Inquiry finds Garda colluded with drug dealer in the
2 midlands."

3
4 It goes into some detail about the supply of heroin in
5 Laois, Offaly, Westmeath and Longford. Bear in mind, I 12:43
6 only made my complaint about the supplier of heroin in
7 Athlone, Judge. The relevance of this, Judge, is
8 "received call", this is Donal Ó Cualáin's note,
9 "Received all from Commissioner", that being Nóirín
10 O'Sullivan: 12:44

11
12 "Had tried her a few times earlier. Gave her update re
13 Garda on Newstalk, as supplied Chief Superintendent
14 Tony McLoughlin. Also spoke about yesterday evening's
15 request from John Mooney, Times, re Athlone 12:44
16 whistleblowers. She said she was already aware of it
17 and that AC [blacked out] had spoken with John Mooney."

18
19 Judge, firstly, it's a pity this sort of window for
20 what was going on wasn't available for the last part, 12:44
21 the last module of the Tribunal. But Commissioner
22 Nóirín O'Sullivan is fully aware of what is going on in
23 An Garda Síochána.

24 MR. MURPHY: Sorry, Garda Keogh --

25 WITNESS: No, please. 12:44

26 357 Q. I do object to this question. This is a section
27 dealing with Superintendent Murray and for some reason
28 the witness has decided to refer to something, which he
29 has clearly prepared, which has nothing to do with the

1 issue at stake.

2 A. Judge, he --

3 CHAIRMAN: Hold on, are you talking about Judge
4 Charleton's module?

5 A. I just said -- 12:45

6 358 Q. CHAIRMAN: A question.

7 A. Yes, Judge.

8 359 Q. CHAIRMAN: A yes or no answer. Are you talking about
9 Judge Charleton's module.

10 A. Yes, I made reference to that -- 12:45

11 360 Q. CHAIRMAN: Is that what this is about?

12 A. No, no, he brought up the John Mooney thing. No, I am
13 not.

14 361 Q. CHAIRMAN: It's okay. Sorry, you may say I want to
15 refer back to it, but I am going to stop you, because 12:45
16 we're not referring back to it. Judge Charleton did
17 his business, he produced his report.

18 A. Yes.

19 362 Q. CHAIRMAN: End of.

20 A. Yeah. 12:45

21 363 Q. CHAIRMAN: Thanks very much. Now we're doing this one.
22 I'm not interested, I'm not permitted to get into it
23 and I'm not going to allow anybody digging into it.
24 So, your statement, it's a pity this wasn't available,
25 we'll forget that? 12:45

26 A. Yes, Judge. I apologise.

27 364 Q. CHAIRMAN: That's all right.

28 MR. MURPHY: Thank you, Judge.

29 365 Q. CHAIRMAN: So we understand each other. That's is all

1 right. Now, what is the relevance of this to the
2 question about -- where we were was, the conversation
3 with Superintendent Minnock, who reported speaking to
4 you, you said, I might have said that, I could have
5 said that. But you say it's not correct, there could 12:46
6 be a variety of reasons why it's not correct, one of
7 them could be giving him false information and we can
8 guess as to what the other might be. But however it
9 might be, you say that information, although I may have
10 given it to him, is not correct? 12:46

11 A. The part about Assistant Commissioner Fanning was not
12 correct, Judge. That part is not correct.

13 366 Q. CHAIRMAN: Okay. The bit about Assistant Commissioner
14 Fanning is not correct?

15 A. Yes. 12:46

16 367 Q. CHAIRMAN: Now, what am I to see about this one that
17 relates to the conversation with Superintendent
18 Minnock?

19 A. Yes, Judge.

20 368 Q. CHAIRMAN: In other words, how does this relate to that 12:47
21 question?

22 A. Because the Commissioner has already sent -- Mr. Murphy
23 has brought up about my dealings with John Mooney. The
24 Commissioner herself has already -- is already, it
25 states here, aware from the other side what's going on 12:47
26 in relation to Athlone whistleblowers.

27

28 "She said that she was already aware of it and that
29 she, AC, had spoken with John Mooney."

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It appears she had sent somebody out to speak with John Mooney.

CHAIRMAN: It does appear.

MR. MURPHY: In 2016. The question I asked you related to 2018, a completely different issue. So, for that reason, Chairman, I do object to this line of approach by the witness, who is effectively seeking to float matters which are not connected to the issue. 12:47

CHAIRMAN: Garda Keogh, help me on something. 12:48

A. Yes.

369 Q. CHAIRMAN: Mr. Murphy asks you about a conversation that is recorded as taking place on 17th July 2018?

A. Yes.

370 Q. CHAIRMAN: How is it relevant to what happened on 2nd October 2016? 12:48

A. Well, I was just making the point, Judge, that the number two, Donal Ó Cualáin, in the Guards, when he went to inform the Garda Commissioner, Nóirín O'Sullivan, she was already aware of it, she had already taken preemptive action in relation to whatever was going on there, that she was fully in the know of what was going on in An Garda Síochána. 12:48

CHAIRMAN: Thank you very good. All right. Now, Mr. Murphy. 12:48

371 Q. MR. MURPHY: Chairman, that concludes my questions on this issue. There is one further issue, which is the issue which is at number 21, the complaints by Garda Keogh that the Disclosures Tribunal order was

1 deliberately withheld.

2 CHAIRMAN: very good. Thank you very much.

3 MR. MURPHY: I think for that purpose, the primary
4 evidence here is in relation to --

5 CHAIRMAN: How long will you need on that, Mr. Murphy? 12:49
6 It clearly won't finish in the next ten minutes.

7 MR. MURPHY: No, it won't be very long, I would prefer,
8 if it was convenient to you, if we could break now.

9 CHAIRMAN: Yes, I think that makes a lot of sense.

10 MR. MURPHY: I will try to keep it as short as I can. 12:49

11 CHAIRMAN: It takes what it takes. what can we do. We
12 will resume at two o'clock or as close to it as we can.
13 Thank you very much.

14

15 THE HEARING THEN ADJOURNED FOR LUNCH AND RESUMED, AS 12:49
16 FOLLOWS:

17

18 CHAIRMAN: Thank you, Mr. Murphy.

19 MR. MURPHY: Thank you, Judge.

20 372 Q. Garda Keogh, good afternoon. Chairman, I am now moving 14:05
21 to deal with issue number 21, which is the service of
22 the Tribunal Order, a complaint raised by Garda Keogh.
23 For that purpose, could I ask if Garda Keogh could be
24 given two volumes, and only two, volume 4 and volume
25 41, please? On the screen, Chairman, please, if we 14:05
26 could have page 11488. Just before we begin, I wonder
27 if you might be shown book 4, please, on page 692.
28
29

1 Garda Keogh, you raised a complaint in relation to this
2 issue, and I just want to put to you what my clients'
3 response will be. First of all, in relation to the
4 facts of the case, will you look please at page 11488,
5 volume 41, that is open for you. Just to run through 14:07
6 these facts very quickly.

7 A. Yeah.

8 373 Q. First of all, Superintendent Murray will say that he
9 was aware that the preservation order was made by the
10 Disclosures Tribunal on Monday, 20th February 2017. I 14:07
11 think there is no dispute about that, is there? And
12 then secondly, a copy of the Tribunal order, he will
13 say, and an e-mail was received at Athlone district
14 office on Tuesday, 28th February 2016 at 9:56am,
15 requesting that all personnel in the district be 14:07
16 notified of the Tribunal order. I think again there is
17 no dispute between us about that.

18
19 He will say that on Friday, 3rd March 2017, an e-mail
20 was sent to all members of the district advising them 14:07
21 of the Tribunal order. I think at that stage you were
22 off duty and had been for some time?

23 A. Yes.

24 374 Q. He will he say that on Friday, the 3rd March,
25 correspondence was received by e-mail from the 14:07
26 assistant commissioner of legal and compliance in Garda
27 Headquarters, making a further request that in addition
28 all staff who were absent from duty should be notified
29 of the Tribunal's order. On the 6th March, he will say

1 that individual correspondence regarding the Tribunal's
2 order was prepared for seven members, including
3 yourself, who were absent from duty at the time.
4

5 If I can ask you to turn then, please, to volume 4, at 14:08
6 page 694. Superintendent Minnock will say in his
7 evidence that he undertook to the PAM in the district
8 that he would serve the order, the documentation on
9 you, and on other gardaí who were present, who were
10 assigned. Effectively a decision was made to allocate 14:08
11 the responsibility to serve all of the seven guards who
12 were off duty. He will say that he served the order at
13 your house on Tuesday, 21st March 2017.

14 CHAIRMAN: Where does he say that, Mr. Murphy?

15 MR. MURPHY: At the end of page 692, Chairman. 14:09

16 CHAIRMAN: 692. Hold on, wait until we get 692. Thank
17 you very much. Now, at the bottom of this. Thanks,
18 Peter.

19 MR. MURPHY: Chairman, if you see 21st March 2017.

20 CHAIRMAN: I do, yes, thank you very much. "I served 14:09
21 the order", yes, thank you.

22 375 Q. MR. MURPHY: And he will say, Garda Keogh, that having
23 made a number of previous unsuccessful attempts to
24 serve it, that he eventually successfully served it on
25 the 21st March. He will say also, you're free to agree 14:09
26 or disagree with this, he will say that prior to
27 serving it he rang you and it was agreed with you that
28 he would leave the order in the post at your house?

29 A. That part is correct. Just the last, the last part you

1 said is the part I'd have an issue with. The previous
2 just part.

3 376 Q. which part? That he made several attempts to serve
4 you?

5 A. Yes, yes. 14:10

6 377 Q. Again, he will say that that's what he did. When he
7 phoned you -- he will say that when he phoned you, that
8 you had told him that you were familiar with it. Had
9 you seen a copy of his order before?

10 A. No, I hadn't seen a copy of it, but I had found out 14:10
11 that there was an order and that there was a deadline
12 for the 13th of March.

13 378 Q. And I think thereafter following there was
14 correspondence from your solicitor, Mr. Cullen, on 27th
15 March 2017, he prepared a minute for the superintendent 14:10
16 in relation to the service of the order and that is one
17 which is appendicised in that booklet. Would you
18 please turn to page 759. If you would like to take a
19 moment to read that, Garda Keogh.

20 A. Yes. 14:11

21 379 Q. So he will say that that minute reflects what he did
22 and that effectively there was a service of the
23 document on you at that time. He will also say that
24 there was no intentional delay on his part or on the
25 part of An Garda Síochána in serving the order and the 14:11
26 documentation on you.

27 A. We probably be disagreeing on the last part there.

28 380 Q. But just to summarise it, you do agree that you
29 received it?

1 A. Yes.

2 381 Q. You do agree that you were in touch with him
3 beforehand?

4 A. Yes. Yeah, certain parts of this we're in agreement.

5 382 Q. And do you agree that you were familiar with the order 14:12
6 at that time?

7 A. I knew there was -- all I knew was the statement or
8 whatever had to be in by the 13th March, that was all I
9 knew.

10 383 Q. Thank you. 14:12

11 A. And again, I don't even know how I knew that, I had
12 become aware of that.

13 384 Q. Yes.

14 MR. MURPHY: Chairman, that concludes my
15 cross-examination into that issue. 14:12

16 CHAIRMAN: Thank you very much.

17 MR. MURPHY: Chairman, I had spoken to Mr. McGuinness,
18 but with your permission, there are just a number of
19 extra questions which I have been asked to put by
20 various clients we represent, they are very few in 14:12
21 number but they have just arisen from the evidence, in
22 one case a witness who is not present, has not been
23 present.

24 CHAIRMAN: So what are you asking for?

25 MR. MURPHY: with your permission I would like to just 14:12
26 ask a number of questions of Garda Keogh on behalf of a
27 number of my clients.

28 CHAIRMAN: Yes, I understand.

29 MR. MURPHY: They are very short questions.

1 WITNESS: Is this in relation to the Tribunal order?
2 Because I haven't got an opportunity --
3 CHAIRMAN: Well, sure we will see what happens.
4 WITNESS: All right.
5 CHAIRMAN: If you are embarrassed, if you know what I 14:12
6 mean, if you are not ready to deal with them or you
7 have any difficulty dealing with them, just mention
8 them, we will come back to them again. All you knew
9 was that your statement had to be in by?
10 A. The 13th March. 14:13
11 385 Q. CHAIRMAN: Right.
12 A. But the issue, the main issue is the service, the
13 service of the order is where I's going, where I
14 dispute, Judge.
15 386 Q. CHAIRMAN: Tell me more about that. 14:13
16 A. Yes, Judge. I am in agreement, firstly, on the 20th
17 March I received a text from Superintendent Minnock
18 regarding post for me. That was at 8:43am. On the
19 same date, at 17:04, I returned a call to Inspector
20 Minnock. There was no answer. He had no voicemail set 14:13
21 up, I couldn't leave a message. But that part, I got
22 the document on the 21st. Judge, Superintendent
23 Minnock rang me on the 1st March.
24 387 Q. CHAIRMAN: Yes.
25 A. He was asking me how are things or whatever. 14:14
26 388 Q. CHAIRMAN: Yes.
27 A. Superintendent Minnock had my phone number.
28 389 Q. CHAIRMAN: Yes.
29 A. He could have rang me at any stage in the interim,

1 between the 1st and the 20th, to say, by the way, I
2 have an order to serve on you. This thing of calling
3 up to the house and I'm not there and all the rest and
4 they couldn't find me to serve the order, that's the
5 part I'm in dispute with. They can find me, contact me 14:14
6 any time they want to relation to service.

7 390 Q. CHAIRMAN: This is the order for the preservation of
8 documents?

9 A. I think so.

10 391 Q. CHAIRMAN: what had that got to do with getting your 14:14
11 statement in? Because the statement, you understood,
12 had to be in by the 13th March?

13 A. Yes.

14 392 Q. CHAIRMAN: So this is do with the preservation of any
15 materials, is that correct? 14:14

16 MR. MURPHY: Chairman, would it help if I give a
17 reference to that document.

18 CHAIRMAN: Thanks very much.

19 MR. MURPHY: volume 41, at page 11468.

20 CHAIRMAN: 11468. we might as well just clear this up, 14:15
21 because I am confused about this and then we can go
22 back. 11468. Okay. Now, here's an order. The order
23 is dated -- just scroll down there, Peter, thank you
24 very much.

25 MR. MURPHY: It's 20th February 2017. 14:15

26 CHAIRMAN: 20th February '17. Happy about that?

27 A. Yes.

28 393 Q. CHAIRMAN: Okay. So this is the order that had to be
29 served on every garda in Athlone?

1 A. I think in the country.

2 394 Q. CHAIRMAN: Maybe every guard in the country.

3 A. Yes.

4 395 Q. CHAIRMAN: But as far as we're concerned --

5 A. Yes, yes, Judge. 14:15

6 396 Q. CHAIRMAN: Okay. So that was served on you, do you

7 agree, on the 21st March?

8 A. Yes. Maybe I have misread this whole argument here.

9 397 Q. CHAIRMAN: No, hold on a second, we will come to that

10 in a second. Sorry, do it my way for just a moment. 14:15

11 Hold on. We have an order from the Tribunal, Judge

12 Charleton makes an order on the 20th February?

13 A. Yes.

14 398 Q. CHAIRMAN: Okay. It is served on you on the 21st

15 March. 14:16

16 A. Yes, Judge.

17 399 Q. CHAIRMAN: Now, that's to tell you to preserve any

18 documents and materials you have?

19 A. Yes, Judge.

20 400 Q. CHAIRMAN: So far, so good? 14:16

21 A. Yes.

22 401 Q. CHAIRMAN: How does that fit in -- you see, I am

23 understanding that you say, look, this happened in a

24 way that made it difficult for me to get my statement

25 in on time? 14:16

26 A. Yes, Judge.

27 402 Q. CHAIRMAN: Because you say, the time limit was 13th

28 March 2017?

29 A. Yes, Judge.

1 403 Q. CHAIRMAN: So explain that to me?
2 A. Judge, this document, if my take -- I could be wrong on
3 this.
4 404 Q. CHAIRMAN: Doesn't matter whether you are right or
5 wrong, just tell me your understanding of it? 14:17
6 A. My understanding was that the documentation had to be
7 for the Tribunal for the 13th March. Judge, it wasn't
8 served on me until -- I accept the initial contact was
9 on the 20th March, it was served on the 21st. No issue
10 with that part. My point is, Judge, Superintendent 14:17
11 Minnock had my phone number, even if I wasn't there, he
12 could have rang me..
13 405 Q. CHAIRMAN: He could have easily contacted you?
14 A. Yes, Judge.
15 406 Q. CHAIRMAN: Between? 14:17
16 A. The 1st and the 13th.
17 407 Q. CHAIRMAN: The 1st and the 13th. The first two weeks
18 of March?
19 A. Yes, Judge.
20 408 Q. CHAIRMAN: Okay. 14:17
21 A. Also Judge, even if there was a difficulty there, they
22 would have known I was in contact with Garda Mick Quinn
23 of the welfare service.
24 409 Q. CHAIRMAN: So they could have contacted him and got him
25 to alert you? 14:17
26 A. Yes, Judge.
27 410 Q. CHAIRMAN: Okay. But here is what I am not
28 understanding: How did this preservation document
29 relate to putting in a statement? Did you understand

1 this document to be saying you have to get something in
2 by the 13th March?

3 A. Yes, that's what I thought.

4 411 Q. CHAIRMAN: Okay. So that was your understanding?

5 A. Yes. 14:18

6 412 Q. CHAIRMAN: We're not absolutely concerned at this
7 moment whether that was right or wrong. But the fact
8 is, whether it was the 20th March or the 23rd March, he
9 had to get to you in sufficient time before the 13th
10 March, not alone just to get there, but to make sure 14:18
11 you had enough time to write out a statement; is that
12 right?

13 A. Yes, Judge.

14 413 Q. CHAIRMAN: That's your understanding?

15 A. Yes. 14:18

16 414 Q. CHAIRMAN: It seems like a very short window of
17 opportunity?

18 A. Well, Judge --

19 415 Q. CHAIRMAN: Do you understand me? If you had a big
20 complaint or I or anybody had a big complaint, only -- 14:18
21 that seems unlikely?

22 A. Judge, my point is: If they had this on, is it the 3rd
23 March 2017 for service.

24 416 Q. CHAIRPERSON: Yes.

25 A. That still gives me ten days to get the notification in 14:18
26 to the Tribunal.

27 417 Q. CHAIRMAN: All right. Look, that was your
28 understanding, be it right or wrong, that was your
29 understanding of the situation?

1 A. That's the only part I'm disputing, is that basically
2 they could have got to me, served that.

3 418 Q. CHAIRMAN: They could have got to you between the 1st
4 and -- sorry between the 3rd and -- well, they'd have
5 to give you a bit of time, between the 3rd and the 14:19
6 10th, let's say, that week?

7 A. Yeah.

8 419 Q. CHAIRMAN: Okay.

9 A. Yes, Judge.

10 MR. KELLY: Chairman, can I just say at this stage, 14:19
11 that this was something that Mr. McGuinness had dealt
12 with on day one and day two.

13 CHAIRMAN: Yes.

14 MR. KELLY: If I may say so, dealt with it very
15 clearly. Because I think that there was up until that 14:19
16 time a misunderstanding, from what I can see in the
17 documents everybody appeared to think it -- perhaps
18 it's a reflection of the order, perhaps it may not have
19 been read as carefully as it should have been.

20 CHAIRMAN: well, we couldn't possibly say that, 14:19
21 Mr. Kelly.

22 MR. KELLY: By all concerned.

23 CHAIRMAN: we couldn't possibly say that. Anyway. It
24 may have been less than crystal clear.

25 MR. KELLY: No, it's not the fault of the order. All 14:20
26 I'm saying is, that I think it was a misunderstanding.
27 It probably added to the aggravation experienced by
28 Garda Keogh at the time. I am quite clear having
29 looked at it, what the order says. Mr. McGuinness, I

1 think as I said at the time, on the first or second
2 day, whenever it was, that clearly he was right in the
3 way in which he is interpreting, it related to
4 preservation of documents.

5 CHAIRMAN: Yes.

14:20

6 MR. KELLY: And not --

7 CHAIRMAN: It's perhaps understandable that somebody
8 who was uneasy about what had transpired up to then
9 might look on this with a somewhat suspicious mind.

10 MR. KELLY: Yes. It's quite clear that the
11 misunderstanding went a little wider, because there's
12 other correspondence that it was accepted that there
13 was a delay in, and so on. But my point is, I wonder
14 really whether we have to go there. Because on the
15 face of it, to me the order is clear.

14:20

14:21

16 CHAIRMAN: Yes, I understand.

17 MR. KELLY: It was misunderstood in another way.

18 CHAIRMAN: So you're happy to leave that one. I think
19 Garda Keogh is happy to leave that one and say, look,
20 whatever it means, it means. If we have to decide
21 whether there was anything, so to speak, negligent,
22 reckless or malicious, we can revisit that in due
23 course, but we don't need to worry ourselves with it at
24 the moment.

14:21

25 MR. KELLY: That's my personal view.

14:21

26 CHAIRMAN: If I may say so, Mr. Kelly, I certainly
27 endorse that view.

28 MR. MURPHY: Thank you, Chairman.

29 CHAIRMAN: And you are happy with that, Mr. Murphy.

1 MR. MURPHY: Yes. Mr. Kelly's intervention is most
2 helpful. In the light of that intervention, I don't
3 think I need to ask any questions arising from your
4 questions.

5 CHAIRMAN: The other questions that you wanted to ask, 14:21
6 that Garda Keogh may or may not be comprehensively
7 ready to answer, is that right, you have a few other
8 questions.

9 MR. MURPHY: I have, Chairman.

10 CHAIRMAN: Okay. 14:22

11 MR. MURPHY: I will try and make them as clear as
12 possible, I think the witness should be able to deal
13 with them and if he's not --

14 CHAIRMAN: Absolutely. If you're not -- now, we're
15 going back, that is the end of that part. 14:22

16 WITNESS: Yes, Judge.

17 CHAIRMAN: We're now going back over a few items,
18 because particular witnesses are going to say X, Y, Z
19 and it's only proper, as I am understanding, for
20 Mr. Murphy to say, look, I better alert you to this. 14:22
21 But if you have any difficulty, you just let me know.
22 All right? Okay.

23 420 Q. MR. MURPHY: Thank you, Chairman. Garda Keogh, the
24 first series of questions I'm going to ask are just on
25 behalf of Chief Superintendent Mark Curran, they relate 14:22
26 to evidence which was given by you in relation to the
27 question of Pulse. If you could be given volume 3,
28 page 486, please? This raises the issue concerning the
29 check on Pulse of your private motor vehicle on the

1 13/9/2014. This is a statement of Sergeant White,
2 Garda White, I should say, dated 25th March 2019. Do
3 you see this?

4 A. Yes.

5 421 Q. I just want to put it to you that what he will say on 14:23
6 the basis of the statement is that he was the person
7 who made access to Pulse, do you see in the course of
8 the statement, he said:

9

10 "It would appear from the redacted exhibits that I 14:23
11 received that I have been requested to clarify my
12 checking of Garda Nick Keogh's private vehicle on the
13 Garda Pulse system on the 13th September and 1st
14 October 2016."

15

16 He will say he doesn't recall specifically checking 14:23
17 your vehicle on an occasion, that it would not be
18 normal to check vehicles. But going through the
19 process of the materials, he says:

20

21 "I don't recall if Nick Keogh's vehicles was one of 14:24
22 those checks but the Pulse entries would indicate that
23 it may have been."

24

25 He goes on to say: 14:24

26

27 "I am at a loss to explain why I checked Garda Nick
28 Keogh's vehicle a few times in a short period of time."
29

1 So that will be his evidence.

2 A. Yes.

3 422 Q. Just on behalf of Chief Superintendent Mark Curran, I
4 have to suggest to you that it is clear from Garda
5 white's evidence that it was Garda white who carried 14:24
6 out that action, not Chief Superintendent Curran?

7 A. Just on that, Judge, there's no real issue with the
8 checking of the car, the problem is, the reason on
9 Pulse as to why the car was checked states caller to
10 super's office. That was the -- Judge, even as part of 14:24
11 the Finn investigation, that was part of the thing, I
12 wanted to out who was the caller.

13 CHAIRMAN: That is correct. It said "caller to
14 superintendent's office" didn't it?

15 423 Q. MR. MURPHY: The position is that Chief Superintendent 14:24
16 Curran says that as the chief superintendent he was not
17 involved in that?

18 CHAIRMAN: He was not involved in that?

19 MR. MURPHY: Not involved.

20 CHAIRPERSON: Okay. That's what he's going to say. 14:25

21 A. I have no issue with that. But, Judge, somebody called
22 to the superintendent's office and we still don't know
23 who it was.

24 CHAIRMAN: So it would so appear.

25 MR. MURPHY: Yes. 14:25

26 CHAIRMAN: No doubt somebody can ask Garda white if he
27 knows anything about it or whoever knows anything about
28 it.

29 A. I think he says he can't recollect.

1 424 Q. CHAIRMAN: Okay.

2 A. So I would accept that.

3 CHAIRMAN: Okay.

4 425 Q. MR. MURPHY: Now, also I think if you can be shown
5 volume 1, page 42, line 604. Do you see at line 604, 14:25
6 this is your statement to the Tribunal investigators
7 and you said:
8
9 "I believe that Superintendent Pat Murray targeted me
10 in this regard with the acquiescence of Chief 14:26
11 Superintendent Mark Curran."
12
13 Can I just put it to you on behalf of both of those
14 witnesses, they will say that that is incorrect and, in
15 particular, they will say that in their statements they 14:26
16 both indicated by the time --
17 A. I agree that part can't be correct.

18 426 Q. Again, I just put it to you that they will say that
19 that is incorrect and that both of them said in their
20 statements to the Tribunal that up to that particular 14:26
21 date, which is I think the third quarter of -- sorry,
22 up to that particular date that's relevant to that
23 issue, that they had not met and they had not spoken?
24 CHAIRMAN: He agrees it's wrong.

25 MR. MURPHY: Yes. 14:26

26 CHAIRMAN: what more do you want, Mr. Murphy?

27 427 Q. MR. MURPHY: You agree that's wrong?

28 A. Sorry?

29 428 Q. I am putting it to you that any suggestion that they

1 acquiesced --

2 CHAIRMAN: He said he agreed that part can't be
3 correct.

4 MR. MURPHY: Can't be correct, very good.

5 CHAIRMAN: That's what you said. 14:27

6 A. Yes, it is.

7 429 Q. CHAIRMAN: You're happy with that?

8 A. It can't be.

9 CHAIRMAN: We will move on to the next one I think,
10 Mr. Murphy. 14:27

11 MR. MURPHY: That's very helpful.

12 430 Q. The next question relates to Assistant Commissioner
13 Anne Marie McMahon. They relate to evidence which you
14 gave at Day 100, beginning at pages 68, line 23.

15 CHAIRMAN: Line 23, okay: And the question, 14:28

16 Mr. Murphy?

17 431 Q. MR. MURPHY: Now, in relation to the evidence which you
18 gave throughout the course of that element of the
19 Tribunal, an issue arose as to whether Assistant
20 Commissioner McMahon was aware that Olivia O'Neill had 14:28
21 made allegations in respect of Garda A and Ms. B. And
22 the point that she wishes to make clear is that she was
23 unaware that Olivia O'Neill had made allegations in
24 respect of Garda A and Ms. B. Do you agree with that?

25 CHAIRMAN: I am baffled, Mr. Murphy, I confess. 14:29

26 MR. MURPHY: The witness has expressed surprise that
27 Assistant Commissioner McMahon appears to be unaware
28 that Olivia O'Neill had made allegations in respect of
29 Garda A and Ms. B.

1 CHAIRMAN: But I am at a loss to know the context. I
2 mean, you can put to him, there is no problem putting
3 to Garda Keogh that he has got it wrong about Assistant
4 Commissioner McMahon.
5 MR. MURPHY: Yes. 14:29
6 CHAIRMAN: If only we knew what was it was about, if
7 you know what I mean. Okay, the question is whether
8 Assistant Commissioner McMahon knew or didn't know, was
9 aware or wasn't aware that Olivia O'Neill had made
10 references, aspersions on Garda A, is that correct? 14:30
11 432 Q. MR. MURPHY: I think position is, Garda Keogh, can deal
12 with this, in your evidence I think you said that you
13 found it incredible any suggestion that Assistant
14 Commissioner McMahon was unaware of any allegations you
15 made in respect of Garda A and Ms. B. 14:30
16 A. Yes.
17 433 Q. What she will say is that she was clearly aware of your
18 allegations in respect of Garda A and Ms. B and those
19 allegations were part of the backdrop to the
20 investigation which she conducted? 14:30
21 CHAIRMAN: Okay.
22 434 Q. MR. MURPHY: what she was not aware of was that Olivia
23 O'Neill had made allegations in respect of Garda A and
24 Ms. B?
25 A. Okay. 14:30
26 435 Q. So, just to clarify the position: She was aware in
27 relation to the question --
28 CHAIRMAN: Was the bit where we looked at a statement?
29 MR. MURPHY: Yes.

1 CHAIRMAN: we agreed that it could have meant one thing
2 and it could have meant and another. Do you remember
3 that bit? As far as I'm concerned you were, in
4 fairness to you, I think to you Garda Keogh you were
5 saying look at the way this is written, that doesn't 14:31
6 make sense and I find that impossible to believe. I
7 think we discussed that and I said there was another
8 way I thought of reading that, by separating the two
9 phrases so to speak. We will leave that to be
10 clarified in due course. Are we happy to leave that to 14:31
11 be clarified in due course?

12 A. Yes.

13 436 Q. CHAIRMAN: which is really a question as to what that
14 statement made by Assistant Commissioner McMahon
15 actually meant. Okay. 14:31

16 A. Yes, Judge.

17 CHAIRMAN: All right.

18 437 Q. MR. MURPHY: And just as part of that clarification,
19 she will also say that none of the material, the
20 evidence that was made available to or obtained by her 14:31
21 at discipline investigation made reference to Olivia
22 O'Neill making allegations.

23 CHAIRMAN: So by way of confirmation of her proposition
24 as to what she meant, she says it was referred to in
25 another report. 14:31

26 A. Judge, yeah, in relation to this part, because this all
27 emanates back to the criminal complaint, Judge, I know
28 there's a confidential system and all that part but
29 there were high level meetings in Garda management in

1 relation to this. There was the appointment of
2 Assistant Commissioner Jack Nolan, again the assistant
3 commissioner closest to retirement that was firstly
4 appointed to that. Judge, there appears to be some
5 sort of a breakdown in communications, whether it's -- 14:32
6 I can't -- I couldn't say by accident. But there's
7 some -- I don't know what went on there, but certainly
8 if --

9 438 Q. CHAIRMAN: We're dealing with something simple at this
10 point? 14:32

11 A. Right, Judge.

12 439 Q. CHAIRMAN: All the evidence has to be given and we can
13 worry about all that. But as far as I am concerned, I
14 am listening to Mr. Murphy and he is confirming on his
15 instructions from Commissioner McMahon that she meant 14:33
16 one of the meanings that we were considering in that
17 single line of the statement and she says something
18 else. She says, I am clear that that's correct. Now I
19 don't know whether this is right or not, but she says,
20 I am clear that that's correct because I said it 14:33
21 somewhere else. Do you understand?

22 A. Yes, I do understand, yeah.

23 440 Q. CHAIRMAN: That's what she says. He just wants to
24 alert to you that?

25 A. Yes. 14:33

26 441 Q. CHAIRMAN: There's not really much to comment on?
27 MR. MURPHY: Yes.
28 CHAIRMAN: Thank you very much.

29 442 Q. MR. MURPHY: The second point I would like to clarify

1 with you as well, on behalf of Assistant Commissioner
2 McMahon, the second point, please, I would like to
3 clarify, you may recall in the course of your evidence
4 where you suggested that she should have arrested
5 people, do you remember that?

14:33

6 CHAIRMAN: Yes.

7 MR. MURPHY: Yes. what she will say in her evidence
8 is, and she would just like to bring this clearly to
9 your attention, to make you aware of the fact that
10 there is no power of arrest contained in the Garda
11 Síochána discipline regulation.

14:33

12 CHAIRMAN: That's what you made clear. I think you put
13 that to him.

14 MR. MURPHY: I ask him to just to clarify that point.
15 In those circumstances that such a mechanism wasn't
16 available to her in that type of investigation.

14:34

17 CHAIRMAN: I think you put that.

18 A. Yes, Judge.

19 CHAIRMAN: I thought you put that to him. Was that not
20 discussed?

14:34

21 A. It was, Judge, and I made the issue that that relates
22 to the Ms. B statement of admission. That was sat on,
23 appears to have been sat on for five months and then
24 handed over then to Detective Inspector Coppinger in
25 Galway.

14:34

26 443 Q. CHAIRMAN: I know you feel you have to bat it out of
27 the field. Hold on. I didn't miss that point either.
28 But on this one, rightly or wrongly, I think
29 unnecessarily, but I don't mean to be rude either to

1 Assistant Commissioner McMahon or Mr. Murphy, I thought
2 we were over that ground, that it was a disciplinary
3 investigation, not a criminal investigation and thus -
4 and I have one or two questions about that, which I
5 will ask in due course. 14:35

6 MR. MURPHY: Yes.

7 CHAIRMAN: But we don't have to get into them at the
8 moment.

9 MR. MURPHY: Chairman, what I had not put was that
10 there was no specific power of arrest under the 14:35
11 discipline regulations.

12 CHAIRMAN: That's what I understood, that is what I
13 thought was the situation.

14 MR. MURPHY: Yes.

15 CHAIRMAN: Maybe it was explicitly put but I was 14:35
16 certainly understanding that. Okay.

17 MR. MURPHY: The third point --

18 444 Q. CHAIRMAN: Hold on a second. You want to come back on
19 that.

20 A. One thing, just for clarification, with the Guards 14:35
21 often the lowest hanging fruit is the one that hangs
22 for something. Again, Judge, this is a high level
23 thing, where it's assistant commissioners and deputy
24 commissioners and commissioners involved, and it's
25 passed back to Detective Inspector Coppinger. 14:35
26 Therefore, I think it's is unfair that any blame or
27 anything should rest on his shoulders.

28 CHAIRMAN: Very good. Thank you very much. Now next
29 point, Mr. Murphy.

1 445 Q. MR. MURPHY: The next one just relates to the statement
2 made by Ms. B. Again, there seemed to be some
3 suggestion in your evidence that that might not have
4 been available to the criminal investigation team or to
5 the team involved in the disciplinary investigation but 14:36
6 Assistant Commissioner McMahon will say that the
7 contents of the statement of Ms. B were put to Garda A
8 when he was interviewed by the discipline investigation
9 in December of 2018. That will be her evidence.
10 CHAIRMAN: Okay, very good. 14:36
11 446 Q. MR. MURPHY: Fourth point, I have just been asked to
12 put it to you, were you aware of the fact that
13 Superintendent Michael Lacey had made contact with your
14 solicitor, Cullen & Co., with a view to organising a
15 meeting for the dual part of informing you of the 14:36
16 current status of the disciplinary investigation and to
17 clarify a number of matters, in the middle of 2018.
18 A. Can you give me a date, please?
19 447 Q. I don't have the specific date, I am just told it's the
20 middle of 2018. 14:36
21 CHAIRMAN: Well, the bits we do know from this is
22 Superintendent Lacey, is that right?
23 MR. MURPHY: Yes, made contact with Cullen & Co., with
24 a view to organising a meeting.
25 CHAIRMAN: And did a meeting take place? 14:37
26 MR. MURPHY: No, no, it didn't, no, to inform you of
27 the current status of the discipline investigation and
28 to clarify a number of points in the inquiry.
29 CHAIRMAN: Sorry, he made contact with Mr. Cullen's

1 office with a view, it was his intention that there
2 would be a meeting when he would Garda Keogh/his
3 solicitor to what was happening in the disciplinary
4 investigation.

5 A. Judge, I'm not sure -- I don't think -- when I say I 14:37
6 don't think I'm aware, just there's nothing springing
7 to mind on this particular matter, Judge.

8 CHAIRMAN: well, we will wait until that arises I think
9 and then we'll maybe have to revisit, but at this
10 moment, that all sounds very vague for Garda Keogh to 14:38
11 try to deal with.

12 448 Q. MR. MURPHY: Very well. Then the next question I have
13 been asked to put is just to confirm that in relation
14 to the meeting you had with Inspector Maher, that we
15 referred to at an earlier stage, you were aware of the 14:38
16 fact that he had worked previously for Assistant
17 Commissioner Nolan.

18 A. I met Inspector Maher with Superintendent Lacey
19 in Portlaoise. I can't even think of the year, Judge,
20 but I made a statement to them in relation to it. 14:38

21 449 Q. You're aware of the fact, are you not, that he
22 continued to work under Assistant Commissioner McMahon?

23 A. I'm aware now of that.

24 450 Q. Yes.

25 A. I wasn't aware. 14:38

26 CHAIRMAN: Yes. You said you didn't know who had taken
27 over.

28 MR. MURPHY: Thank you.

29 CHAIRMAN: Okay. That's it?

1 MR. MURPHY: Just one more, Chair. In fact, this is
2 more a clarification, Chairman, rather than a question
3 for the witness. But just in terms of the issue that
4 arose, Chairman, concerning the understanding that
5 there had been a second regulation 30, concerning motor 14:39
6 tax issues, in the district.

7 CHAIRMAN: Yes.

8 MR. MURPHY: You may recall there was a reference to a
9 Garda Madden.

10 CHAIRMAN: Yes. 14:39

11 MR. MURPHY: We tried to check out the background to
12 that information and on my instructions it would appear
13 that Sergeant Moylan's evidence will be that he didn't
14 apply regulation 30 in fact in that case -- sorry,
15 regulation 10 at that time, because of the facts of 14:39
16 that case, it's my understanding that the evidence will
17 indicate that --

18 CHAIRMAN: The facts were different, he's going to say.

19 MR. MURPHY: The facts are that Garda Maher had two
20 cars, one which he used in his farm. I am accepting 14:39
21 for the purposes of this --

22 CHAIRMAN: Garda Keogh can't start dealing with that.
23 The essential point is, it looked as if -- and I think
24 the case was made, and the parties will make of this
25 what they choose to make of it, it was suggested that 14:40
26 Garda Keogh was not the only one who was the subject of
27 a regulation 10, caution, admonition, whatever one
28 wants to call it. There was, in fact, another one and
29 there was a specific one cited. And it now turns out

1 that there wasn't another one. That there was another
2 case, but that it is said, and I am not suggesting
3 otherwise, it is said that the facts were different and
4 obviously a more lenient approach was justified.

5 MR. MURPHY: Yes.

14:40

6 CHAIRMAN: Parties can investigate that and explore it
7 as they choose to do so. Okay. But we still have
8 Garda Keogh -- hold on, you don't need to get into
9 this. Thank you. I'm doing your work for you. The
10 position is, he remains then, so to speak, the only
11 person who had a regulation 10 because he didn't have
12 the right tax.

14:41

13 MR. MURPHY: That's right.

14 CHAIRMAN: Okay. Thank you very much. Now.

15 WITNESS: Judge, I was just going to say that from
16 recollection, that incident, the incident which is
17 referred to with that other garda, I think from
18 recollection that was about seven months later anyway,
19 roughly. Like it was months and months after.

14:41

20 CHAIRMAN: Yes. But the suggestion was it also was a
21 regulation 10 case, it looked as if it said what it
22 said. Instead of which we now know it wasn't a
23 regulation 10 case. Okay. Thank you very much.

14:41

24 MR. MURPHY: Chairman, those are my questions.

25 CHAIRMAN: Now, Mr. McGuinness.

14:41

26 MR. MCGUINNESS: Just to confirm, Chairman, that we
27 obviously tried to trace that issue within the Athlone
28 district, as to whether there was a copy of any such
29 regulation 10 notice and it was confirmed that there

1 was none within the district, but our solicitor,
2 diligently of course, he pursued the issue and retained
3 a statement from Garda Madden, which is in Volume 54.

4 CHAIRMAN: Thank you very much.

5 MR. McGUIINNESS: which outlines his position. 14:42

6 CHAIRMAN: Just in case anybody thought that Mr. Murphy
7 or his clients were doing this out of the goodness of
8 their heart, they're not, because the Tribunal's
9 investigations have established that. which is not to
10 make any aspersion on anybody but that is the 14:42
11 situation. So credit where it's due. It doesn't go to
12 Mr. Murphy's team, it goes to our team.

13 MR. MURPHY: Yes. Although I should say on behalf of
14 my clients, they did ultimately check the matter with
15 Sergeant Moylan. 14:42

16 CHAIRMAN: Thank you very much. Thanks,
17 Mr. McGuinness, for making that clear and giving us the
18 opportunity to take a bit of credit. Where are we
19 going next.

20 MR. MURPHY: Thank you, Chairman. 14:42

21
22 END OF EXAMINATION

23
24 MR. CARROLL: Sorry, Chairman.

25 CHAIRMAN: Mr. Carroll, thank you very much. Sorry, I 14:42
26 was forgetting about this side of the house.

27 MR. CARROLL: There was a matter that arose on
28 wednesday, it's at Day 106, page 59, where Mr. Murphy
29 was cross-examining Garda Keogh on an issue and he left

1 it rest as maybe an issue that would be better for me
2 to deal with, representing Superintendent McBrien.

3 CHAIRMAN: Yes.

4 MR. CARROLL: Chairman, you said we could revisit it
5 and said maybe it is appropriate for me to --

14:43

6 CHAIRMAN: well, revisit it, Mr. Carroll.

7 MR. CARROLL: It's really by way of clarification.

8 CHAIRMAN: Could you move a tiny bit further,
9 Mr. Carroll. You speak extremely clearly, which is
10 very pleasant, and I think we can all hear. Just a
11 tad away. Mostly I spend my time telling people to go
12 closer to the microphone. Thank you.

14:43

13
14 GARDA NICHOLAS KEOGH WAS CROSS-EXAMINED BY MR. CARROLL,
15 AS FOLLOWS:

14:43

16
17 451 Q. MR. CARROLL: Once Garda Keogh can hear me as well.
18 Garda Keogh, you recollect you were being
19 cross-examined by Mr. Murphy, I think it was the
20 wednesday of the last week we were here, in relation to
21 the issue of further statements being taken from Liam
22 McHugh and further statements being taken from
23 Ms. O'Neill. I just want to revisit that briefly with
24 you, in order to put effectively what Superintendent
25 McBrien will say and to give you a chance to respond to
26 that.

14:44

14:44

27
28 You will recollect when I asked you questions there
29 wasn't much at issue in terms of the notes. You had

1 looked at Superintendent McBrien's notes, I think you
2 had said they were very accurate. There wasn't much, I
3 think I picked up one thing about being under pressure
4 and we talked about that, but there is this other issue
5 as well and there seems to be a difference between your 14:44
6 note and her note of a particular meeting and it's just
7 that, in this area. So I will put it in context, this
8 area has been gone into by both Mr. McGuinness and
9 Mr. Murphy, but just so you know where the sequence is,
10 if I put it in context and I can be corrected if I am 14:44
11 wrong.

12
13 If I deal first with Mr. McHugh. The position there
14 was, just to summarise it, Garda Lyons had sent an
15 e-mail to Sergeant Curley on 2nd June 2014, outlining 14:45
16 events on 31st May 2014. That e-mail then was sent to
17 Inspector Farrell, who was acting superintendent. The
18 position was Superintendent McBrien was out of the
19 jurisdiction on leave from the 18th May to the 5th
20 June. She was away at that point. I don't think there 14:45
21 is any controversy about this, I am just putting the
22 sequence of events.

23
24 I think then on the 3rd June we have an e-mail from
25 Inspector Farrell, who we say was acting 14:45
26 superintendent, to Chief Superintendent Curran. Then
27 Superintendent McBrien, my client, returns to the
28 station and starts to deal with matters. I think
29 again, this is at 1197, we can jog our memory with it,

1 at that point Superintendent McBrien sends a report to
2 Sergeant Curley looking for a statement on Liam McHugh.
3 We have seen that already. Okay?

4 A. Yeah.

5 452 Q. Then it followed, if we just go on to 1205, that was on 14:46
6 the 9th June. Then at 1205, we had this again I think
7 earlier, this was a reminder from Superintendent
8 McBrien to Sergeant Curley:
9

10 "Has a statement been taken from Mr. Liam McHugh?" 14:46
11

12 Do you see that? It will jog your memory.

13 A. Yes.

14 453 Q. You no doubt have seen this before?

15 A. Yes. 14:46

16 454 Q. So she refers earlier, the 9th June.
17

18 "Has a statement been taken from Liam McHugh? If a
19 statement has not been taken, please outline attempts."
20 14:46

21 That was on the 23rd June. Now, the issue where there
22 is a difference, which you might be able to explain to
23 the Tribunal, is you then meet Superintendent McBrien
24 on the 8th July. You have already given evidence about
25 this and we have a note, I think it's on 13264, your 14:47
26 diary, you probably have the original in front of you

27 A. Yes.

28 455 Q. You have your note from that meeting of the 8th July,
29 and you have:

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"Met with superintendent, who informed me she is sending people out again to try get statements from O O'Neill and L MH."

14:47

A. Yes.

456 Q. That's Liam McHugh. We'll come back to Olivia O'Neill, I am just trying to deal with Mr. McHugh first. The position in relation to that then is, and she will say in evidence, and this is just to put it to you so you have an opportunity, that she didn't say she was going to send people out to get another statement from Liam McHugh. What happened actually is in her note, which is at 1100, if we can get that up. I don't know, have you seen her notes, you may remember this or not.

14:47

Unfortunately, I can't find a typed version of this?

14:48

CHAIRMAN: It doesn't matter, don't mind that.

MR. CARROLL: I don't think there is much at stake in it in terms of other information in it. I might just deal with it in this way and give you a chance to have a look at it. Initially she says she met with you, you were in good form. She then talks about stuff that has got nothing to do with this, it's something to do with a young Saudi student and something to do with a murder, then she tells you about some colleagues from Bray, that she was at a do with one of the colleagues and somebody was asking you for you. Do you see that.

14:48

14:48

A. I'm listening.

457 Q. Okay.

1 A. When I read Superintendent McBrien's notes, Judge, they
2 were very accurate.

3 458 Q. Yes. I will come to the -- she then mentions that you
4 said you're going to the confidential recipient on the
5 Monday, the Judge, and that you were going to mention 14:49
6 Liam McHugh and Olivia O'Neill. Just bear with me.
7 There may be a typed version of it, I will just check
8 that. In any event, you had mentioned you were going
9 to the confidential recipient, you were going to
10 mention Liam McHugh and Olivia O'Neill to them. Then 14:49
11 you go on to talk about Olivia O'Neill, I will come
12 back to that in a minute. But just halfway through the
13 notes, she writes:

14
15 "I discussed Liam McHugh. I had requested a statement. 14:49
16 I had not got it yet."
17

18 So, if we just deal with that for a minute. If you
19 turn to -- if document 1203 is got up on the screen,
20 and we will come to the notes in a minute. 1203. 14:50
21 Because what happened was, and you wouldn't have known
22 this at this time, you didn't have access to this, what
23 happened was actually Sergeant Curley, this is Sergeant
24 Curley's report, he actually only sent it the following
25 day, after this meeting, on the 9th July. So you can 14:50
26 see that there. If we go to the bottom of it, it
27 should be signed by, yes, Detective Sergeant Curley.

28
29 So, the point I am making is, at the point of the 8th

1 July meeting, she hadn't got the report back from
2 Sergeant Curley. The first attempt to get the
3 statement from Mr. Liam McHugh, which she believes was
4 the only attempt as far as she was aware, if you go
5 back to the top of the page, sorry, was Garda Higgins 14:50
6 had been tasked with going to get the statement and
7 Mr. McHugh didn't make a statement. So the point is:
8 On the 8th July meeting, she didn't know that attempt
9 had failed, which was the first attempt. So it
10 wouldn't make sense, I would suggest to you, that she 14:51
11 would say I'm going to go out and send somebody out
12 again, because she hadn't heard back that there was no
13 statement. Do you understand?
14 A. I understand. And just by way of clarification, I
15 think in some of those correspondence, when they came 14:51
16 down, they had Olivia O'Neill and Liam McHugh in the
17 same correspondence sheets.
18 459 Q. CHAIRMAN: Yes.
19 A. It may well have been that it was sending out to Olivia
20 O'Neill the second attempt and I wrote down -- 14:51
21 460 Q. MR. CARROLL: For both?
22 A. For both. It's possible.
23 461 Q. That may explain it. Also, there may be something else
24 that explains it as well, which has come out in
25 evidence and which may be relevant on this issue as 14:51
26 well. Because if you go down to the next few lines,
27 back in the notes, at 1100, when Superintendent
28 McBrien, as I said, she discussed the Liam McHugh, I
29 requested a statement, I have not got it yet. She then

1 goes on to say she was considering asking Detective
2 Sergeant MULCAHY and the Galway team to organise to
3 take the thing on effectively, to keep everything
4 impartial. And she says:

14:52

5
6 "He thought..."

7
8 That's you:

9
10 "...this was a good idea."

14:52

11
12 Then you go on to talk about trusting Detective
13 Sergeant Curley.

14
15 "Wouldn't mind if he took it."

14:52

16
17 Superintendent McBrien said:

18
19 "He has a connection with Mr. McHugh, so it might be
20 better to get somebody else."

14:52

21
22 So the point was, and we know this was followed up by
23 Superintendent McBrien because she then wrote on the
24 9th July, we don't need to go to that, it's in there,
25 she wrote to Detective Super Mulcahy, asking, raising
26 this issue about Liam McHugh and that it would be
27 better for somebody else, maybe Detective Inspector
28 Coppinger to interview him.

14:53

29

1 So the point was, two fronts: One, she hadn't heard
2 back Sergeant Curley about Garda Higgins' attempt until
3 the following day, and also, she was suggesting, and
4 followed it up, to send this to the Galway team to look
5 at. So it wouldn't make sense that she was saying to 14:53
6 you, I'm sending people out again to get a statement.
7 Do you understand?

8 A. I never ever accused Superintendent McBrien of being
9 behind --

10 462 Q. I'm not saying that. You see, in your note you said 14:53
11 "she told me --" if we go back to the note, your own
12 note. You said:
13
14 "She informed she is sending people out again to try
15 and get statements from O O'N and L McH. " 14:54
16

17 CHAIRMAN: Are you happy with that?

18 A. I am.

19 463 Q. CHAIRMAN: Does that explain what might have appeared
20 to be a second attempt but what in fact was still only 14:54
21 the first attempt?
22 A. Yes.

23 CHAIRMAN: Okay, very good. Thank you.

24 464 Q. MR. CARROLL: Then to turn to Ms. O'Neill then. I
25 think again we don't need to go through the whole 14:54
26 sequence of events, they have been gone through by both
27 Mr. McGuinness and Mr. Murphy. We have seen a lot of
28 the documents that led up to the issue, but we know
29 that Garda Treacy had done a report. That had gone to

1 Inspector Farrell. It had then gone to Chief
2 Superintendent Curran. This was in a period again in
3 the May period, where Superintendent McBrien was on
4 annual leave and out of the country. I think as
5 matters progressed there, you became aware of the 14:55
6 matter. I am just summarising the important parts. I
7 think ultimately you did a report on the 15th June,
8 isn't that right, about -- we can get that up, I think
9 that was 1174, to jog your memory. I think you had
10 done -- at the bottom of that. I think Sergeant Haran 14:55
11 had helped you. I think Superintendent McBrien had
12 asked Sergeant Haran to get a report from you and then
13 you sent it back to him?

14 A. Just for clarification, I absolutely also myself had
15 brought to Detective Mulcahy's attention that -- 14:55
16 Detective superintendent, that, you know, look, this is
17 going on and they're trying to say I'm rounding up
18 these people to make the allegations, because they're
19 linked maybe ye should look at it as well. I
20 understand his point, it was valid also; we're 14:56
21 investigating your stuff, not investigating you. I
22 understand all that, Judge, yes.

23 CHAIRMAN: That was the point.

24 465 Q. MR. CARROLL: To ask you questions completely out of
25 context, just to confuse everybody, just to try put 14:56
26 things into sequence, what was happening at that point.
27 So we are leading up to the 8th July. I think in terms
28 of -- if we go back to Superintendent McBrien's note on
29 that. It's further down, it's actually page 1101.

1 It's the second page, the page we were just looking at
2 and then -- actually, if we go back to the previous
3 page, sorry, there was mention first of it?
4 CHAIRMAN: At page 1100, that's right.
5 466 Q. MR. CARROLL: We will go back to what I skipped over. 14:57
6 On the first page you said to her, you're meeting the
7 Judge, the confidential recipient on Monday. You said,
8 having begun to mention Liam McHugh and Olivia O'Neill.
9
10 "He said that Olivia O'Neill had called in to the 14:57
11 station about a week ago."
12
13 okay, so that's a week, about a week before the 8th
14 July.
15 14:57
16 "About her previous incident and that he had
17 advised..."
18
19 That's you.
20 14:57
21 "...him to go to GSOC."
22
23 okay.
24 A. Yes.
25 467 Q. Then it goes on to talk about the Liam McHugh thing. 14:57
26 If we go to the next page, it returns to Olivia
27 O'Neill.
28
29 "He said..."

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That's you:

"...Olivia O'Neill said she was approached several times for a statement. I said I was aware she had been approached once." 14:57

Okay? Then she goes on, Superintendent McBrien, to say you discussed these things and that they might require separate investigations. You said again that you were going to discuss them with the confidential recipient and she makes the note, it might be best to see what happens there. She goes on to say there might be a need for an investigation or whatever. And then she says: 14:58

"I will see how he gets on with the confidential recipient on Monday, we will chat again next week."

I think there was reference to Inspector Farrell. 14:58

So, you see again, I am just putting it to you so you have a chance, because Superintendent McBrien will give that evidence when she gives her evidence, that her recollection and her notes in relation to it, so you were telling her that Olivia O'Neill had come back in about a week before, that Olivia O'Neill had said she had been approached several times about her statements. In fact, if we go back to the your diary note on the 14:58

1 26th June, you have to your diary there, and this again
2 may clarify things for the Tribunal. I think that's at
3 13262. This is the 26th June, if I'm correct. Do you
4 have that there in front of you?

5 A. I am reading -- sorry I'm reading --

14:59

6 468 Q. Your note?

7 A. 26th June 2014.

8 469 Q. 26th June 2014, yes. It's at 13262. 13262.

9 A. Yes.

10 470 Q. You said:

14:59

11

12 "5:30 Olivia O'Neill calls to the station, asks to
13 speak to me in private, stated Detective Sergeant
14 Curley and T Higgins called to her house, then to her
15 in another house to try to get her to make a statement
16 about me, but refused to make a statement on assault,
17 informed her to go to GSOC."

14:59

18

19 Okay. I'm not asking you to redeal with the contents
20 of that. But it would appear when you spoke on the 8th
21 July with my client, Superintendent McBrien, you said,
22 and I will repeat again, on the first page of those
23 notes:

14:59

24

25 "He said that Olivia O'Neill had called to the station
26 about a week ago about a previous incident and that he
27 had advised her to go to GSOC."

15:00

28

29 That would seem to tally with the 26th June that you

1 were talking about. Do you understand?

2 A. Yes.

3 471 Q. We know that that event with Inspector Curley and Garda
4 Higgins, that was the first time they went to get a
5 statement and according to them it would appear, they 15:00
6 say, the only time, where they went and she wasn't at
7 home and they went to her brother's house. Do you
8 understand?

9 A. I understand. The only thing I can say to that is, I
10 just made a note of what Ms. O'Neill told me. 15:00

11 472 Q. CHAIRMAN: As you best recollect, that's --

12 A. Yes.

13 473 Q. MR. CARROLL: I suppose point, to get to the point,
14 Superintendent McBrien will say that her notes or her
15 recollection is that it wasn't that she had said I'm 15:01
16 going to send somebody out to Olivia O'Neill, you had
17 said that Olivia O'Neill had told you she had been
18 approached several times. She didn't send anybody else
19 out to Olivia O'Neill and as far as she was aware, as
20 she said in her notes, she recollects and her notes 15:01
21 say:

22

23 "I said I was aware she had only been approached once."

24

25 So that the Curley/Higgins approach, if you like, and 15:01
26 that was the only time she was approached. I suppose
27 that's what her evidence will be and it's to give you a
28 chance to --

29 474 Q. CHAIRMAN: Okay. So Superintendent McBrien is going to

1 say whatever happened or didn't happen, I didn't send
2 the two out is second time.

3 A. Yes.

4 475 Q. CHAIRMAN: If I am understanding, you say, I don't know
5 how many times anybody went to anybody, I took a note 15:01
6 of what I understood Olivia O'Neill said?

7 A. Yes.

8 476 Q. CHAIRMAN: Maybe she misspoke, maybe she was correct,
9 who knows. That's what you say.

10 A. Maybe reading the note, maybe there's -- I see called 15:02
11 to one house and then to another house, maybe she meant
12 that as the second. I don't know, I just took the
13 note, Judge. It's again back 2014.

14 CHAIRMAN: That's what you say, look, here's the best
15 note I took. He's not contradicting that, he's simply 15:02
16 saying that's what it says. Okay.

17 477 Q. MR. CARROLL: But in terms of the accuracy of
18 Superintendent McBrien then, you'd accept that then in
19 terms of this part, that it was Olivia O'Neill that had
20 told you several times or you picked it up that way and 15:02
21 you had given that information to Superintendent
22 McBrien?

23 A. Sorry, just can you repeat just that last part there
24 now?

25 478 Q. Just in terms of what we are dealing with, where 15:02
26 Superintendent McBrien records that you had told her
27 Olivia O'Neill had said she was approached several
28 times, that was your -- that's an accurate recollection
29 now when I put matters to you, or can you say?

1 A. Several times --

2 CHAIRMAN: You thought Olivia O'Neill meant that she
3 was approached more than once by the two officers
4 looking for a statement about you?

5 A. As a result of the conversation with Ms. O'Neill, that 15:03
6 was my perception.

7 479 Q. CHAIRMAN: You understood from Ms. O'Neill that that's
8 what she meant?

9 A. Yes.

10 480 Q. MR. CARROLL: So again, can I -- 15:03
11 CHAIRMAN: And that's what you said to Superintendent
12 McBrien?

13 A. To Superintendent McBrien, yes.

14 481 Q. CHAIRMAN: So what she says is correct?

15 A. I don't disagree with it, Judge, so far, I don't think. 15:03

16 482 Q. MR. CARROLL: In terms then, what I am saying in terms,
17 I am just trying to clarify, she will say she didn't
18 say I'm sending -- Superintendent McBrien didn't say to
19 you, I'm now sending out more people to get a statement
20 from Olivia O'Neill, she says she didn't say that. Do 15:03
21 you accept that now?

22 A. Judge, can I go back to my note for a second on this?

23 483 Q. Yes, of course.

24 A. Is this the 26th June?

25 484 Q. Yes. No, the 8th July? 15:04

26 A. Okay. Again, Judge, I think here is something similar
27 to the Olivia O'Neill, Garda Stephanie Treacy and
28 myself interaction, where it's just worded -- I mean,
29 I don't --

1 485 Q. CHAIRMAN: Tell me what you say in your 8th July note.
2 A. What I have said on the 8th July is:
3
4 "Thursday 9pm, met with superintendent, who informed me
5 she is sending people out again to try to get 15:04
6 statements from Olivia O'Neill and Liam McHugh."
7
8 So it's a perception.
9 486 Q. CHAIRMAN: I understand.
10 A. Like, whatever they -- 15:04
11 487 Q. CHAIRMAN: If she says she didn't send anybody out and
12 didn't intend to send anybody out for a second time?
13 A. Yes.
14 488 Q. CHAIRMAN: Do you accept that?
15 A. I would, Judge. Then, because there's both Olivia 15:05
16 O'Neill and Liam McHugh and because there was
17 interviewing about --
18 489 Q. CHAIRMAN: I can see the room for confusion.
19 A. Yes, both together, and the correspondence was coming
20 down with both their names together as well. 15:05
21 490 Q. CHAIRMAN: which wasn't helpful. Okay. Okay
22 Mr. Carroll.
23 MR. CARROLL: I think that clarifies the matter.
24 CHAIRMAN: Thank you very much. That's most helpful.
25 15:05
26 END OF EXAMINATION
27
28 CHAIRPERSON: Now I have Mr. Kane. Mr. Kane, who are
29 you for?

1 MR. KANE: Thank you, Chairperson. I am for a number
2 of guards. Insofar as it's relevant to the questions I
3 want to ask, I want to ask the witness about Garda
4 Fergal Greene, please.

5 CHAIRMAN: Right. Will we take a break at this point, 15:05
6 Mr. Kane?

7 MR. KANE: I need three minutes at most, Judge.

8 CHAIRMAN: Three minutes and then we will take a break,
9 all right. We will give you three minutes, we might
10 give you three and a half, Mr. Kane. 15:05

11 MR. KANE: Thank you, Chairman.

12

13 GARDA NICHOLAS KEOGH WAS CROSS-EXAMINED BY MR. KANE, AS
14 FOLLOWS:

15 15:05

16 491 Q. MR. KANE: Good afternoon, Garda Keogh. I want to take
17 you back to your first day of cross-examination with
18 Mr. Murphy, it was Day 105. I ask please that the
19 Tribunal opens that for you and goes to page 99,
20 please. I want to refer you please to line 352, do you 15:06
21 see that, Garda Keogh.

22 A. 352, yes.

23 492 Q. Here you give evidence as to the circumstances in which
24 you obtained a DVD, do you recall that and see it,
25 Garda Keogh? 15:06

26 A. Yes.

27 493 Q. In relation to that, Garda Greene will see that he was
28 not assisting you with your complaints but rather, you
29 asked him for this DVD through the storage procedure

1 and he released it to you in full compliance with the
2 storage procedure?

3 A. That's correct, yes.

4 494 Q. Thank you. I ask, Judge, that page 101 of the same
5 document or the same transcript is opened please. Can 15:07
6 I bring you please to line 357? Here you were asked
7 was Garda Greene a friend of yours?"

8

9 You go on to say:

10 15:07

11 "Yes. "

12

13 Then you are asked:

14

15 "In relation to what you were seeking to do?" 15:07

16

17 And you said:

18

19 "Yes, seeking to expose criminality. I mean, yes. "

20 15:07

21 Garda Greene will say that he was not assisting you in
22 your efforts to expose criminality.

23 A. If Garda Greene wishes to say that, I can't dispute --
24 I'm not -- like...

25 495 Q. Very good. Finally, Garda Keogh, can I ask you to move 15:07
26 down to the next line, please, line 359, you were
27 asked:

28

29 "Di d he. . . "

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That's Garda Greene:

"...meet with Deputy Wallace and Deputy Daly."

15:08

And you say:

"No, I don't think so."

For the avoidance of doubt, Garda Greene will say he never met with those deputies?

15:08

A. I have said no.

496 Q. You have, in fairness to you. To the extent that there was any possible doubt about that, I wanted to just put that to you?

15:08

A. That reminds me of an incident, a thing that cropped up, I can't remember which day, Judge, to do with Deputy John McGuinness.

497 Q. CHAIRMAN: Yes.

A. I was asked about that. That was -- yeah, like, just for clarification again, I had never spoken, have never spoken to John McGuinness. I'm aware now what that was about. Garda Wilson, he was speaking to Deputy McGuinness in relation to other matters. It was I think -- that was how he cropped up into it.

15:08

498 Q. CHAIRMAN: I understand. As I understand, he had made some enquiry or query or something like that but nothing came of it.

A. Nothing came of it.

1 499 Q. CHAIRMAN: Is that right? You didn't actually respond
2 or meet him or whatever it was?
3 A. No, no, no.
4 500 Q. CHAIRMAN: Nobody is suggesting that he did anything
5 wrong or anything? 15:09
6 A. No, no, no.
7 501 Q. CHAIRMAN: But he made some query, is that correct?
8 A. That was it, yeah.
9 502 Q. CHAIRMAN: He doesn't feature in our investigation?
10 A. No, no. 15:09
11 503 Q. CHAIRMAN: You just wanted to make that clear?
12 A. That's all, yes.
13 504 Q. CHAIRMAN: That's what I understood to be the
14 situation. As I say, nobody was saying that Deputy
15 McGuinness did anything wrong, but that whatever it 15:09
16 was, there was a query but nothing came of it?
17 A. That's correct, Judge.
18 505 Q. CHAIRMAN: Happy with that?
19 A. Yes.
20 15:09
21 END OF EXAMINATION
22
23 CHAIRMAN: Very good. So now --
24 MR. CARROLL: Sorry, Chairman.
25 CHAIRMAN: Yes, Mr. Kane. Who is speaking? 15:09
26 MR. CARROLL: Can I give a page reference.
27 CHAIRMAN: Mr. Carroll, sorry, you're are back.
28 MR. CARROLL: Just to give a page reference..
29 Superintendent McBrien's notes are typed on 1770.

1 CHAIRMAN: That's most helpful. Thank you very much.
2 1770.

3 MR. CARROLL: 1770 are the typed version for the note
4 of the 8th July. Sorry, Chairman.

5 CHAIRMAN: Thank you. No, no, don't apologise at all, 15:10
6 Mr. Carroll, that is most helpful. 1770. Thank you
7 very much. So, right, that completes your
8 cross-examination. Next -- well, we will be taking a
9 break anyway. I'm in your hands, Mr. Kelly, as to
10 whether you would prefer to get started now. I have no 15:10
11 idea whether you want to give an estimate as to how
12 long you will take or what is the most convenient.
13 Clearly in everybody's interest, I want to do the
14 fairest and most reasonable thing. I don't expect you
15 to jump into the frame at 3:15 and I think in fairness 15:10
16 to Garda Keogh, he has been really on stage, you know,
17 intensively for quite sometime now.

18

19 So, what do you think, Mr. Kelly? I will do whatever
20 you want. 15:11

21 MR. KELLY: Thank you very much, Chairman. I am
22 acutely aware of the fact that Garda Keogh has been in
23 now for what, three weeks. I don't want to keep him
24 there as long as --

25 CHAIRMAN: well, you have to do your job. 15:11

26 MR. KELLY: I have to do my job. I know there's
27 practical stuff, I will just get straight to the point.
28 I certainly be the whole of tomorrow, I may well be the
29 whole of Monday.

1 CHAIRMAN: Yes.

2 MR. KELLY: That's doing the best.

3 CHAIRMAN: So what would you prefer to do? Do you
4 think it's fair and reasonable -- Garda Keogh, would
5 you prefer to start up with Mr. Kelly tomorrow or would 15:11
6 you prefer to get cracking at it this afternoon? I am
7 completely indifferent. I will do what Mr. Kelly asks.

8 MR. KELLY: I think it would be better to go home and
9 get a nights sleep and we will start in the morning.

10 CHAIRMAN: Very good. Thanks very much. That's what 15:11
11 we will do. Okay. We will make more progress that way
12 than we will any other way.

13 MR. KELLY: Absolutely. I will probably be about two
14 days. Look, it's almost impossible to say, it depends
15 how it goes. I will react to what is happening. 15:12

16 CHAIRMAN: Don't feel under pressure, Mr. Kelly.

17 MR. KELLY: Yes.

18 CHAIRMAN: The last thing we want is anybody to be
19 under pressure. It's better to be thorough. We always
20 knew that Garda Keogh was going to be a very long 15:12
21 witness, we always knew, there is a lot of material to
22 cover and so on. We want to be as fair as possible to
23 everybody. Okay.

24 MR. KELLY: Thanks very much, Chairman.

25 CHAIRMAN: Thank you. 15:12

26

27 THE HEARING THEN ADJOURNED UNTIL FRIDAY, 8TH NOVEMBER
28 2019 AT 10:30AM
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