

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

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

HELD IN DUBLIN CASTLE
ON FRIDAY, 08TH NOVEMBER 2019 - DAY 113

113

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

W I T N E S S

P A G E

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

E X A M I N E D B Y M R . K E L L Y 6

1 THE HEARING RESUMED, AS FOLLOWS, ON FRIDAY, 8TH
2 NOVEMBER 2019:

3
4 CHAIRMAN: Thank you very much. Good morning,
5 everybody. Just before we start, a pleasant duty and a 10:29
6 bit of housekeeping. The pleasant duty is to welcome
7 two very distinguished visitors. We have Judge
8 Bielska-Sobkowicz of the Polish Supreme Court, she is
9 very welcome. And we have Professor Gerdy Jurgens, who
10 is a member of the Dutch Council of State. They are 10:30
11 more than welcome. Thank you very much.

12
13 Now, as to the housekeeping, the sitting today, will
14 break at 12:30 and resume at two o'clock. Then we will
15 finish at 3:40 or thereabouts. All right, as close to 10:30
16 that as we can manage. Just so that everybody
17 understands where we are. Okay. Thank you very much.
18 Now, Garda Keogh, once more into the breach. Thanks
19 very much. Mr. Kelly

20 MR. KELLY: Thank you, Chairman. 10:31

21
22 GARDA NICHOLAS KEOGH WAS EXAMINED BY MR. KELLY, AS
23 FOLLOWS:

24
25 MR. KELLY: Good morning, Garda Keogh. 10:31

26 A. Good morning.

27 1 Q. This is the last lap. Can I begin by asking you this:
28 what was it that drove you or motivated you to make
29 these disclosures?

1 A. This is the 2014, the initial main disclosures?
2 2 Q. Yes.
3 A. Judge, I have to go back, you know, I have to go back
4 to a couple of years prior to this. I know from
5 reading the documents it would appear I woke up on the 10:31
6 8th May and decided to make a disclosure. That, of
7 course, wasn't the case. Roughly in 2009, Judge,
8 somebody, a person, it was actually in a nightclub,
9 told me some stuff. I can't even recollect the
10 conversation now. I put it in, I referred to it in my 10:32
11 2014 statement, my initial statement. It was just a
12 general conversation and it was to do with corruption
13 and stuff that was going on. As a guard, Judge, it
14 went in one ear, kind of, most of it and out the other
15 ear. Because in every station in every town in the 10:32
16 country you have people that make kind of wild
17 accusations of corruption to do with guards and stuff
18 like that. So, I didn't, I didn't even pass any heed
19 to it. But as time went on, in 2010 certainly, a lot
20 of stuff, absolutely insane criminality, insane stuff 10:32
21 went on in 2010.
22
23 I had become aware, I was aware of previous incidents
24 then in 2008, which, like a puzzle, Judge, a jigsaw
25 puzzle, certain parts of a puzzle or a mosaic kind of 10:33
26 in my mind started to appear. In 2010, just a serious
27 amount of absolute malice stuff, which is in -- the
28 bulk of which -- a lot of it is in the 2014 statement.
29

1 Then in 2011, again more incidents were occurring and I
2 was obviously aware of other insane stuff. And we're
3 not talking corruption here, we're talking absolute
4 criminality, Judge. Some of it I witnessed and other
5 stuff I was aware of, and other stuff I would have
6 heard about or known about and things started to add
7 up.

10:34

8
9 Towards some period, I think, towards the end of 2011,
10 I went with a solicitor. Being a guard in Athlone, I
11 would have known -- there's only one -- it's not like
12 Dublin, there's one District Court in the town. I
13 would have known all the solicitors in the Court.
14 Indeed, I would have drank with an awful lot of the
15 solicitors, you know. We would be on first terms name
16 and that. But I went to a solicitor that was -- I went
17 to a solicitor, for want of a better term, who wasn't
18 in the circle of trust and I broke confidence, as in
19 the Guards. At the time like --

10:34

10:34

20 3 Q. I don't necessarily want to know what you discussed
21 with the solicitor, but was it things that were
22 troubling you.

10:35

23 A. Yes.

24 4 Q. Concerning you within An Garda Síochána?

25 A. Yes. As it happened, this stuff was melting my brain,
26 Judge, and I was trying to figure out who I would talk
27 to or whatever about this. So, as it happened, one day
28 I just walked into this particular solicitor, who I had
29 been thinking, this guy doesn't hang around with the

10:35

1 Guards or I don't drink with him or anything like that,
2 I might be able to talk to this guy and it'll be
3 confidential.

4
5 So I then, as I said, happened to walked into him one 10:35
6 morning and there and then I just said, can I have a
7 word with you and I spoke to him and that was the first
8 person that I mentioned anything ever to, to do with
9 it. From recollection of the conversation, he more or
10 less tried to talk me out of it. I recall him saying, 10:35
11 you'll open a can of worms if you go down this road,
12 but, he said, if you're having to do this, you're going
13 have to start gathering evidence, if you are going to
14 do anything. But he did try to talk me out of it.

15 10:36
16 So, at 2012 then, I was still mulling, more, more green
17 man stuff was going on in 2012. At that stage in 2012
18 I went into a rehabilitation centre. I started
19 drinking an awful lot at the time, Judge, in relation
20 to this. Actually, ironically, I think someone, was it 10:36
21 Mr. Murphy, got the report from Sergeant Tully, I think
22 that was 2012, where Sergeant Tully wrote, I think in
23 the last line of the report, that I appeared to be very
24 mixed up. I of course couldn't -- Sergeant Tully is
25 someone I would have had great respect for and I 10:36
26 couldn't tell sergeant Tully what was going on. He
27 would have had an idea but he wouldn't have known in
28 depth what was going on. No one was knowing really. I
29 couldn't tell him. And I couldn't tell him, Judge, for

1 fear -- like Sergeant Tully is a married man with kids
2 and I would be terrified that basically he could
3 have -- if I told him, there's a possibility he'd be
4 here on my side today. I wanted to keep him out of
5 everything.

10:37

6
7 Anyway, I was very mixed up, he was very accurate in
8 those terms, despite the fact I hadn't told him
9 anything really.

10
11 So, later in 2012 more very, very mad stuff went on.
12 There's an incident, it was to do with planting drugs.
13 Again, to read what's in the documents, the way the
14 Guards have that, it appears everything was fine there.
15 Judge, there's an awful lot of stuff that went on in
16 relation to that incident that's not in those
17 documents. I know it's not an under the terms, so I
18 won't go into that.

10:37

10:37

19
20 2012, so by January -- I had, as I said, I started
21 printing stuff off in relation to things in 2012. I
22 was humming and hawing basically, week in week out, I'm
23 going to do something, then, I'm not going to do
24 something, I'm going to do something, I'm not. This
25 was going on all through 2012.

10:38

10:38

26
27 2013, January 2013, Judge, I had a personal incident,
28 which I don't want to go into. As a result of that
29 incident, it was a morning incident, I wasn't drinking

1 that morning or anything like that. After that
2 incident I decided, right, there's no more messing
3 around here, you've wasted the last two years, you
4 know, with indecisiveness and all the rest, you're
5 either going to do something or you're going to do 10:39
6 nothing. And I decided, right, I'm going to do
7 something. So that was in January 2013.

8
9 So from January 2013 I had my mind made up then, I'm
10 going through with this. So, that was in January 2013. 10:39
11 Then, from January 2013, I think then that's -- at some
12 stage there then I make the initial -- I think I went
13 onto the -- I saw -- I just happened to see Deputy Luke
14 Ming Flanagan on a programme one night, talking about
15 stuff, very similar to what was going on in my head at 10:39
16 the time. And stuff, when I say going on in my head, I
17 had an awareness of. And at this stage I had evidence,
18 you know, a good bit of evidence at this stage, but I
19 hadn't still enough.

20 10:39
21 I met deputy -- sorry, I got the one piece of primary
22 evidence at some stage I think in 2013 then. I met
23 with -- I told you, I said I made contact with Deputy
24 Flanagan, Luke Ming Flanagan, and, as I said, he was
25 speaking about something, but also, he is the TD for 10:40
26 Roscommon and one-third of Athlone is in Roscommon.
27 So, he was the obvious person for me to go to. Then he
28 told me, look, again, if you are going ahead with this,
29 you're going to need help. He put me in touch with

1 Jockey wilson, sorry, Garda John wilson, Judge.

2
3 So that was - where are we, '13. Eventually we roll on
4 into 2014. I first try and get it in through to GSOC,
5 I think it was two weeks prior to the 8th May, roughly, 10:41
6 where, with Luke Ming Flanagan and John wilson, who had
7 retired at the time, I think they went in to make a
8 complaint to GSOC and I was to wait outside and if GSOC
9 were to take a complaint, I would be called in as a
10 garda, as a witness. Because at the time a garda could 10:41
11 not make a complaint to GSOC.

12
13 That incident itself was interesting, because Garda
14 wilson was actually followed by an unmarked patrol car
15 that morning and I had been walking 50 feet behind 10:41
16 Garda wilson at that stage, and the patrol car that was
17 following Garda wilson actually --

18 CHAIRMAN: Mr. Kelly.

19 MR. KELLY: Yes.

20 WITNESS: Sorry. 10:42

21 CHAIRMAN: I hate interrupting a narrative being given
22 by a crucial witness, particularly since it's your
23 first question, but let me tell you my concerns. We
24 now have an allegation never made previously, clearly
25 it's outside the Terms of Reference. Garda Keogh 10:42
26 treats this as a fact, that the Gardaí were trailing,
27 with the implication being that it was unlawful
28 trailing of Mr. wilson.

29 WITNESS: Judge, I understand that it was --

1 CHAIRMAN: Hold on, no, I am speaking. Just a moment.
2 Let me go on. Not only that, he has in the past few
3 minutes since he began asserted as facts matters based
4 on nothing that has been established in evidence, in
5 saying stuff, absolute criminality, very mad stuff, 10:43
6 planting drugs. These are assertions of fact. They
7 may well be -- I know they are beliefs that Garda Keogh
8 has. But what he is not entitled to do is to give the
9 impression that these are established facts. They're
10 not. 10:43

11
12 He may believe them, he may believe them passionately,
13 and if they were relevant to this inquiry it would be
14 important to establish the source of that information.
15 But he's not free to use the platform he has here for 10:43
16 the purpose of asserting as established or clear facts
17 matters that are of extreme seriousness. I understood
18 your question to be an open question to invite Garda
19 Keogh to say, look, how did it call get started.
20 That's what I understood it to be. I thought, if I may 10:44
21 say so, with respect, I thought it was a perfectly
22 legitimate first question.

23
24 I have been holding myself back from intervening but at
25 this point, I have to say, a halt has to be drawn and I 10:44
26 have to point out to Garda Keogh that this is
27 illegitimate and not permissible.

28
29 The other thing is: It's not to do with the matters

1 under investigation and it doesn't really arise out of
2 your question, it seems to me, when properly put in the
3 context of the inquiry.

4
5 Now I don't want to be finger wagging or complaining or 10:44
6 intervening. Thus, that's my position on this. I
7 don't need a big debate about it. Obviously it
8 Mr. Kelly wishes to dispute the matter or challenge it,
9 obviously that's entirely a matter for him and I will
10 entertain any such application. But that's where we 10:45
11 stand at the moment

12 WITNESS: Judge, I apologise. Can I apologise for my
13 use of wording there. I should have said belief and
14 that, I apologise for that, I was only trying to go
15 into the sequence. 10:45

16 CHAIRMAN: I am not looking for apologies. I just want
17 to keep ourselves on track here on the job that we are
18 engaged in.

19 MR. KELLY: Yes.

20 CHAIRMAN: Anyway, that's enough. Proceed, Mr. Kelly. 10:45
21 Maybe you should lead him a little past that,
22 Mr. Kelly, and we will then proceed to more immediately
23 relevant matters.

24 5 Q. MR. KELLY: That's right. As you know, Garda Keogh,
25 the substance of the allegations that you have made at 10:45
26 various times in the past are not within the Terms of
27 Reference of this Tribunal. This is to do with having
28 made them, whether they were true or not, what happened
29 thereafter and how you were treated.

1 A. Yes.

2 6 Q. So we will keep to that. One of the things I did want
3 to ask you about was, you seemed to identify your
4 beginning drinking. The only reason I am asking about
5 drinking is so much has been made about it. But, you 10:46
6 seemed from what you were saying there, it was around
7 about 2012. Am I right in thinking that's when you
8 began drinking to excess?

9 A. Probably before that. Probably -- as I said, in 2010
10 and '11 there was a lot of this, a lot of stuff. 10:46

11 7 Q. Okay. It was building up.

12 A. It was progressive. It was progressive.

13 8 Q. What I want to know is: was it because of work
14 concerns or something? We don't need to know all the
15 detail. 10:46

16 A. Yes. Obviously, as I was just trying to describe there
17 earlier, initially I had this stuff in my head, going
18 on in my head and I had nobody to talk to. I didn't
19 get to talk to anybody. When I first broke confidence,
20 that was, I suppose, at the end... 10:47

21 9 Q. Hold on. Okay, so it was related to what you were
22 perceiving was going around you at work?

23 A. Yes.

24 10 Q. You also used then at various times, twice or three
25 times during the last couple of weeks when you have 10:47
26 been cross-examined, the expression that you were using
27 it as crutch, is that right?

28 A. Yes.

29 11 Q. It was a way of releasing what was going on?

1 A. Yes. For me, it was a bubble, Judge. This is over the
2 years as things progressed. It was just a bubble that
3 I could escape from reality.

4 12 Q. I understand. You have told us the sequence, that you
5 tried to report it initially to GSOC, the way the law 10:47
6 stood at the time it wasn't something they could
7 receive.

8 A. That's correct, Judge.

9 13 Q. That then led you, as I understand it, to the protected
10 disclosure on 8th May 2014, to retired Judge McMahon, 10:47
11 is that right?

12 A. That's correct. At the time I had enough evidence, I
13 felt I was in a position to --

14 14 Q. Yes. Now, without going into all of that again, the
15 substance of what you said to Judge McMahon related to 10:48
16 events from the years immediately preceding that?

17 A. Correct, yes.

18 15 Q. They weren't the day before you were on about?

19 A. Oh no, no, no. It was 2008, '09, '10, '11, '12.

20 16 Q. The other thing I want to ask you is, you said on Day 10:48
21 99, it must have been the first or second day of this
22 module, that so far as you were concerned, what you had
23 disclosed was the subject of gossiping in Athlone, you
24 weren't suggesting everybody in Athlone was going
25 around talking about it but there were others who at 10:48
26 least were retailing this gossip. So you weren't the
27 only one who knew about it?

28 A. Oh no. Judge, there's so much stuff going on in
29 Athlone, even this part and where this emanates from,

1 other stuff, which obviously I won't -- they're not
2 relevant.

3 17 Q. Yes.

4 A. But other -- can I use the word mad or insane stuff
5 just to describe other stuff, and leave it there? 10:49

6 18 Q. There was stuff that you weren't happy about, is that
7 right?

8 A. Yes. And not just me, there was a lot of other guards,
9 like.

10 19 Q. You told the Tribunal about, I think you said was it 10:49
11 your grandfather or father were Garda officers, or have
12 I got that wrong?

13 A. No, my grandfather joined the very first day,
14 registered number 51. That was the civic guard. And,
15 indeed, Judge, like as I said, even going back to the 10:49
16 civil war, for example, I'd have a good awareness of
17 his relationship with his own brother finished during
18 the civil war, you know. So he joined the civic guard
19 as number 51 on the very first day.

20 20 Q. Right. 10:50

21 A. That later becomes An Garda Síochána.

22 21 Q. What I am trying to get at is how you felt about the
23 Gardaí. Your grandfather had been in, I will use the
24 term police, in the State?

25 A. Yes. 10:50

26 22 Q. And the --

27 A. My uncle also was.

28 23 Q. Yes. So was this a profession -- some young boys grow
29 up wanting to be train drivers, others who are foolish

1 want to be lawyers or whatever, was this something that
2 you always aspired to do or not?

3 A. Well, Judge, I would have nearly blame my mother for
4 me. Because my big things were history and nature, but
5 my mother is the mother of a guard, she is the sister 10:51
6 of a guard, she is the niece of a guard, she is the
7 daughter of a guard and actually -- niece of guards and
8 sergeants and the rest. So, I suppose --

9 24 Q. So there is a lot of guards in the family?
10 A. On her side I think they all were. 10:51

11 25 Q. So it was a culture that you grew up with and you were
12 aware of. Was it something that you were attracted to
13 or was it something that you thought, good Lord, that's
14 not something I would ever want to do, or, yes, I do
15 want to do it? 10:51

16 A. Look, young lads, you have an interest in the police,
17 you know, policing things, it sounds exciting.
18 Everyone thinks, of course, the police it's all about
19 going out chasing criminals and the exciting part, they
20 forget that you have to do a huge amount of paperwork 10:51
21 and files and stuff like that. But, yes, I would have
22 been -- I didn't join the Guards because I didn't want
23 to joint the Guards, if that makes sense.

24 26 Q. Yes.
25 A. I wanted to. 10:52

26 27 Q. Was it something you were proud of?
27 A. Yes.

28 28 Q. Was it a force you felt proud of?
29 A. Yes.

1 29 Q. Hence, when you saw things that weren't right,
2 presumably, you weren't keen on that, you didn't like
3 it?

4 A. Yes. And bear in mind, I had been in other stations
5 prior to this, normal police stations, Garda stations, 10:52
6 and I had been in the drugs squad, I was in the drugs
7 squad in Bray, the Detective branch in Enniskerry and
8 that, so I was aware of how things, you know, were
9 supposed to work. Then, I went down to Athlone. I am
10 aware, a lot of other guards, for example, would have 10:52
11 transferred down from the DMR, the Dublin metropolitan
12 region and other places. A lot of the conversations
13 would have been, where you were stationed before, was
14 that like here in Athlone? I wasn't the only one to
15 know Athlone was strange. 10:53

16 30 Q. You had seen how it could work, well as far as you were
17 concerned, you transferred, you saw things you didn't
18 like and you thought, this isn't how it's supposed to
19 work. Is that a fair summary?

20 A. Yeah, I saw things, I became aware of things. And 10:53
21 there was -- evidence started to fall in together.

22 31 Q. Might I ask, I don't want to know exactly where, what
23 part of the country did you originally come from?

24 A. Sorry?

25 32 Q. What part of the country did you originally come from? 10:53
26 A. Oh I'm Offaly.

27 33 Q. You're Offaly, I see.

28 A. Yes.

29 34 Q. So you grew up, you served in Bray, you enjoyed that,

1 you then came back to effectively your home territory?

2 A. Yes.

3 35 Q. Was that something you were happy about or, oh Lord,
4 I'm back here again, or what?

5 A. No, Judge, in Templemore, when I was down there and 10:54
6 they called out the stations, I was never in Bray in my
7 life and I remember saying to a guard in my class, God
8 rest him, RIP now, but I said to him, what's Bray like?
9 I remember he turned around to another guy who was from
10 Dublin and the two of them looked at each other and 10:54
11 said, oh, it's a lovely seaside town, it's a big nice
12 town and you'll have fun there, it's a lovely place and
13 all the rest. And Bray is a tough spot, I will just
14 leave it at that. But I knew why they were laughing at
15 each other, after my time in Bray. 10:54

16 36 Q. We will not go too far into Bray. My sister lives in
17 Bray. Let's not worry about that.

18 A. I looked to get down the country because it was time to
19 move.

20 37 Q. I see. I will come back to this in a moment. You make 10:54
21 these disclosures, you've explained what your
22 motivation was for doing that. The person who gave you
23 the information formed the basis for what I think is
24 issue 1. That person, as you have told us, wasn't, as
25 far as you knew, engaged in any criminality at all, is 10:55
26 that right?

27 A. This is the person that came forward the day after, I
28 think.

29 38 Q. Yes.

1 A. Or made contact the day after I made my complaint.

2 39 Q. I see. Yes, that's right.

3 A. Yes.

4 40 Q. The chap you went to see in Galway?

5 A. Yes. I had nothing to do with that person prior to 10:55
6 making a complaint. That person had heard stuff on the
7 news and volunteered, I understand he made contact with
8 the Garda station and basically I met him on 10th May
9 2014.

10 41 Q. Yes. Just how you met him, as I understand from your 10:55
11 evidence, was that someone had phoned the station and
12 left a message for you, is that right?

13 A. Yes.

14 42 Q. That person spoke to Garda Turner, is that right?

15 A. Another guard spoke to another guard, who passed the 10:56
16 message on to me, for this contact number.

17 43 Q. The number was given for you to ring that person?

18 A. And I contacted, this is possibly 9th May 2014.

19 44 Q. Right. So this is the day after you had seen Judge
20 McMahon? 10:56

21 A. Yes.

22 45 Q. You made an arrangement to meet, is that right?

23 A. Yes.

24 46 Q. As I understand it, you then went to Galway on the
25 Saturday night? 10:56

26 A. Yes.

27 47 Q. And you met the person?

28 A. Yes. The person, I don't know where, on some street --
29 I would have known --

1 48 Q. It doesn't matter.

2 A. He jumped into the -- he didn't jump -- he got into the
3 passenger seat of the car and we pulled into the car
4 park and he told me his story. My story, which I had
5 already two days before spoken to Judge McMahon, you 10:57
6 know, about, my story was fairly right but this person
7 was really able to hammer down into finer detail on
8 stuff that I had said maybe in a general way, this
9 person was able to tie it down really accurately.

10 49 Q. That person, as I understand it, wasn't willing to make 10:57
11 to make the statement, is that right?

12 A. Yeah. Yes, that's correct.

13 50 Q. But you made notes of what the person was saying, is
14 that right?

15 A. When I asked for a statement, Judge, from my 10:57
16 recollection he said, I have to think about this. Then
17 I said, fine, look, I understand the position. Because
18 this person is now -- everything had turned right in
19 his life and he was working, he had a child, he was
20 settled and everything was going well. This was stuff 10:58
21 to do with his past. So, I then had said fair enough,
22 I said, is it okay if I take just some notes about
23 this. So he agreed to that. So I wrote down in
24 longhand in the car, just a couple of notes, I think
25 it's on maybe five pages of notes, that was it, 10:58
26 roughly.

27 51 Q. Yes. We know that from other evidence, other material,
28 you handed over that material. Certainly by that time,
29 the investigation team knew who that person was, is

1 that right?

2 A. Yes. I passed over everything to the investigation
3 team.

4 52 Q. I put this just directly to you, it's been effectively
5 suggested to you in cross-examination that the real 10:58
6 reason you were making these disclosures was that, for
7 want of a better expression, you wanted to be famous;
8 what do you say about that?

9 A. Yeah, I got that thing, obviously. Yeah. I mean, I'm
10 a private person, Judge. As I said, even with all the 10:59
11 stuff --

12 MR. MURPHY: Chairman, I don't believe that suggestion
13 was put to this witness, or what was put to him was the
14 way in which he attracted attention after he made his
15 complaint. 10:59

16 CHAIRMAN: Okay.

17 MR. MURPHY: It was never put to him that he made his
18 protected disclosure because he wanted to be famous.

19 MR. KELLY: Okay.

20 CHAIRMAN: I think that's is correct, Mr. Kelly. 10:59

21 MR. KELLY: Okay.

22 CHAIRMAN: There is a core but it comes later.

23 MR. KELLY: I can deal with it.

24 CHAIRMAN: Yes.

25 53 Q. MR. KELLY: Okay. You make the disclosure. 10:59

26 A. Yes.

27 54 Q. It's broadcast in the Dáil, there's a lot of coverage.
28 Did there come a time when you thought, wow, I'm really
29 enjoying all this attention, I'm famous?

1 A. Oh Judge, I will never forget walking into work that
2 night, it was the same night, it was the first time I
3 had come in after I met the judge. Then there was the
4 incident in the Dáil, which, Judge, ironically --

5 55 Q. Look, it's a straightforward question? 11:00

6 A. Yeah.

7 56 Q. Once this was coming out, did you think, wow, this is
8 great, now I'm famous?

9 A. No. Judge, I fully -- at that stage, bear in mind, I'm
10 in the next 24-hour station up from Sergeant McCabe, 11:00
11 he's in Mullingar, I'm in Athlone. I'm aware of what
12 happened to Sergeant McCabe and Garda Wilson, so.

13 57 Q. In the intervening years, just to round that one off,
14 did there ever come a time where you thought, wow, I'm
15 really enjoying all this attention? 11:00

16 A. Judge, I wouldn't have been -- if I was enjoying it so
17 much, I wouldn't have been turning to drinking in the
18 way I was. My drinking, Judge, a lot of the time ends
19 up solitary drinking, it's not that I'm, you know, out
20 at nightclubs bopping around to Bob Marley or anything 11:01
21 like that. I was solitary drinking on my own. There
22 is no enjoyment in that, Judge.

23 58 Q. Just about alcohol, because it has featured quite a lot
24 in the questions, I put it to you directly, is there
25 any truth in any suggestion that might be made, look, 11:01
26 you were just drunk, paranoid, and had no real idea
27 what on earth you were doing, you were creating a fuss.

28 A. Well, if that's the case, Judge, I gathered an awful
29 lot of evidence. The evidence is there and to this

1 day, Judge, we're what, we're 2019, I don't believe any
2 of the evidence has actually been shot down as being
3 false or anything like that.

4 59 Q. Yes. So, that suggestion, I put to you, you just
5 completely reject, you say is completely wrong? 11:02

6 A. Oh absolutely. I absolutely reject.

7 60 Q. That's fine. Now in your evidence you described
8 yourself as being a sitting duck, you were vulnerable.
9 What do you mean by you were a sitting duck?

10 A. Well, first, that refers to the first months, Judge, 11:02
11 when I made my complaints, going back to 8th May 2014
12 to 7th June 2014, that period of time, that month was
13 just dreadful, because it was -- other guards, as I
14 said, fine. A had an idea of what was going on. But
15 younger guards had no idea really of what had gone on 11:02
16 in Athlone or anything. It was like, Judge, they
17 thought -- when I went into work the first night, it
18 was like -- I will just go back to the day before,
19 let's say, when I'm a guard on the 7th May and I'm
20 working, just a normal guard and everyone treats me 11:03
21 normal and everything is grand. By the 8th May I'm
22 like an alien walking around in that station for the
23 next month, because people don't know what am I going
24 to be complaining about someone, some other guard
25 letting Mrs. O'Reilly down the road off for not wearing 11:03
26 a seatbelt or something like that.

27 61 Q. So you felt just very exposed and vulnerable, is that
28 right?

29 A. Yes.

1 62 Q. Now, you were written to by Noreen McBrien on the 23rd
2 July, asking about the CHIS entry, I think that's pages
3 163 and 165 of volume 1. Perhaps we could just call
4 those up. 163 in volume 1. Let's just remind
5 ourselves, she was the superintendent then, you had 11:04
6 made the disclosure back on the 8th of May, there was
7 the Pulse entry. It is written directly to you.
8
9 "With regard to the intelligence report..."
10
11 She gives the name. 11:04
12
13 "...created on the 18th May."
14
15 This is the 23rd July. 11:05
16
17 "I require a report from you indicating whether the
18 informant has been registered with CHIS in accordance
19 with Garda Headquarters directive."
20
21 Now, she is asking you there just simply was the 11:05
22 informant registered, not who the informant was, isn't
23 that so?
24 A. Yes, that's correct.
25 63 Q. I see you're replying then, which is standard, as 11:05
26 having been received on the 27th July. I will read
27 this correctly:
28
29 "This is not a CHIS matter --"

1 A. CHIS.

2 64 Q. CHIS, I'm sorry.

3

4 "The information is in the care of Assistant
5 Commissioner Donal Ó Cualáin. Forwarded for your 11:05
6 information, please."
7

8 Is that right?

9 A. Yes. Just for clarification, CHIS, C-H-I-S, is covert
10 handling, I think, information. 11:05

11 65 Q. Information source or something of that sort, yes. So
12 that's your reply. By this stage you had passed, on
13 the face of this, the information over to Assistant
14 Commissioner Donal Ó Cualáin, is that right? That's
15 what you are saying here anyway, this handwritten note. 11:06

16 A. Yes, July 27th, that's correct.

17 66 Q. Now, in your view was that the only available way or
18 the most appropriate way to deal with the information
19 you had in fact received?

20 A. Yes. 11:06

21 67 Q. Right. Okay. Page 165, which is just two pages on
22 down in that, we then have another letter from the --
23 sorry, it should be 164, if we just go up one page. Do
24 you have that in the folder in front of you?

25 A. Yes. 11:07

26 68 Q. This is 18th September:

27

28 "Please see attached report."
29

1 It's from Superintendent Noreen McBrien.
2
3 "Please see the attached report from Garda Nicholas
4 Keogh dated 27th July 2014, which was forwarded to you
5 to Chief Superintendent Curran, divisional officer." 11:07
6
7 She then writes:
8
9 "Chief Superintendent Curran is not satisfied that this
10 negates our responsibilities as outlined in Garda 11:07
11 Headquarters Directive 126/10..."
12
13 We will come to that in a moment.
14
15 "...and has requested that the source be referred in 11:07
16 line with Garda policy.
17
18 Garda Keogh should comply with this request and report
19 by return."
20 11:07
21 So it's moved on to asking for the source, is that
22 right?
23 A. Correct, yes.
24 69 Q. Is that what you understood this to be?
25 A. Yes. 11:08
26 70 Q. That's what I understand it to be, but I'm interested
27 in what you understood it to be.
28 A. Yes.
29 71 Q. So they want to know who is it, is the question?

1 A. Yes.

2 72 Q. So your response comes back at 165, is that right?
3 That's your handwritten statement?

4 A. That's correct, yes.

5 73 Q. Yes. You then say: 11:08
6
7 "Chief Superintendent Curran is fully aware that there
8 is an ongoing investigation into alleged criminals..."
9

10 A. Criminality. 11:08

11 74 Q.
12 "...criminality involving members of An Garda Síochána
13 in the Westmeath division."
14

15 You then say: 11:08
16
17 "I believe it is inappropriate while the investigation
18 is ongoing for Chief Superintendent Curran to seek the
19 source related to intelligence report which is directly
20 linked to this investigation at this stage at least as 11:09
21 it could jeopardise the said investigation."
22

23 Just pausing there. By that stage you had handed the
24 material over to the investigation, is that right?

25 A. That's correct. 11:09

26 75 Q. You believed that that was the appropriate home for it,
27 is that right?

28 A. That's correct.

29 76 Q. That was because? why did you think it was appropriate

1 home for it?

2 A. I had handed all, the notes I took, the statement I had
3 attempted to take and all the information that I had
4 gained separate to -- everything I had at that time I
5 had handed over to Detective Superintendent Mulcahy and 11:09
6 Assistant Commissioner Donal Ó Cualáin.

7 77 Q. Was that because it related to the substance of what
8 you were saying?

9 A. It was central, it was central, absolutely central.
10 Because this was a window into -- as I said, what I had 11:09
11 pieced together in the jigsaw was fairly right, but
12 this additional material that I became aware of was
13 after I had met Judge McMahon, the confidential
14 recipient. This was the next day -- sorry, two days
15 afterwards this new avenue of information appears and 11:10
16 it is extremely accurate, far more accurate than what I
17 had, Judge.

18 78 Q. Yeah. You handed it all over, it related to it and you
19 believed that that was really, as you say, the
20 appropriate home for it. You then go on to say this: 11:10
21
22 "I wish to add that I have been advised..."
23
24 This is again page 165, the last paragraph in last
25 section. 11:11
26
27 "I wish to add that I have been advised by Judge
28 Patrick McMahon not to speak with any member of An
29 Garda Síochána about any part of this investigation

1 with the exception of the investigation team under
2 Assistant Commissioner Ó Cualáin and, therefore, I
3 request that any dealings between myself and Chief
4 Superintendent Curran, divisional officer, should not
5 be informal." 11:11

6
7 Is that right?

8 A. That is --

9 79 Q. "I intend to be..."

10
11 Is it compliant? 11:11

12 A. Compliant, yes.

13 80 Q.

14 "...compliant once the investigation has been
15 concluded." 11:11

16
17 A. Yes.

18 81 Q. Now, what I am concerned about is what was in your mind
19 at that time. You had recovered this information, or
20 provided the information which you had got as important 11:11
21 to the disclosure you had made, an investigation team
22 had been appointed. You had handed the material over
23 to them, is that right?

24 A. Yes.

25 82 Q. You believed, did you, that that was the proper way to 11:12
26 do it?

27 A. Yes.

28 83 Q. Okay. Now, we have had referrals to the CHIS rules,
29 the Garda Headquarters circular 185 of 2005. I think

1 that's at volume 28, page 8122. Have you found that?

2 A. Page 8122?

3 84 Q. Yes.

4 A. Yes.

5 85 Q. That is the document which you are being referred to 11:12
6 there. You will see that it is that document, because
7 it says in the top right-hand column:
8
9 "Headquarters directive 126/10."
10 11:13

11 Is that right?

12 A. Yes.

13 86 Q. Just read that there?

14 A. The whole --

15 87 Q. No, no, just read it to yourself, familiarise yourself 11:13
16 with it?

17 A. Okay.

18 88 Q. That's not the Code, we can clearly see, but a letter
19 about the Code, signed by the then Assistant
20 Commissioner Nóirín O'Sullivan, is that right? 11:14

21 A. Yes.

22 89 Q. It then makes reference to another directive, in the
23 penultimate paragraph, saying:
24
25 "This directive should be read in conjunction with HQ 11:14
26 Directive HQ 185/05 and divisional district officers
27 will ensure that its contents are brought to the
28 attention of all personnel."
29

1 A. Judge, all I have in front of me is -- I think it's on
2 the screen as well.

3 CHAIRMAN: If you can read it you're a better man than
4 I am, I will tell you that.

5 WITNESS: I just can't -- there's words. 11:16

6 CHAIRMAN: Your point, Mr. Kelly, is, this is similar
7 in a way to the previous document, in that it is a
8 reference to the Code but it's not actually what the
9 Code says. That's what you are saying.

10 MR. KELLY: That's right, yes. 11:17

11 CHAIRMAN: So, subject to anybody producing, and
12 presumably at some point we will get a proper copy of
13 this, why don't we move on, on the assumption that
14 you're correct, because that's my understanding.

15 MR. KELLY: We are going to and I am moving towards 11:17
16 going to the Code.

17 CHAIRMAN: I understand that, absolutely.

18 MR. KELLY: The point I'm making here --

19 CHAIRMAN: Absolutely. This another reference,
20 although it's referred to in the document, it's not 11:17
21 actually the core rule, so to speak, that's being
22 invoked.

23 94 Q. MR. KELLY: Yes. Just to complete this paper trail,
24 although it is perhaps rather pointless. 106/10 refers
25 to 185/05. Your view at that time anyway was that it 11:18
26 couldn't have been a CHIS matter because you made a
27 protected disclosure. The CHIS thing, we will come
28 onto it in a moment, it doesn't actually appear to deal
29 with that exact situation certainly at the time; that

1 is someone making a protected disclosure and what's to
2 happen vis-à-vis CHIS.

3 A. CHIS.

4 95 Q. CHIS. Yes, I'm sorry.

5 A. And it had nothing, nothing to do -- it had nothing -- 11:18
6 this is a separate, unique matter, Judge. It's not --
7 I've gone into this somewhere in the last two weeks.
8 This is a different --

9 CHAIRMAN: I thought you were saying, and Mr. Kelly can
10 correct me and you will correct me if I am wrong, I 11:18
11 thought that you were saying it's one thing to engage
12 or recruit, so to speak, an informant, such a person
13 has to be registered on the system. No question about
14 that. As I understand your position.

15 A. Yes. 11:19

16 96 Q. CHAIRMAN: Here was a situation where somebody had come
17 forward with information relating to historical events
18 that had happened some years before and this person was
19 not now going to be engaged as an informant, this
20 person had provided relevant information on a one-off 11:19
21 basis relating to historical events?

22 A. Correct.

23 97 Q. CHAIRMAN: That's my understanding of what your
24 challenge to the suggestion that this was a CHIS
25 matter? 11:19

26 A. That's correct.

27 98 Q. CHAIRMAN: Am I understanding that right, that's your
28 position?

29 A. Yes.

1 CHAIRMAN: Now, Mr. Kelly is going to take you to the
2 actual CHIS rules and no doubt we will see what they
3 apply to.

4 MR. KELLY: You're absolutely right, Judge, that
5 accords with my understanding of it as well. I am
6 going to go into it but not just perhaps immediately.

11:19

7 CHAIRMAN: In due course, Mr. Kelly.

8 MR. KELLY: Yes. No, no, we will get there.

9 99 Q. On the 18th May you created an entry on Pulse in
10 respect of the person that was Ms. B, it's Volume 7,
11 page 1802. We will just have a look at it to remind
12 ourselves of it. Now, we have been through that.

11:20

13 Again, when you spoke to Noreen McBrien on 23rd July
14 asking about the register, that's page 165, we already
15 looked at it. You say it's not a CHIS matter and
16 because of that you didn't report it. Again, we've
17 looked at this page, I won't take you back to it, you
18 gave Inspector Farrell and Superintendent McBrien that
19 same explanation at 165, is that right? You say you
20 couldn't discuss it?

11:21

21 A. Yes.

22 100 Q. What you were saying at that time, it's not a CHIS
23 matter, it's all down to the protected disclosure, it's
24 all over with this investigation team and that's where
25 it's to be, is that right?

11:21

26 A. Yes.

27 101 Q. And layered on top of that, you had also, you said,
28 spoken to Judge McMahon, who said, as you understood
29 it, there should only be one investigation, just deal

1 with them?

2 A. Yes.

3 102 Q. Is that right?

4 A. I recall he made reference to the Morris Tribunal in
5 Donegal, where he said, you can't mount all different 11:22
6 investigations -- or Judge Morris I think may have
7 found that they shouldn't have done it up there in
8 Donegal, that that's what they tried to do, divide it
9 all up and mount different investigations. That was my
10 interpretation of what Judge McMahon said, yes. 11:22

11 103 Q. It's not, insofar as I have been able to see anyway, in
12 Judge McMahon's statement, but it's something that
13 perhaps gives evidence. It is more properly a question
14 probably directed towards him, as to when and where
15 that was. I see there are other entries in your diary 11:22
16 and so on, going up to Stillorgan and all of that, I
17 can pursue that with him.

18
19 I want you to look at volume 1, 304. There is a
20 reference down the bottom of the page, you will see, 11:23
21
22 "Judge McMahon said the following findings from the
23 Morris Tribunal, Chief Superintendent Curran/Inspector
24 Farrell..."

25
26 I think that says: 11:23

27
28 "... couldn't mount such a series investigation. There
29 should only be one investigation. He said he would

1 raise the issue with the Commissioner."

2

3 Is that right?

4 A. Just for clarification, Judge McMahon didn't name
5 names. If I have it in here that he named names, 11:23
6 that's not correct.

7 104 Q. Yes. But that is what you were referring to?

8 A. Yes.

9 105 Q. So you were asking him, look -- well, what were you
10 asking him? 11:24

11 A. Just from recollection, I was obviously informing him,
12 listen, there's this Liam McHugh matter, this Olivia
13 O'Neill matter, they're trying to make out -- trying to
14 make out that I am getting people to make complaints or
15 whatever. I would have explained that this is 11:24
16 emanating from the chief's office in Mullingar whilst
17 the main Garda investigation team under Commissioner
18 Ó Cualáin is based in Galway. So we now have gardaí in
19 Galway who are investigating my complaints and gardaí
20 in the chief's office in Mullingar that appear to me to 11:24
21 be mounting investigations into me.

22 106 Q. Yes. So by that stage your senior officers were
23 insisting on relying on Garda policy to have the name
24 of the informant, is that right?

25 A. Yes. 11:25

26 107 Q. That's how you saw it?

27 A. Yes, Judge. I think in that letter I wrote to
28 Superintendent McBrien on the 26th, the handwritten
29 letter, where I make --

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"In relation to HK directive 126/10, this does not appear to cover this particular situation. Perhaps Chief Superintendent Curran could furnish to me the exact wording that he refers to be outlined in HQ directive 126/10."

11:25

108 Q. Yes. The final stage, 18th September 2014, page 164, which will be volume 1, if you have it there, do you?

A. I have it.

11:26

109 Q. You have got it.

A. Page 164.

110 Q. 164.

A. Yes.

111 Q. Now, this, it will be up on the screen now, you will see it's a letter of 18th September 2014, from Superintendent McBrien, in which she makes reference to the attached reported, we have already looked at. She says:

11:26

"Chief Superintendent Curran is not satisfied that this negates our responsibilities as outlined in..."

The directive we have looked at.

11:26

" -- and has requested that the source be referred to in line with Garda policy."

11:27

So there is a move to release your source?

1 A. Yes.

2 112 Q. what did you feel about that?

3 A. Judge, there was no way I could release the source to
4 the chief in Mullingar. Judge, bear in mind, the
5 allegations that I am making referred to criminality or 11:27
6 alleged criminality within the westmeath division and
7 he is the chief superintendent of the said westmeath
8 division.

9 MR. KELLY: Perhaps, Judge, at this stage it might be a
10 convenient moment to take a relatively short break. 11:27

11 CHAIRMAN: Certainly.

12 MR. KELLY: we are going to move onto a slightly
13 different topic or a derivative of it.

14 CHAIRMAN: Yes. Just give me the number, that last one
15 was 164, is that right? 11:27

16 MR. KELLY: volume 1, page 164.

17 CHAIRMAN: sure. Yes, we will take a short break. Say
18 ten minutes.

19 MR. KELLY: Yes, that is fine. Thank you.

20 CHAIRMAN: Okay. 11:28

21

22 THE HEARING THEN ADJOURNED BRIEFLY AND RESUMED, AS
23 FOLLOWS:

24

25 MR. KELLY: Garda Keogh, just to quickly recap just 11:41
26 what we have been over.

27 CHAIRMAN: Yes.

28 113 Q. MR. KELLY: Your initial disclosure was the 8th May.
29 A. Yes.

1 114 Q. You make a Pulse entry on the 18th May?
2 A. Yes.

3 115 Q. You meet the investigation team on the 7th June?
4 A. Yes.

5 116 Q. A month later you get a letter from Superintendent 11:42
6 McBrien on the 24th July?
7 A. Yes.

8 117 Q. You explained the position as you saw it?
9 A. Correct.

10 118 Q. Was that explanation accepted or ignored? I think we 11:42
11 probably know the answer to that.
12 A. I just can't remember, Judge.

13 119 Q. Right. Did anybody provide you with a reason to
14 explain why it was a CHIS matter other than referring
15 to the document we have already looked at, which 11:42
16 actually related to the management of CHIS?
17 A. No. Judge, I would have obviously been speaking to
18 Detective Superintendent Mulcahy about this issue and I
19 would have been outlining my views to him.

20 120 Q. Yeah. At this stage I am just going through the 11:42
21 timeline as it were?
22 A. Yes.

23 121 Q. Then in September, the document we looked at just
24 before the break, the local management come out and ask
25 you directly for the source of the information, is that 11:43
26 right?
27 A. Yes, that's the way it appeared to me, Judge.

28 122 Q. Yes. How did you feel about that as a system? Did you
29 feel, well, okay, they're entitled to do this, or, I

1 made a protected disclosure, or what?

2 A. Judge, personally I thought it was outrageous, where
3 the allegations are of criminality in Athlone, which is
4 in the westmeath division, and then we have the chief
5 superintendent of the westmeath division looking for 11:43
6 the source in relation to stuff which is certainly
7 connected and is aware that there is an investigation
8 team appointed. At that point I think we're at the
9 start, had commenced the investigation.

10 123 Q. Okay. Right. So this is all four months after you 11:44
11 made the disclosure, this is rumbling on. Now, you
12 made the Pulse entries concerning Garda A, which I
13 think we looked at, volume 7, 1802, I think we had it
14 open there before the break.

15 A. Yes. 11:44

16 124 Q. It's perhaps not necessity at this point in time to go
17 to it. What I want to then move on to is this: There
18 comes a time then when Garda A complains about the
19 making of that Pulse entry, which we have already
20 looked at, as apparently he believes it's about him. 11:44
21 Now, if we turn up to Volume 29, page 8336. It's on
22 the screen anyway. That is a letter, I think if we go
23 down to the bottom, we see it should be from Garda A,
24 yes. If we go back up, just leave it there. If we go
25 back up, just to establish the date of it. 11:45

26 A. 27th July 2014.

27 125 Q. Right. So at this stage you had made the entry, so
28 then, just filling in the chronology, Garda A writes
29 this memo:

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"With reference to the above,
I wish to report on the above intelligence record which
was created by Garda Nicholas Keogh on 18th May 2014.
I am obviously the senior member of the drugs squad
referred to in this report, as Garda Keogh has recently
made a number of complaints against me, which I believe
are as a result of a personal grievance which Garda
Keogh holds against me."

11:46

11:46

Just pausing there. So far as I am aware, I will be
corrected if I am wrong, nobody at that stage has
actually told Garda A that it's about him, have they?

A. I was never aware of this document until I read it in
the files, Judge. But just one thing I want to address
is, I had never made any allegations against Garda A
with the exception of the initial -- what I reported to
Detective Superintendent Mulcahy and Assistant
Commissioner Ó Cualáin on the 7th June 2014. So
there's no other allegations ever since Garda A from
me. That was it.

11:46

11:47

126 Q. So the point of it is this, the Pulse entry doesn't
name him, it names Ms. B, but not him, and then he on
this date is writing in, if you like, self identifying
himself, as no one else appears in the documents, has
self identified himself. Is that right?

11:47

A. It appears to be so.

127 Q. That then seems to lead to Chief Superintendent Curran
to write a report about that complaint, which I think

1 is at volume 7, at page 1802. If we can get that up.
2 And 3. Have you got that? That's 19th May 2014.

3 A. Yes.

4 128 Q. The first page. He attaches the correspondence with a
5 report from Garda A, he then says:

11:48

6
7 "As outlined in the attached correspondence, the report
8 of Garda A sets out his concerns regarding the
9 intelligence created by Garda Keogh and the fact that
10 this intelligence had become the subject of discussion
11 in Athlone Garda Station. Garda A has also stated that
12 it has on occasion resulted in him being the subject of
13 unfavourable comment by colleagues in an attempt at
14 humour which makes him uncomfortable."

11:48

15
16 Is what he says. Were you aware of that at the time?

11:49

17 A. I don't think so. I don't think so. I don't think so,
18 no. I think -- I think -- I'm not sure, Judge. I know
19 I definitely read it in the volumes.

20 129 Q. Yes.

11:49

21 A. I'm just not just at the time. I wouldn't think so.

22 130 Q. Right.

23 MR. MCGUINNESS: Chairman, might I just clarify one
24 matter there. This document is dated the 19th May, but
25 Chief Superintendent Curran has made an additional
26 statement identifying that this document, amongst some
27 other ones, are misdated.

11:49

28 CHAIRMAN: Yes.

29 MR. MCGUINNESS: This should be dated 10th September

1 2014.

2 CHAIRMAN: I see. It should be dated 10th September

3 2014.

4 MR. MCGUINNESS: Yes.

5 CHAIRMAN: So, it says 19 May, and it wouldn't make 11:49

6 sense if it was 19th May.

7 MR. KELLY: No.

8 CHAIRMAN: Because it couldn't make sense.

9 MR. KELLY: why?

10 CHAIRMAN: Because the entry was only made on the 18th 11:49

11 May, so there wouldn't be time for the complaint to be

12 made and to some the chief superintendent. But if

13 there is a question about the date, we will take it for

14 the moment -

15 MR. KELLY: Yes. 11:50

16 CHAIRMAN: - that there is an assertion that the

17 correct date is not the 19th May.

18 MR. KELLY: Yes.

19 CHAIRMAN: what date, Mr. McGuinness?

20 MR. KELLY: 10th September is the date Mr. McGuinness 11:50

21 has given.

22 CHAIRMAN: Thank you very much. We will take that it

23 is asserted that the correct date is 10th September

24 '14.

25 MR. KELLY: Yes. In my own mind, I flag May actually 11:50

26 means September.

27 CHAIRMAN: Subject to checking or revisiting it.

28 MR. KELLY: Absolutely.

29 CHAIRMAN: Yes.

1 131 Q. MR. KELLY: But in any event, that sets in train a
2 series of events. So Chief Superintendent Curran is
3 writing this letter outlining the complaints of Garda
4 A. I think we have already discussed the point that on
5 the basis of the evidence we have seen so far, nobody 11:50
6 had actually suggested to Garda A that the Pulse entry
7 was about him. So, now here it's out, Chief
8 Superintendent Curran is saying, well, look, he's
9 concerned about it. He is expressing his concern, that
10 we will see, I think, on the next page, 1804, this is 11:51
11 Chief Superintendent Curran concerned. It's the middle
12 paragraph:

13
14 "I am mindful of the complexity of the complaint in
15 view of the fact that this case also involves reports 11:51
16 made through the confidential recipient. However, I am
17 concerned with the intelligence system being utilised
18 to assert as fact an entry which directly relates to
19 members of An Garda Síochána. Accordingly, I am
20 seeking clarification as to what aspects of the 11:51
21 intelligence could be retracted..."

22
23 Is what mine says.

24
25 "...in view of the fact that not all of the information 11:52
26 appears to be pertinent to the kernel of the
27 intelligence created."

28
29 When did you see this document for the first time, from

1 Chief Superintendent Curran?

2 A. I don't --

3 132 Q. If you don't remember, just say so, it's fine. I will 11:52
4 just deal with this quickly and come back to it later,
5 let's see how we get on quickly with this on. You said
6 at one point, as I recall, in evidence, look, with the
7 Pulse entry, any guard starting off any investigation,
8 the first thing you'd do is go to Pulse, is that right?

9 A. That's correct, Judge.

10 133 Q. You go there, presumably as a starting point, to see 11:52
11 what's on there about them?

12 A. Yes.

13 134 Q. You're looking for person X, it doesn't matter, is that
14 right?

15 A. Judge, I have already said, if it's me and to day if I 11:52
16 was to be given an investigation, number one, I'll go
17 on to Pulse and I'll check up the person. Number two,
18 I'll check to see if they've a car and I'll go into
19 that. So it's person first and the car will be the
20 second. They will the standard things that you would 11:53
21 go into. Depending, if you find something on the
22 persons tab of interest, you go into that. But if you
23 don't find anything on the persons, you then go into
24 the car and see if there is anything on that.

25 135 Q. Okay. We will move on to look, if we may, at the 11:53
26 actual CHIS policy document. It's volume 28, 8056. If
27 we can call it up. Now, this is the actual policy
28 document. Hitherto you've just been referred to
29 documents referring to the it or about its management.

1 But this is the real thing, as it were.
2
3 If we go through that, we get a definition of what
4 covert human intelligence source is, hence the CHIS
5 definition. I think that's at 8067, I think. Right. 11:54
6 There we are at 3.2:
7
8 "A person who is in contact with criminals agrees to
9 regularly provide information or assistance to An Garda
10 Síochána in respect of criminal activity and in so 11:54
11 doing has an expectation that it will be treated
12 confidentially."
13
14 So, I suppose the word to point to there is
15 "regularly", is that right? This was a one-off, the 11:55
16 information you got?
17 A. Judge, I have always said this was not a CHIS matter.
18 136 Q. Yes. We will go through it and just look at it. So
19 that's the definition that we're looking at, all right?
20 A. Yes. 11:55
21 137 Q. Now, if we then go back to 2.5, 8062. Now, we will
22 start there at the top. It's talking in general about
23 such people:
24
25 "A covert human intelligence source can give 11:55
26 information solely with the intention of eliminating a
27 rival in the context of criminal activity. Also
28 provide information."
29

1 And so on. Then we look at 2.5:

2
3 "Individuals offer their services as a CHIS for devious
4 motives or reasons of self-interest. In this context,
5 serious and careful consideration of the CHIS' s 11:56
6 motivation must be undertaken. Any ulterior motive
7 must be identified and proper safeguards implemented to
8 ensure the interests of the public and An Garda
9 Síochána remain paramount."

10
11 So it's talking -- this is relating, bearing in mind
12 it's "regular". So you look at motives, perfectly
13 sensible stuff, you may think. Then you move down to
14 2.5(a), which begins with the words:

15
16 "Outside the CHIS system there will always be people
17 who pass on information to the Gardaí. In many
18 instances such contact will be once off. These people
19 may be described as 'public spirited citizens'
20 exercising their civic duties and in normal 11:56
21 circumstances need not be registered within the CHIS
22 system. It is important that An Garda Síochána
23 continue to receive information from such individuals
24 and that the CHIS system should in no way prevent this
25 from occurring." 11:57

26
27 Is that what you were relying on?

28 A. Yes, Judge. Judge, just as well, I would have had an
29 awareness of how the CHIS system worked, because I had

1 previously utilised the CHIS system previously in
2 unrelated matters to this.

3 138 Q. Yes. So, just, for someone like me, pretend for the
4 moment that I'm a guard, I'm sure it's something you
5 don't want to dwell on too much, I am wandering down 11:57
6 through Athlone and I meet somebody, they give me a bit
7 of information, I think, oh, that's useful. On your
8 basis, am I required to run back to the station and
9 register them up as an informant or just take account
10 of what's said? 11:58

11 A. Well, no, because firstly, the information, it'd have
12 to be evaluated, it would have to be tested if the
13 information was correct.

14 139 Q. Yes.

15 A. That again could be a once off. If it was a person 11:58
16 that was going to regularly supply information --

17 140 Q. Yes. The person you met wasn't on that basis, was it?

18 A. No, no, no.

19 141 Q. It was a one off, was it?

20 A. Yes. 11:58

21 142 Q. And they weren't engaged in any current criminality,
22 you have already told us that?

23 A. No. Yeah. Just for clarification, Judge, that person
24 did at later points, via I think a phone call and
25 perhaps text messages, they're in my diary anyway, they 11:58
26 are all recorded in my diary.

27 143 Q. Yes.

28 A. But did contact me with additional information over a
29 period of -- within, let's say, three months.

1 Everything I passed on to Detective Superintendent
2 Mulcahy. Everything.

3 144 Q. In this situation your superintendent, Noreen McBrien,
4 who you said you got on well with so long, we looked at
5 the letter she was writing to you, asking initially why 11:59
6 it wasn't registered and then secondly, the prompting
7 of the chief superintendent wanting the source, but at
8 that time she knew that you had made a protected
9 disclosure, is that right?

10 A. That would be correct. 11:59

11 145 Q. Chief Superintendent Curran knew that as well?

12 A. Yes. Everybody in Garda management would have known.

13 146 Q. Did anybody at that time take any steps to advise you
14 as to how the information could be dealt with in what
15 was a fairly unusual set of circumstances? 11:59

16 A. No. Well, the only person that would have gone into a
17 detailed conversation in relation to this would have
18 been Detective Superintendent Mulcahy. From my
19 recollection, he was happy that this wasn't a CHIS
20 matter either. Now he may dispute that, I don't know, 12:00
21 but that's from my recollection.

22 147 Q. Let's not speculate on what he may or may not say?

23 A. Yes.

24 148 Q. What I am asking you is about what you said.

25 A. My recollection is that he agreed that it wasn't a CHIS 12:00
26 matter.

27 149 Q. You were told or asked (a), why didn't you register it
28 and (b) give us a source. We already know, because we
29 looked at this document this morning, that you wrote

1 back and said that you wanted to know where in CHIS it
2 said you had to do it, what covered it?

3 A. Yes.

4 150 Q. Did you ever get that information?

5 A. No, no. I would myself have had an awareness that that 12:00
6 wasn't certainly not in HQ directive 126, that was
7 referred to in the original letter, that's why I
8 looked, where I think I wrote in that letter that I
9 wrote back to say where in HQ 126 does it refer to
10 this. But there was no reply back. 12:01

11 151 Q. So your point is, look, they wrote, they asked, I asked
12 where is it covered, show me. Nobody ever did?

13 A. Correct.

14 152 Q. Is the short point?

15 A. Yes. 12:01

16 153 Q. Okay. As I understand the evidence so far, the matter
17 sort of petered out around about September or October
18 because I understand Noreen McBrien went out sick and
19 the matter fell away, that is at least what I picked up
20 whilst you were giving evidence and being asked 12:02
21 questions by Mr. McGuinness. Is that right?

22 A. I'm aware that Superintendent McBrien went sick.

23 154 Q. Yes. What I am getting at, did they ever follow this
24 up beyond September or thereabouts?

25 A. Sorry. 12:02

26 155 Q. Did they ever follow this CHIS line up?

27 A. I've read a lot of to-ing and fro-ing in documents,
28 there's pages there with Garda -- it was very simple,
29 it was very simple, Chief Superintendent Curran could

1 have picked up the phone to Deputy Commissioner
2 Ó Cualáin, or assistant commissioner at the time
3 Ó Cualáin and said, listen, there's this issue. It
4 could have been very, very easily sorted. They could
5 have had a very quick meeting with Detective 12:02
6 Superintendent Mulcahy. But they chose to go down the
7 road of reams of paper and that.

8
9 Just for clarification as well, Judge, a reference was
10 made there, I took it up that it kind of like 12:03
11 Superintendent McBrien was behind this. I never
12 believed Superintendent McBrien was behind this, just
13 for clarification

14 156 Q. I understand that and I am sure the Chairman
15 understands as well. You had a good relationship with 12:03
16 Superintendent McBrien.

17 A. It's not that I had a good relationship or anything
18 like that, it's just I didn't believe she was behind
19 this.

20 157 Q. Right. 12:03

21 A. This part.

22 158 Q. You didn't believe she was behind it. What did you
23 perceive this all to be? In other words, clearly they
24 were asking this stuff, but why? What effect was it
25 having on you? What did you think they were trying to 12:03
26 achieve?

27 A. Em, Judge, I think -- I mean, a lot of -- within the
28 first month there 's five incidents, I recollect, where
29 the chief's office in Mullingar had a particular

1 pivotal role in the first five incidents in that May or
2 June period 2014, Judge. I would believe that they
3 were trying to -- trying to cut me off at the pass
4 perhaps. I don't know if it's the right phrase in this
5 context.

12:04

6 159 Q. well, look --

7 A. They knew I was dealing with Detective Superintendent
8 Mulcahy.

9 160 Q. Did you regard this as harassment?

10 A. Oh yes.

12:04

11 161 Q. They were getting at you?

12 A. Yes.

13 162 Q. Okay. I want to then just move on to issue 2, this is
14 the --

15 A. Just for clarification, when they are all put together,
16 like as well, there's not just one. Like I've
17 mentioned there in that first month period there was
18 about five different separate matters emanating from
19 the chief's office.

12:04

20 163 Q. Yes. Well, we covered the timeline, I am sure the
21 Chairman has got a handle on the timeline involved.

12:05

22

23 This is the Pulse entry Garda A that I want to move on
24 to. You were asked, whilst you were being questioned
25 on Day 100, page 15, line 7, it's not necessary to call
26 it up, unless someone wants it, you were asked what you
27 could check about a colleague on Pulse. From memory, I
28 think it was Mr. McGuinness was asking you, but it
29 doesn't matter who it was. What can you check about

12:05

1 someone on Pulse?

2 A. I could think, for example, any person in this room
3 that has been involved in, let's say, a traffic
4 accident or reported a handbag theft, was a victim of a
5 crime or a witness to anything, they would go onto the 12:06
6 Pulse system and I would be able to check pretty
7 much -- I could go into pretty much any person in the
8 country basically. There's very few people I'd say
9 that aren't on Pulse. Bear in mind, it came in in
10 2000, so from 2000 on, we're now in, what, 2019, so 12:06
11 virtually most people in the country would now probably
12 be on Pulse or there would be a Pulse record.

13

14 It can be viewed, and this is important, I forgot to
15 tell you Judge, I can check anything and I would leave 12:06
16 a trace. For example, it will show up if I have
17 checked anybody in this room, it will show up. But
18 senior, high -- there is, for example, a cloak on Pulse
19 where senior officers can check persons and not leave a
20 trace that would be visible to me as a guard. They 12:07
21 would have a higher level of access to Pulse.

22 164 Q. Okay. Look, leave aside my -- I was going to use a
23 word -- I will leave that to one side and move on. But
24 what could you check? You went to check him, Garda A
25 on Pulse, what were you seeking? 12:07

26 A. Anything.

27 165 Q. What were you after?

28 A. Anything. I was going to meet with detective
29 superintendent -- this is 18th May 2014 and I have to

1 meet them on -- at this stage I think I'm aware as
2 well, I'm due to meet them, I think, so I have to check
3 him on Pulse. I have to see if there is anything else
4 there on the system that I need to know. It could have
5 been on the face of it a little thing, like he -- 12:08

6 166 Q. It's perhaps not necessary to speculate, perhaps let me
7 reframe it this way: You go and you check him on
8 Pulse. Why were you checking him?

9 A. To see if there was anything additional that I needed
10 to bring to the attention of -- 12:08

11 167 Q. That's the bit I'm trying to get at?

12 A. Yes.

13 168 Q. It wasn't just out of idle curiosity, you wanted to
14 hand it over to Ó Cualáin, is that right?

15 A. Yes. I would do that with any investigation. Any 12:08
16 guard would do that. It's the thing a guard would do
17 if they're investigating anything, they will check on
18 Pulse to see what else is there, is there anything,
19 it's part of the whole initial process of evaluating is
20 there substance, is there anything, extra evidence, is 12:09
21 there something else we should look at. Pulse is where
22 it would be recorded on.

23

24 And, Judge, one thing as well, for clarification, what
25 we're referring to, what I'm checking is the individual 12:09
26 person tab on Pulse. As I said, most people here may
27 have a Pulse identification number, including myself,
28 but also then Garda personnel would have their own
29 thing, but that doesn't record incident -- that would

1 record perhaps work incidents and things like that.
2 But what I am giving evidence in relation to is I
3 checked the person tab, as in private.

4 169 Q. You told us why you would have done that and what it
5 was about. What we then know is that it then starts 12:09
6 and it triggers some other events. Garda A wanted a
7 report. That's to be found at volume 30, page 8619,
8 perhaps if we could have that up. volume 30. Right.
9 This is the report, complaint, whatever it is, from
10 Garda A: 12:10

11
12 "20th September, I noticed that the above named two
13 gardaí had checked my personal details in the Garda
14 system. I can think of no good reason as to why these
15 gardaí have been checking me. Garda [something] gives 12:10
16 his reason for checking as an incident inquiry, Garda
17 Keogh offers no reason at all for his using the Pulse
18 system to check me. I believe both these gardaí were
19 using Pulse for personal reasons and these checks were
20 in no way Garda related matters and that they may have 12:11
21 breached the Data Protection Act by carrying out these
22 checks."

23
24 Then he says:

25
26 "Garda [blank] performed his checks on the 9th May and
27 Garda Keogh performed his check on the 18th May. In
28 the light of the allegations that both these members
29 are accusing me of, I find this very sinister, that

1 both are checking me on the Pulse system and I am
2 worried as to who they might be passing this
3 information on to.

4
5 I would like this matter fully investigated, please." 12:11

6
7 You have told us why you were investigating and you
8 have told us what issue you intended to make and what
9 you found.

10 A. Yes. 12:11

11 170 Q. I don't want to know any of the details, but did you
12 find something that was of use that you could pass on
13 to Ó Cualáin?

14 A. No. No, Judge, was the answer. And just to clarify,
15 12:12

16 "I am worried as to who they might be passing this
17 information on to".

18
19 I was passing the information on to Detective
20 Superintendent Mulcahy, for clarification. 12:12

21 171 Q. And it concerned matters that he was investigating?

22 A. Yes.

23 172 Q. Okay. It was put to you that it was perfectly
24 reasonable for the management to ask you why you were
25 checking him. Did you supply that rationale at the 12:12
26 time?

27 A. I cannot remember, I just can't remember off hand.

28 173 Q. Okay.

29 A. But I would have been discussing this with Detective

1 Superintendent Mulcahy, because I would have been in
2 contact with him when all this stuff was going on. I
3 wasn't even -- I don't think I was even aware of this
4 report, Judge, until I read it somewhere.

5 174 Q. Okay. Well, you have had a long career in the Guards, 12:13
6 haven't you?

7 A. Sorry.

8 175 Q. You have had a long career in the Guards?
9 A. I joined in 1999.

10 176 Q. How many times during your career in the Gardaí have 12:13
11 made a Pulse check on somebody?

12 A. Oh, eh, thousands, Judge. Thousands, not even a
13 thousands, I'm talking thousands. I couldn't put a
14 rough figure on it, because checking persons, checking
15 cars, checking -- the Pulse system, it is actually an 12:13
16 excellent system, Judge. It's a net that records
17 everything and it's a brilliant system.

18 177 Q. Yes.
19 A. But thousands of times.

20 178 Q. You've told us why you made the check. Why did you 12:13
21 think that it was your responsibility to do this check?

22 A. Judge --

23 179 Q. Because you were providing information to the
24 information team, did you think it was part of that or
25 why was it down to you? 12:14

26 A. For clarification, and I touched on this in the
27 evidence over the last two weeks. Judge, this
28 investigation was my baby, excuse the term, until I
29 passed it over to Detective Superintendent Mulcahy.

1 And at that point in time I wanted to have as much
2 information and accurate information when I went to
3 Detective Superintendent Mulcahy. There was nothing, I
4 found nothing of any evidential value on the Pulse
5 thing but I still had to check. And that's it. 12:14

6 180 Q. Yes. So, we may conclude from that, might we, that it
7 wasn't just for personal reasons or out of idle
8 curiosity?

9 A. Oh no, no, no.

10 181 Q. It was to further the investigation, is that right? 12:15

11 A. Yes, to explore an avenue, it didn't even yield
12 anything.

13 182 Q. I am just now going to move on to what I think is the
14 third issue, Olivia O'Neill, which will probably take
15 us up to the break, I anticipate. Well, we will see. 12:15

16

17 This is 24th May 2014, Olivia O'Neill. You're in the
18 public office, as I understand it, is that right?

19 A. Yes. This is the first, first -- this is the
20 initial -- 12:15

21 183 Q. Yes.

22 A. Yes.

23 184 Q. She initially comes in.

24 A. Yes.

25 185 Q. It concerns a complaint, that she is coming in to 12:15
26 complain about a row had gone on which involved Ms. B;
27 is that right?

28 A. Yes. Just for clarification, she doesn't just come in.
29 She is sent in by the guards that are up at the scene.

1 186 Q. Oh, I see.

2 A. There is an incident and she is sent down to the
3 station. I just happen to be there when she walks in.

4 187 Q. Yes. I don't need all the details of it. So this is
5 in an estate down in Athlone, there is a row develops 12:16
6 or a fight or something?

7 A. Yes.

8 188 Q. The Guards are summoned, they come out?

9 A. Yes.

10 189 Q. They see her, no doubt other people. 12:16
11 A. Yes.

12 190 Q. They tell her to go down?

13 A. Yes.

14 191 Q. This is your understanding, down to the police station
15 and make a statement? 12:16
16 A. Make a complaint.

17 192 Q. Yes, make a complaint?

18 A. That would be a common thing within the Guards, and I'm
19 guilty of it myself, Judge. It's where you're at a
20 scene, you're out in the patrol car, you're dealing 12:16
21 with something, and instead of taking -- you see, a lot
22 of people, when you're dealing with things, a lot of
23 things, Judge, people want to make complaints at the
24 time. The next day they withdraw them and all this
25 sort of stuff and there's a lot of wasted paperwork, 12:16
26 Judge. So it's a common thing that a guard would do,
27 and, as I said, I'm guilty of it myself, we call it
28 kick to touch, where the guards at the scene didn't
29 deal with the investigation and they said, go down to

1 the station and make a complaint.

2 193 Q. I can see that for dealing with stuff going on, go down
3 to the station.

4 A. Yes.

5 194 Q. Right, you were in the public office, is that right? 12:17

6 A. Yes.

7 195 Q. Was it busy that night?

8 A. Em, I can't remember that night.

9 196 Q. Well, you have been asked about it before by the
10 Tribunal investigators, you said it was busy? 12:17

11 A. Well, Judge, can I just check my note.

12 197 Q. Of course you can.

13 A. It's May -- just the date please?

14 198 Q. I have it as the 28th May.

15 CHAIRMAN: Your note may have it as the 29th. 12:18

16 MR. KELLY: Yes, I am just looking.

17 CHAIRMAN: I have it as the 28th but I have a note to
18 say, or is this 29th. But I think you will find, if
19 you look at your diary, you will find that there's an
20 entry on the 28th also. 12:18

21 A. Yes, Judge.

22 199 Q. CHAIRMAN: It's not important. But we will take it as
23 the 28th unless somebody corrects us?

24 MR. KELLY: Yes.

25 A. For clarification purposes, Judge, I don't start using 12:18
26 diaries until -- you see, when I met Judge McMahon on
27 the --

28 200 Q. CHAIRMAN: Don't worry about that.

29 A. Yeah.

1 201 Q. CHAIRMAN: We have Garda Treacy and Inspector Farrell
2 and a variety of other people, all of whom dealt with
3 the incident on the same -- or sorry, dealt with
4 Ms. O'Neill on the same occasion.

5 A. Yeah, I don't think there is an issue on the date, 12:19
6 Judge.

7 CHAIRMAN: There isn't. We will take it as the 28th
8 until further notice.

9 202 Q. MR. KELLY: Yes. Let's not get too caught up on it.

10 A. From my recollection, just to answer the question, was 12:19
11 it busy that night? I knew there was an incident going
12 on in a certain part of Athlone, because I had heard it
13 on the radio and again, I was only half listening, I
14 don't know if it was me that sent the patrol car up to
15 it or how they went up there or how I was aware, I 12:19
16 don't know. I was just there. Judge, there were
17 guards in the public office as well and there may have
18 been I think members -- I think there may have been
19 members of the public in that public part.

20 203 Q. CHAIRMAN: But you don't particularly remember whether 12:20
21 it was busy or not?

22 A. I don't remember how busy it was.

23 204 Q. CHAIRMAN: Okay.

24 A. There was guards in the public office and I think --

25 CHAIRMAN: I don't think it matters whether it was busy 12:20
26 or not.

27 MR. KELLY: No.

28 CHAIRMAN: Mr. Kelly is just trying to get to you
29 recall as best you can what the information was.

1 WITNESS: Yes.

2 CHAIRMAN: And we are getting hung up on how busy it
3 was or how many people were there.

4 MR. KELLY: we're not going to get hung up.

5 CHAIRMAN: No, no. 12:20

6 205 Q. MR. KELLY: You're in the public office, Olivia O'Neill
7 has given in her statement, says you were on the phone,
8 you previously said it was busy. But anyway. She then
9 mentioned, you say, that there was police collusion in
10 the drugs trade; is that right? 12:20

11 A. I don't know if they're -- I don't think -- I don't
12 know -- I don't recollect the wording.

13 206 Q. Ms. B was doing favours for guards?

14 A. That, I recollect that, yes.

15 207 Q. So you are in the office, she is coming in. Where does 12:21
16 that, doing favours for guards, is it her that comes
17 out with it or someone else or you?

18 A. No, there's some issue. Whatever incident went on just
19 prior to this, Ms. O'Neill comes in to the station, in
20 to the counter, I just happened to be standing there. 12:21
21 So obviously I had no idea what she was going to say.
22 Then, when she started talking about Ms. B and what's
23 going on there. It puts me straightaway in an
24 awkward difficulty.

25 208 Q. CHAIRMAN: Can I see if I understand for a second? 12:21

26 A. Yes.

27 209 Q. CHAIRMAN: If it's okay. Ms. O'Neill comes in to the
28 station?

29 A. Yes.

1 210 Q. CHAIRMAN: As you understand it, this is related to the
2 matters that you have been hearing about on the monitor
3 as to a public order incident?
4 A. Yes.
5 211 Q. CHAIRMAN: Is that correct? 12:22
6 A. Yes, yes.
7 212 Q. CHAIRMAN: So here's somebody coming in from the public
8 order incident?
9 A. Yes.
10 213 Q. CHAIRMAN: Is that correct? 12:22
11 A. I'm not even aware of what exactly is going on.
12 214 Q. CHAIRMAN: No, no, not exactly, but you knew there was
13 an incident of some kind?
14 A. Some incident.
15 215 Q. CHAIRMAN: They come in. I thought she was there with 12:22
16 her daughter?
17 A. Yes, that's correct.
18 216 Q. CHAIRMAN: He comes in with her daughter.
19 A. Yes.
20 217 Q. CHAIRMAN: And the question is, if I understood, she 12:22
21 makes it clear that she is complaining about Ms. B -
22 A. Yes.
23 218 Q. CHAIRMAN: - allegedly assaulting her daughter; is that
24 correct?
25 A. Yes. 12:22
26 219 Q. CHAIRMAN: That she was the subject but she's bringing
27 her daughter with her?
28 A. Yes.
29 220 Q. CHAIRMAN: Is that correct? Have I got that right?

1 A. That's correct Judge. And at some point --

2 221 Q. CHAIRMAN: This is how Ms. B comes to be relevant to
3 the conversation?

4 A. Yes.

5 222 Q. CHAIRMAN: I'm sorry, Mr. Kelly, I am trying to confirm 12:22
6 my own recollection of this incident.

7 A. And at some point then, Judge, she mentions about --
8 goes further about Ms. B.

9 223 Q. CHAIRMAN: Yes.

10 A. And says Ms. B is doing favours for guards. She's 12:23
11 doing favours for guards and I can't even recollect now
12 exactly what else.

13 224 Q. CHAIRMAN: Okay.

14 A. But I then said to her, right, I think I called
15 Sergeant Haran and I said, this lady is looking to make 12:23
16 a statement. Sergeant Haran I think then got -- asked
17 sergeant Stephanie Treacy to take a statement.

18 225 Q. CHAIRMAN: I thought you thought, if she's naming
19 Ms. B, that you were concerned in affairs concerning
20 Ms. B? 12:23

21 A. Oh yeah.

22 226 Q. CHAIRMAN: But you're missing out this bit, you're not
23 telling us this bit. That you decided that you better
24 not take the statement?

25 A. Yeah. 12:23

26 227 Q. CHAIRMAN: Is that right?

27 A. Well I couldn't take the statement.

28 228 Q. CHAIRMAN: No, I understand that, but you are
29 forgetting that bit, you're leaving that bit out of the

1 story?

2 A. No, I'm coming back, sorry, Judge, I was to come back
3 to that, because when she then said --

4 229 Q. CHAIRMAN: I'm sorry, forgive my impatience.
5 A. When she said, Judge, about -- 12:24

6 230 Q. CHAIRMAN: First of all, Ms. B was the subject of the
7 complaint?

8 A. Yes.

9 231 Q. CHAIRMAN: She was complaining that Ms. B had assaulted
10 her daughter? 12:24

11 A. Yes.

12 232 Q. CHAIRMAN: Another thing.
13 A. She then said, Ms. B is doing favours for guards, and
14 she mentioned some other stuff as well.

15 233 Q. CHAIRMAN: Okay. 12:24
16 A. I then told her, when you're making your, name names
17 and name guards, is what I said to her.

18 234 Q. CHAIRMAN: But in the meantime, you had decided you
19 weren't going to be taking the statement, is that
20 right? 12:24

21 A. Yes.

22 235 Q. CHAIRMAN: Because that would be more appropriate or
23 something of that kind because you were in some way
24 concerned with affairs, is that right?

25 A. Judge, yes. There was two things. I think I was at 12:24
26 the public office, I think, I can check my diary.

27 236 Q. CHAIRMAN: Don't mind about checking the diary, just
28 tell us.

29 A. I think I was at the public office anyway.

1 237 Q. CHAIRMAN: I mean nobody has suggested that there was
2 the slightest thing incorrect, improper, nobody has
3 suggested that.
4 A. Not here, Judge.
5 238 Q. CHAIRMAN: Hold on. In this Tribunal. 12:25
6 MR. KELLY: Yes.
7 CHAIRMAN: Now, Mr. Kelly.
8 MR. KELLY: No, that's fine.
9 239 Q. So, look, summarising it this way, you're in the
10 office, she comes in with her daughter, making an 12:25
11 allegation, saying that the daughter has been involved
12 in this complaint?
13 A. Yes.
14 240 Q. Ms. B is involved in this as well. It's a complaint
15 essentially against her, is that right? 12:25
16 A. Yes.
17 241 Q. Yes. Presumably you then think, alarm bells start
18 ringing, wow, I'm conflicted here because I'm not the
19 person to do this?
20 A. But also, she went further, she mentioned about Ms. B 12:25
21 doing favours for guards and there was something else.
22 She then -- yeah.
23 242 Q. Just pause there for a moment.
24 A. Right.
25 243 Q. She mentions Ms. B doing favours for guards. You had 12:26
26 told her -- you realised that you are involved in this
27 internal investigation and you might be conflicted, you
28 told her you would get another guard to take her
29 statement, is that right?

1 A. Yes. And, of course, the elephant in the room is, I
2 knew exactly who she was on about.

3 244 Q. Yes.

4 A. It was common knowledge, as I've said.

5 245 Q. Yes. You told her, in your evidence, to name names and 12:26
6 name guards?

7 A. Yes.

8 246 Q. What did you mean by that?

9 A. Put the names of whoever she's on about into the
10 statement. 12:26

11 247 Q. In other words, tell everything?

12 A. Yes.

13 248 Q. Is that right?

14 A. Yes.

15 249 Q. Is that what it amounts to? 12:26

16 A. Yes. To tell -- yes. I can't recollect exactly
17 what -- the one part I can recollect exactly, because I
18 think I took a note of it, is, name names and name
19 guards, which is essentially --

20 250 Q. Perhaps we can conclude this section on this bit: Were 12:27
21 you prompting her to go and make some sort of
22 allegations against guards?

23 A. Absolutely not. If this -- I don't want to --

24 251 Q. Were you coaching her?

25 A. Absolutely not. No way. And, Judge, if this is 12:27
26 actually dealt with properly, and that's why I don't
27 want to be critical of guards that were at the scene,
28 they should have dealt with that. It shouldn't have
29 been her sent down to the station.

1 252 Q. CHAIRMAN: That's the least of our worries.
2 A. Yes.

3 253 Q. CHAIRMAN: That is the least of our worries. Your
4 position is, as Mr. Kelly summarised it, in two words,
5 what you were saying to her was, tell everything? 12:27
6 A. Yes.

7 254 Q. CHAIRMAN: That's what you were saying. He correctly
8 summarises that?
9 A. Yes. That is, Judge, my case on this particular
10 matter. 12:27
11 CHAIRMAN: I understand. All right. Thanks very much.
12 MR. KELLY: Okay.

13 255 Q. Three words, cough them up.
14 CHAIRMAN: Two words, tell everything, is what I am
15 saying. 12:28
16 MR. KELLY: well, I was using three there.
17 CHAIRMAN: Thank you very much. All right. Thank you
18 very much. Very good. Two o'clock. Thank you.
19

20 THE HEARING THEN ADJOURNED FOR LUNCH AND RESUMED AS 12:28
21 FOLLOWS:
22

23 256 Q. MR. KELLY: Garda Keogh, before lunch we were on the
24 matter of Olivia O'Neill. If you turn up the statement
25 of -- it's volume 30, page 8687. If we look down at 14:03
26 the bottom of that, that just simply identifies who the
27 author is; Nicholas Farrell, an inspector or
28 superintendent, well, superintendent. If you go to the
29 first, the page before that, it's a letter dated 29th

1 May 2014. This is the following day. The account is
2 given there.

3
4 "Ms. O'Neill came into the station, met with Garda
5 Keogh, the public officer. Outlined her complaint. 14:04
6 Garda Keogh was busy on other duties. Sergeant Haran
7 asked Garda Stephanie Treacy to take a statement of
8 complaint from Olivia O'Neill."

9
10 Then it goes on to record how - none of this is in 14:04
11 dispute:

12
13 "Garda Treacy was about to record a statement,
14 Ms. O'Neill stated that she was advised that Ms. B is
15 friendly with certain other gardaí in Athlone Station 14:04
16 and that she's phoned prior to any search so that she
17 can get rid of weapons or drugs. She also advised that
18 Ms. B is told when anybody makes a complaint or
19 statement against her that Gardaí cover up offences for
20 Ms. B. She was advised to ensure this information is 14:05
21 incorporated."

22
23 And so on.

24
25 "When Garda Treacy asked Ms. O'Neill who gave her this 14:05
26 advice, she said Garda Nick, just on the counter down
27 stairs."

28
29 Then to move on:

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"Ms. O'Neill made a statement of complaint in respect of her daughter, but declined to make a statement or formal complaint in respect of the advice given."

14:05

The preceding paragraph:

"Inspector Farrell had instructed that Ms. O'Neill should be invited to make a statement outlining her concerns relating to the advice given by Garda Keogh, that she should also be made aware of the options available to her in respect of bringing her concerns to the superintendent at Athlone and/or the Garda Ombudsman Commission."

14:05

I want to draw your attention to that third last paragraph:

14:05

"The advice allegedly given by Garda Nicholas Keogh is not appropriate in the circumstances and projects the image of An Garda Síochána in an unfavourable light."

14:06

It also places Ms. B in a vulnerable position from persons currently under investigation in the Athlone area."

14:06

So at that stage it would seem that Ms. O'Neill was asked to make a statement, it's confined just simply to the assault. She is then asked to make a statement of

1 complaint and to deal with the matters taking place
2 downstairs, but she declines to do so because of the
3 chronology.

4
5 So, at that stage there's no complaint, but then 14:06
6 Sergeant Curley seems to have taken a report from
7 Olivia O'Neill. I think that's volume 3, page 452. If
8 we get that up. This is, sorry, the statement to the
9 Tribunal of that date. Perhaps if you go back to 451,
10 the page before, this is the Tribunal investigators, 14:07
11 they put the passage that has been opened.

12
13 "I informed her I was conducting enquiries into the
14 information she had divulged to Garda Stephanie
15 Treacy." 14:07

16
17 This is a statement from Detective Sergeant Eamon
18 Curley. It was put to Ms. O'Neill, this is Garda
19 Curley:

20 14:08
21 "I explained to her that I wished to record a witness
22 statement from her outlining what she was told by Garda
23 Keogh. She replied she didn't wish to make a statement
24 and that she now couldn't really remember what was said
25 in the Garda station that night at all. Olivia O'Neill 14:08
26 declined to consent to the recording of a witness
27 statement from her despite being invited to do so."

28
29 Ms. O'Neill says:

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"I have been asked in respect of this extract from Detective Sergeant Eamonn Curley's report to comment on the accuracy or otherwise of what he has stated in respect of this interaction he had with me."

14:08

what she has told the investigators is:

"I recall two guards approaching me on the street. I wasn't at home when they came. They had called to the house and they were told where I was. I was down in my brother's house. I was out the front when they came. I knew they were guards when I saw them. I was having a cigarette. They were in a little black car. They pulled up on the side of the path, they wound down the window, they were just male Guards. They had files on their laps. They had asked me to get into the car. I said no, I would not. I asked them was I understand arrest. They said I was not under arrest. I said I would not get into the car. They asked me was I afraid. I said I was not afraid. They mentioned about Nick Keogh and they asked me what did Nick Keogh say to me. What were we talking about, were we meeting up all the time. They were not very nice to me. Garda Curley was doing all the talking. I know him previously from calling to my house on other matters. They asked me was I afraid to make a statement against Nick Keogh. I said I was not. I said, what is this all about? They went on saying about the allegations and said was it

14:08

14:09

14:09

14:09

1 Nick Keogh telling me to say all these things, but as I
2 have already said, he wasn't. When I say allegations,
3 it's what I said about Ms. B having ears in the
4 barracks. They kept wanting to know was I afraid. I
5 said I wasn't. They wanted to take a statement from me 14:10
6 in the car. They asked me did I meet up with Garda
7 Nick Keogh and what was Nick Keogh saying to tell me to
8 say about a certain guard."

9
10 Just pausing there. Were you ever telling Ms. O'Neill 14:10
11 what to say about any guard?

12 A. Never. Absolutely, I absolutely reject -- never.

13 257 Q.

14 "They asked me would Garda Nick Keogh ask me to make a
15 certain allegation about a guard. They didn't say what 14:10
16 guard that was. That is to the best of my knowledge.
17 Q. I have been asked other than what I have outlined
18 above have I ever been approached by any garda who
19 mentioned or spoke about Garda Keogh in conversation
20 with me and if so, to provide details of all such 14:11
21 conversations.

22 A. No, I wasn't."

23
24 what I want to know is, the reference to a little black
25 car, what sort of cars did you use in Athlone? 14:11

26 A. Judge there was an unmarked, at the time, a black opal
27 Vectra.

28 258 Q. That is a smallish, small black car, is it? Okay. In
29 your experience as a police officer, somebody attends a

1 station to make a complaint and, for whatever reason,
2 they decide not to make a statement, to leave it at
3 that. How often do the Gardaí then go out to their
4 house to ask them to make a statement?

5 A. Never. Never.

14:11

6 259 Q. why do you think -- in your view, why was this
7 happening in this way, as you saw it?

8 A. Oh, Judge, I believe this was to try and discredit me
9 in this matter and in the next matter, the two things,
10 Judge, this matter that we're dealing with, to
11 discredit me. They could discredit me on this issue,
12 it would affect the main issue obviously to do with
13 credibility in the main collusion complaint that is
14 under investigation by D/Super Mulcahy. And, Judge, I
15 have always maintained, they jumped the gun on this
16 matter and the next matter, in that neither Ms. O'Neill
17 nor Mr. McHugh had anything to do with my main
18 complaint. They weren't -- they'd nothing to do with
19 it.

14:12

14:12

20 260 Q. what did you understand the substance of the complaint
21 to be? what was it saying that you had done in
22 relation to Ms. O'Neill that was wrong?

14:12

23 A. My take on it is that they were trying to imply that I
24 was basically rounding up Ms. O'Neill to come in and
25 make --

14:13

26 261 Q. That you were coaching her?

27 A. Coaching her, correct.

28 262 Q. Fine. Let's move on to the next of those allegations,
29 Liam McHugh. That's an allegation that concerns events

1 that are said to have happened on 31st May 2014. It
2 seems to arise in this way: Garda Aidan Lyons makes a
3 statement regarding Liam McHugh, which I think is at
4 volume 42, page 11719. That is the whole statement.
5 A. Just for clarification, Judge, as well, these two, when 14:13
6 this Olivia O'Neill matter occurs, it's within a couple
7 of days the next thing appears, Judge.
8 263 Q. Right. If you just look at the page before, just to
9 set it in context. I will go through it quickly
10 because we have been through this before. It's page 14:14
11 11718. It's under the subheading "The complaint of
12 Mr. Liam McHugh". Have you found it?
13 A. Yes.
14 264 Q.
15 "In relation to the investigation into Liam McHugh's 14:14
16 complaint of Garda Lyons (me) on the 31st May, I recall
17 an occasion in the summer of 2014 when I was approached
18 on the street in Athlone by Liam McHugh.
19
20 Liam McHugh is known in Athlone for selling magazines, 14:14
21 the Big Issue, he was also known to sell cigarettes.
22
23 I recall on the 31st May Mr. McHugh informed me he had
24 recently been approached by the bald guard... "
25 14:15
26 Just pausing there, do you accept that's you or that
27 that's a description of you
28 A. Yes, Judge.
29 265 Q. Right.

1
2 "... who had asked him if he could remember the day
3 when he had been searched by three gardaí who had
4 seized €800 in cash from him and which was subsequently
5 spent in a pub, a local bookies and casino. The bald 14:15
6 guard then informed Mr. McHugh that if it were the case
7 that he wished to make a complaint in relation to this
8 then he (the bald guard) would back him up."
9
10 Just pausing there, that's what you understood the 14:15
11 allegation to be?
12 A. Yes.
13 266 Q. What's your reaction to that allegation?
14 A. From the minute -- when that allegation was formally
15 put to me, Judge, the way they went around this, I was 14:15
16 receiving correspondence first about my interactions
17 with Mr. McHugh. I didn't know what it was about.
18 Then I had to write on documents, which are before the
19 Tribunal, as to explain interactions and things like
20 that. It wasn't until a good period later that I 14:16
21 actually got -- Superintendent McBrien showed me the
22 actual contents of the allegation. Judge, from that
23 moment on, I absolutely rejected everything to do with
24 the allegation.
25 267 Q. Okay. The bit I want to particularly put to you is 14:16
26 over the next page, 11719, where Aidan Lyons, Sergeant
27 Aidan Lyons says at 4.31:
28
29 "My understanding is that Garda Keogh was encouraging

1 Mr. McHugh to make a false complaint."

2
3 what do you say to that?

4 A. I absolutely, absolutely, completely reject, Judge,
5 everything to do with this. Everything to do with 14:16
6 this. In relation to the Olivia O'Neill matter, like
7 there was an interaction with myself and Ms. O'Neill at
8 the counter, I don't dispute that, but this, this whole
9 thing, Judge, the whole thing, Judge, I would say is
10 false. I have said that from when it was first put to 14:17
11 me, Judge, not alone did I say I don't know anything
12 about it, I actually went further and said, this is
13 false.

14 268 Q. Yes. Now, we know that Aidan Lyons makes a report by
15 e-mail to Sergeant Curley. First, Aidan Lyons, who did 14:17
16 he work with? whose partner was he?

17 A. He was Garda A's partner at the time.

18 269 Q. It's then passed on to Inspector Farrell. If we then
19 turn to volume 30, page -- this is the one -- yes, the
20 first document, just for purposes of the transcript, 14:18
21 given that it's there, it's page 522, that's the
22 original report from Aidan Lyons. I think what I
23 referred you to was volume 30, page 8712. In this
24 document, you're being asked by Superintendent Noreen
25 McBrien: 14:19

26
27 "Further to our telephone conversation, can you provide
28 me with a report outlining your contact with Mr. Liam
29 McHugh over the past three months and the nature of

1 such interaction?"
2
3 Do you see, down below, whose handwriting is that?
4 A. Sorry, can I just get the page number?
5 270 Q. I'm sorry, 8712. 14:19
6 A. 8712?
7 271 Q. Yes.
8 A. Yes.
9 272 Q. Good. Bearing in mind the original complaint is 21st
10 May 2014, this is the 23rd July. Will you read out 14:20
11 what you have written there, "I wish to report..."
12
13
14 A. Addressed to Superintendent McBrien, Athlone:
15 14:20
16 "I wish to report I met Liam McHugh at 21:50 on the
17 19/7/14 Church Street, Athlone, while on the beat.
18 Prior to that I had no contact or dealings with Liam
19 McHugh over the past three months. Forwarded for your
20 information, please." 14:20
21
22 273 Q. Do you know why that was sent to you, that request was
23 sent to you?
24 A. I do now. I do now. I didn't at the time.
25 274 Q. At the time, right. Could we look at your diary entry 14:20
26 for the 20th July, it's volume 47, page 13265?
27 A. Yes.
28 275 Q. You see down at the bottom, it's the bottom right-hand
29 corner I think, because we see at the top, 17, 18,

1 possibly blanked out 19, and then there is 20 below.
2 Is that your note at the time?

3 A. Yes.

4 276 Q. Right. What does it say there? I have difficulty
5 reading the handwriting. But:

14:21

6

7 "On the beat met Liam McHugh. I heard the..."

8

9 what?

10 A.

14:21

11 "He said to me, I heard they ran you out of town. I
12 asked about when I last saw him in last one to two
13 years. Informed me approached re statement."

14

15 The next part is not relevant. The last line is not
16 relevant to the thing, Judge.

14:22

17 277 Q. Now at the time then this was going on, did you know
18 who the author of that original report was? In other
19 words, did you know that it was Aidan Lyons?

20 A. No, I only found out -- the first I saw of Sergeant
21 Aidan Lyons, I think was in 2018, I think. It was
22 during the Finn investigation. It appeared there at
23 some -- because I had no idea until then.

14:22

24 278 Q. Right. Now, I think it's undisputed that Noreen
25 McBrien reported the incident to Inspector Curran on
26 the 5th August. She confirms that she didn't actually
27 disclose Garda Lyons' identity to you?

14:23

28 A. Yes.

29 279 Q. We've heard that in the evidence.

1 A. Just for clarification, not alone did I have no idea,
2 it was a shock, an absolute shock when I saw who wrote
3 that report.

4 280 Q. Right. As far as you know, has there been any
5 investigation into the allegations, the alleged theft 14:23
6 of money?

7 A. Not that I know of, Judge.

8 281 Q. As far as you know, were any other guards if they were
9 involved in it?

10 A. I don't know, I don't -- I wouldn't -- as I have always 14:23
11 stated, Judge, I don't believe -- this certain
12 incident, if I am alleged to have been involved in it,
13 and anyway it didn't happen, I have no knowledge of it,
14 the thing even with the casino, Judge, I have a lot of
15 problems, gambling is a thing I do not do. I never -- 14:24
16 the Lotto, I do the Lotto the odd time. Absolutely
17 not.

18 282 Q. As far as you know nobody else was investigated, but
19 you were?

20 A. Correct. Judge, for clarification, they didn't even 14:24
21 investigate whether there was an alleged theft of
22 money.

23 283 Q. Yes.

24 A. The only thing they seemed to investigate was whether I
25 told Mr. McHugh to go and make -- to make a statement 14:24
26 or to make a complaint. That's the only thing they
27 seemed to have investigated, whether I actually told
28 him to go and make a complaint.

29 284 Q. What I am want to ask you is: what did you understand

1 the substance of the complaint to be?

2 A. Well, the substance of the complaint was that there was
3 a theft which involved -- an alleged theft which
4 involved three gardaí, of which I appeared to be one.
5 I allegedly then go back to Mr. McHugh and say, if you 14:25
6 report this, I'll back you up, is in a nutshell what
7 they --

8 285 Q. So this is coaching, making up evidence?

9 A. Yes.

10 286 Q. That's what you understood it to be? 14:25

11 A. Absolutely. I've said this from day one, this whole
12 thing, Judge, I always maintaining this whole thing is
13 sinister.

14 287 Q. Just to round that bit off, we know from the evidence
15 of Inspector Minnock at volume 4, you needn't call this 14:25
16 up, page 688, that he says:

17

18 "I believe Nicholas Keogh is correct in stating that no
19 investigation took place with regard to the monies."
20 14:26

21 It is corroborated again by Superintendent Curran.

22

23 It was put to you in evidence that the first time you
24 alleged the McHugh report was trumped up was when you
25 were giving your evidence. I may have misunderstood 14:26
26 it, if we call it up, it's transcript Day 100, page 86,
27 line 16. It's page 86

28 A. Just the line?

29 288 Q. We will call it up. It's page 86, line 16 is what my

1 note says.

2

3 "CHAIRMAN: Mr. McHugh never made this, this was
4 trumped up. I suppose what we are concerned about was
5 the response to that. And you don't say, they should
6 have known it was trumped up, you don't say that. You
7 say, no, they should have dealt with it differently.
8 One, you said they should have given it to Ó Cualáin,
9 and, I have to say, I am having difficulty with that,
10 because I understand Ó Cualáin or the assistant
11 commissioner to be saying what he said, I am difficulty
12 with that one.

13 A. Yeah.

14

15 CHAIRMAN: Mr. McGuinness is saying to you, look, they
16 got this report, whatever its credibility, here was a
17 report. They went off to you, you gave a report and
18 that seems to have been the end of it. Mr. McHugh was
19 approached, apparently would not make a statement?

20 A. Approached a number of times."

21

22 And so on. I think in fact, and we needn't call this
23 up unless it's disputed, that in volume 1, at page 125,
24 the third paragraph, you actually say that to the
25 Tribunal, that it was trumped up.

14:28

26 A. Yes.

27 289 Q. That's volume 7?

28 A. Judge, trumped up is an understatement, it was
29 absolutely sinister. I used the term trumped up but

1 it's even worse than trumped up. That's is my belief,
2 Judge.

3 290 Q. Judge, I will move on to a new matter, the
4 re-examination -- sorry, the alleged micro supervision
5 by Sergeants Martin, Moylan and Haran. Now, I think on 14:28
6 9th March 2015 that Superintendent Pat Murray became a
7 superintendent in Athlone, is that right?

8 A. Roughly, yes.

9 291 Q. I think it's your position, if I understood it
10 correctly, that from that date you were subject to 14:28
11 criticism and oppressive levels of supervision, is that
12 right?

13 A. Yes.

14 292 Q. Right. Now, Volume 1, page 187, this is a document
15 entitled "Sick Report 2nd April". So, on the 9th 14:29
16 March, this is the same thing, 2015, where
17 Superintendent Murray is saying:
18
19 "I have allocated Sergeant Martin as liaison person for
20 Garda Keogh, to allow him to discuss any work related 14:29
21 issues he may be having with a view to solving any
22 issues that may arise. Both Sergeant Martin and Garda
23 Keogh have been informed of this.
24
25 Sergeant Moylan, and in his absence Sergeant Haran, 14:30
26 supervise unit C, to which Garda Keogh is attached.
27 Both those sergeants should continue to supervise the
28 member in the normal way in relation to any work output
29 required of the member resulting from incidents he

1 attends or matters he is investigating."

2

3

Just pausing there, what is meant by "in the normal way"? Presumably this is just what normally happens?

4

5

A. Sorry, just which part? Where is that?

14:30

6

293 Q. Paragraph 2:

7

"Both sergeants should continue to supervise the member in the normal way."

8

9

10

Well, I take it in the station you're working under a sergeant with them. Are they looking over your shoulder all the time or what are they doing it?

14:30

11

12

13

14

A. No, no. A sergeant is a supervisor, just to make sure everything runs smoothly, Judge, essentially.

14:31

15

16

Sergeants would be over a unit. Every sergeant would usually have, depending on the unit, somewhere between four and eight guards under their supervision. And a sergeant would supervise just to make sure everything runs correctly.

14:31

17

18

19

20

21

294 Q. Then he goes on to say:

22

"Sergeant Moylan should sit down with Garda Keogh to go through his notebook, Pulse, the DPP and crime files list and ascertain if he requires help with any ongoing cases as he mentioned a harassment case he may be in difficulty with. Any issues arising should be immediately reported."

14:31

23

24

25

26

27

28

29

1 So here was the superintendent saying, well, go through
2 his notebook, Pulse, the DPP and crime files list, what
3 do you feel about that?

4 A. well, Judge, that word "help", Judge, could be replaced
5 with an another word beginning with H, to hammer, you 14:32
6 know.

7 295 Q. How long had you been in the Guards at that time?

8 A. what year? 2015, I joined in 2019 (sic) so I have
9 what, 15, 16 years.

10 296 Q. what message does this send, in your view, some 15 or 14:32
11 16 years in the Guards, your superintendent saying,
12 look, take this guy, go through his notebook, Pulse and
13 DPP crime files list?

14 A. Oh, it's as clear as day they're just looking for any
15 problem that they are able to hammer me with. With 14:32
16 that, this thing, the last thing, the line there:
17
18 "... as he mentioned a harassment case he may be in
19 difficulty with."
20 14:32

21 Judge, that's cropped up in a previous thing, where I
22 disputed that absolutely as well. In a previous, I
23 don't know was it last week or the week before, but I
24 didn't -- I had no difficulty with that case. I don't
25 know if you recall what I'm talking about. 14:33

26 297 Q. That's okay. I don't need to go into it too much at
27 this point. But here you are, is this treating you
28 like a child?

29 A. Oh yes. Yes, Judge. To put a third sergeant on as

1 well. And another, like another issue, just recently
2 I've been thinking about, Judge: with all that went
3 on, and Sergeant Martin was under pressure with other
4 matters, why would they put Sergeant Martin again into
5 the line of fire of what potentially is going to be 14:33
6 another explosive thing? Garda management were the
7 cause of that.

8 298 Q. Right. It was suggested to you that Pat Murray was
9 simply trying to introduce higher standards, greater
10 visibility, accountability, he said so in his 14:34
11 statement. What do you say to that?

12 A. Sorry?

13 299 Q. I will repeat the question.

14 A. Yeah.

15 300 Q. It was suggested to you that Pat Murray was merely 14:34
16 trying to introduce higher standards and greater
17 visibility and accountability. That's what he says in
18 his statement. What do you say to that?

19 A. I reject that. I just outright reject that. This is,
20 Judge, very clear. They're looking to find any 14:34
21 problems, any problems that they can find, notebook,
22 Pulse, DPP, crime file lists. To find any problem that
23 they can, have a go. To back that up, as has cropped
24 up in evidence with other things, incidents I was
25 investigating, when we go into the likes of the C&S and 14:34
26 things like that, just any little Mickey Mouse thing at
27 all, Judge, that they could hit me a dart with. That's
28 all it was. To try and find something else to keep me
29 under maximum pressure, Judge.

1 301 Q. Right. I am going to ask that volume 8, page 2187 be
2 called up. That's a note of a conversation between you
3 and Pat Murray on the 26th March. It's from 4:00 to
4 4:15. Have you got it in front of you?
5 A. 2187? 14:35
6 302 Q. That's correct, yes.
7
8 "Met Garda Keogh for the first time."
9
10 Are you looking at the right page? 14:35
11 A. Yes.
12 303 Q. The third paragraph:
13
14 "Told him anyone working here can come in at any time
15 and nothing can be done about that. I discussed work 14:35
16 related stress in terms of his coming to work today, if
17 work related stress was the issue. He said he had
18 certs from his doctor. I asked him if he had been to
19 the CMO. He said no and I said I would send him to
20 assess his stress because the in and out appearances do 14:36
21 not in my view support what he is saying."
22
23 You had your statement, he had asserted you're under no
24 stress.
25 A. Yes. I also dispute this part: 14:36
26
27 "I asked him if he had been to the CMO. He said no."
28
29 That can't be correct, Judge. I would have been with

1 the CMO before and I would have been on -- they would
2 have had a record of it, like I wouldn't have said no.
3 I don't what -- I dispute that part as well.

4 304 Q. what do you say to that note of his of the
5 conversation, you're saying that he had asserted to you 14:37
6 you're under no stress?

7 A. Judge, they knew, they knew absolutely I was under
8 stress. Even this whole thing, going through my work
9 in micromanagement, the attempt at micromanagement was
10 just to keep me under maximum pressure. 14:37

11 305 Q. well, would it be fair to say the position was that he
12 was sceptical about this work related stress?

13 A. That, sorry, who?

14 306 Q. That he was sceptical?

15 A. Oh I reject that. I reject that. 14:37

16 307 Q. CHAIRMAN: I don't think Mr. Kelly wants you to reject
17 that, I think he wants you to agree with that?

18 A. No, no, I'm thinking of -- sorry --

19 CHAIRMAN: Mr. Kelly is suggesting that the
20 superintendent was sceptical about work related stress. 14:37

21 A. Yes.

22 308 Q. CHAIRMAN: So I think the answer to that is yes?

23 A. No, but sorry, I was going to come at it from another
24 angle. Okay.

25 309 Q. MR. KELLY: well, I will put this passage to you and we 14:38
26 will see where we get to with this.

27 CHAIRMAN: That is an issue, that is an issue in the
28 case.

29 MR. KELLY: That's right.

1 310 Q. CHAIRMAN: You say that he was at least unsympathetic
2 and it does appear from the rival positions as we know
3 them, that one view is that he was sceptical,
4 disbelieving or doubtful about work related stress.
5 That is one view of this. That's what Mr. Kelly is 14:38
6 suggesting to you.

7 A. Yes but that's the part I reject. He couldn't have
8 been sceptical. He knew, I told him I was under
9 stress.

10 311 Q. CHAIRMAN: That's all right. whether he could be or 14:38
11 not, I am not getting into that one. Mr. Kelly is
12 taking reviewing your evidence.

13 MR. KELLY: It will be explored later in a particular
14 way, sceptical. But there it is.

15 312 Q. He certainly wasn't accepting that you were under 14:38
16 stress, was he?

17 A. No, Judge.

18 313 Q. Related to work?

19 A. Judge, from recollection, the first meeting that I had
20 with him, he stated twice to me, you're under no 14:39
21 stress, when I brought up stress. He said, you're
22 under no stress, twice.

23 314 Q. Down that last paragraph:
24

25 "I asked him if he was doing any work. He said, what 14:39
26 do you mean? I said, you're getting wages, are you
27 doing any Garda work, enforcement, investigations,
28 community engagements, etcetera? He said he was doing
29 very little. I said I couldn't condone that and asked

1 him what he was doing and was he following up on
2 incidents being reported to him. Then he mentioned an
3 assault/harassment case...."

4
5 And so on 14:39

6 A. Sorry, just there:

7
8 "He mentioned an assault/harassment case he said he was
9 neglecting."

10 14:39

11 That is completely false, Judge.

12 315 Q. Right. Okay. So there's a great difference between
13 what he has written and what you are saying there. Can
14 we agree this: I think he wasn't being sympathetic to
15 any concept with work related stress as far as you were 14:40
16 concerned.

17
18 Had you ever up until making your protected disclosure
19 been the subject of the proposed level of supervision
20 before? 14:40

21 A. Never. Never. Judge, as a probation guard, a student
22 guard back in 1999, you'd be called up to the
23 superintendent's office.

24 316 Q. Yes.

25 A. And they'd inspect your diary. And as a probation 14:40
26 guard, the superintendent, I mean, the odd time might
27 just check your notebook and sign your notebook and
28 that would be it. Never ever, ever since, never
29 anything like this.

1 317 Q. You see, Pat Murray says in his statement, the
2 reference is, it needn't be called up, volume 11, page
3 3055, talking about what we have identified or you have
4 identified as these criticisms, the micro supervision,
5 Pat Murray said: 14:41
6
7 "What he..."
8
9 That means you
10 14:41
11 "... says is criticism I would say as guidance and
12 advice. I feel he is completely exaggerating the
13 situation. I outlined in my statement, page 4, I would
14 provide a form of support for Garda Keogh. I think it
15 is an exaggeration for him to say he had three 14:41
16 sergeants supervising him. To put it into context, the
17 supervising situation that applied was in place before
18 my arrival."
19
20 Is that right? 14:41
21 A. No, I can't agree with that either.
22 318 Q. I think Sergeant Moylan and Sergeant Haran were
23 supervising sergeants, is that right?
24 A. Yes. Sergeant Haran was a community policing sergeant
25 that would have rested on the same shift as my unit, 14:42
26 unit C. Sergeant Moylan was the sergeant in charge of
27 my unit, unit C. So, on that shift generally there
28 would be at least one of those sergeants around, if not
29 two, but always one sergeant around.

1 319 Q. You're not criticising Sergeants Haran, Moylan or
2 Martin?
3 A. I'm not --
4 320 Q. They were told what they were told?
5 A. I am in no way criticising any of those three 14:42
6 sergeants, Judge.
7 321 Q. CHAIRMAN: My understanding of your evidence is that
8 they did absolutely nothing that you consider in any
9 way offensive?
10 A. That's correct. 14:42
11 322 Q. CHAIRMAN: The entire complaint in this case is the
12 direction, order, whatever it was, the direction by
13 Superintendent Murray that you say was not in fact
14 carried out by the three sergeants?
15 A. Yes. 14:43
16 323 Q. CHAIRMAN: That's what I have written down elsewhere?
17 A. Yes.
18 324 Q. CHAIRMAN: So, if it's wrong, tell me it's wrong?
19 A. No, no. No, no, no.
20 325 Q. CHAIRMAN: I am pretty certain that if I go back 14:43
21 through my notes and the transcripts, that's exactly
22 what I am going to find. Because I remember asking you
23 to clarify that?
24 A. Judge, I'm not --
25 326 Q. CHAIRMAN: I understand. But we're absolutely clear, 14:43
26 the sergeants said nothing. Your point the sergeants
27 didn't in fact carry out any micro supervision
28 notwithstanding the unreasonable order made by
29 Superintendent Murray?

1 A. Yes.

2 327 Q. CHAIRMAN: Some words to that effect?

3 A. Yes. Also, it was very unfair what they did, putting

4 Sergeant Martin back into the line of fire.

5 328 Q. CHAIRMAN: whether they did or didn't, nothing happened 14:43

6 as a result?

7 A. No, no, no.

8 CHAIRMAN: Yes.

9 MR. KELLY: what you are saying is, it's really the

10 fact that he did it, this was targeting. 14:43

11 CHAIRMAN: He gave the order.

12 MR. KELLY: Yes.

13 CHAIRMAN: That shows that he was targeting you or

14 whatever, you know, certainly fixing on you.

15 A. Yes. 14:44

16 329 Q. MR. KELLY: You were in his sight?

17 A. Yes.

18 330 Q. I take it when he speaks in the statement about

19 guidance and advice, that's not something you would

20 accept? 14:44

21 A. No.

22 331 Q. Meaning that that's what it was about. We covered this

23 already, you were in the Guards since 1999, you had

24 been in the drugs unit, and you're just saying that,

25 look, it's excessive for someone of that experience to 14:44

26 be subjected or proposed to be subjected to such a

27 level of supervision of basic principles.

28

29

1 A. Judge, I was in two drugs unit.

2 332 Q. CHAIRMAN: That's right.

3 A. I was in the national drugs unit, seconded for a time.

4 I was in the detective branch. Uniform guards, of

5 course, they deal with every sort of thing as well. 14:45

6 333 Q. CHAIRMAN: I see. But the question, Garda Keogh, the

7 question I have to decide in this case is the

8 motivation of Superintendent Murray?

9 A. Yes.

10 334 Q. CHAIRMAN: Not what happened on the ground, it's what 14:45

11 was in his mind, did he make an unreasonable order that

12 targeted you or is there another interpretation of it?

13 A. Judge, the word I would use is vindictive.

14 335 Q. CHAIRMAN: Absolutely. Did he make this decision

15 vindictively and not helpfully, as he asserts? 14:45

16 A. Yes.

17 336 Q. CHAIRMAN: That's the debate?

18 A. Yes.

19 337 Q. MR. KELLY: That's right, that's the issue. Right. We

20 will move on to the next issue, please, issue 6, the 14:45

21 motor tax issue. Now, what we know, just as a précis,

22 is that essentially you were required to reclassify

23 your vehicle and so on, subsequently there was a letter

24 sent out, we will go through all this in a moment. But

25 the point here is that no other guard was in fact done 14:46

26 on this. You had mentioned, volunteered that there was

27 another guard in another sub area or something who may

28 have been -- it's been clarified, helpfully, by counsel

29 to the Tribunal that that wasn't so. You were the only

1 one in what we are about to hear. what we are about to
2 look at is how this train of enquiry gets going.

3
4 According to Noreen McBrien, she says that it was
5 Superintendent Mulcahy that made a comment to her about 14:46
6 car tax. Just to source this, it's is Volume 21, page
7 6237. Thanks very much. This is the witness statement
8 of Noreen McBrien, 6237. This is the statement that
9 she made to the Tribunal's investigators. The question
10 she is asked is: 14:47

11
12 "I have been referred to my statement..."

13
14 That's her statement

15 14:47
16 "...where I said..."

17
18 That's she said

19
20 "...I recall Detective Superintendent Mulcahy coming to 14:47
21 me in regards to Garda Keogh's car tax. I have been
22 asked to detail, to the best of my recollection, what
23 Detective Superintendent Mulcahy said to me about Garda
24 Nicholas Keogh and his car tax, when this occurred and
25 all the attendant circumstances. 14:48

26
27 A. I cannot be sure of this but I recall it was
28 mentioned to me coming from a cup of coffee in Athlone.
29 My memory is that I was walking with Detective

1 Superintendent Mulcahy from the coffee shop back to the
2 station. He said, you should have a look at Garda
3 Keogh's car tax. I asked was there something I should
4 be concerned about and he said no, but it's just
5 something that I should look at. I assumed that this
6 would be something that would come to me in an e-mail
7 or a report from Detective Superintendent Mulcahy
8 following this interaction but no such e-mail or report
9 was received by me."

14:48

10
11 Presumably up until reading this, this is all news to
12 you.

14:48

13 A. Yes.

14 338 Q.

15 "I have been asked did Detective Superintendent Mulcahy
16 advise me specifically whether he had identified an
17 issue with Garda Nicholas Keogh's car tax and how he
18 identified this issue, and if not, did you clarify, at
19 any stage with Superintendent Mulcahy what he was
20 referring."

14:49

21
22 Over the page.

23
24 "No. He didn't identify the specific issue. When I
25 asked if there was something I should be concerned
26 about, he just said it was just something I should look
27 at.

14:49

28
29 Q. I have been asked did Detective Superintendent

1 Mulcahy ever raise a concern with me in respect to car
2 tax or any other issue concerning any other Garda
3 members from the Athlone station party and if so, I
4 have been asked to detail what I was told Detective
5 Superintendent Mulcahy and all attendant circumstances. 14:50

6
7 A. No. Only Garda Keogh."

8
9 Then she goes on to say:

10
11 "I was waiting something to follow, a report or
12 correspondence from Superintendent Mulcahy."

13
14 But to cut a long story short, we know that she passed
15 over some papers or a file to Superintendent Murray 14:50
16 when he arrived, is that right?

17 A. I understand so. Judge, can I just clarify something?
18 Judge, in relation to this, I think -- mentioned --
19 just from recollection, I could be wrong.

20 339 Q. CHAIRMAN: It's all right. 14:50

21 A. That it was Superintendent Mulcahy may have looked at
22 my car and spotted something.

23 340 Q. CHAIRMAN: Yes.

24 A. That's not how it would have happened.

25 341 Q. CHAIRMAN: How it would have happened. I was just 14:50
26 guessing, speculating?

27 A. Yeah. Judge, as I explained earlier, if you're going
28 to look at somebody or start an investigation, first
29 you go in to the person. If you find anything

1 interesting there, grand, whatever. Number two, then
2 you go into the car, you'll nearly always find
3 something in the car. And as I said, senior officers
4 have a cloak on the Pulse system where --

5 342 Q. CHAIRMAN: So you think he might have gone to the Pulse 14:51
6 system?

7 A. Yes.

8 343 Q. CHAIRMAN: Discovered that you were paying the
9 commercial rate of tax and decided there was something
10 fishy about that? 14:51

11 A. That's what I would have done it if I was...
12 CHAIRMAN: Okay. who knows. we will have to wait for
13 him to come along. Thank you very much.

14 344 Q. MR. KELLY: The --

15 A. And just, Judge, I wouldn't have been able to see that, 14:51
16 as I said.

17 CHAIRMAN: I understand that. There would be a record
18 but it would only be accessible to people at a certain
19 level.

20 345 Q. MR. KELLY: You're using your diary quite effectively, 14:51
21 if I may say so, would you turn over the diary of June
22 2014, it's in 13260, volume 47.

23 A. Sorry, the date?

24 346 Q. This is about June 2014. I think it's about the 11th
25 June. I see that here. Okay. If you look on the 7th 14:52
26 June 2014?

27 CHAIRMAN: 7th June?

28 347 Q. MR. KELLY: 7th June 2014, it seems to read "10am", I
29 think, "Portumna Garda station".

1 A. Yes.

2 348 Q. Can you read that out?

3 A.

4 "10am, Portumna Garda station. Meet Assistant
5 Commissioner Ó Cualáin and Detective Superintendent 14:53
6 Mulcahy. Explain of allegations made on 18/10/13 re
7 planting drugs. While drunk D/Super asks if I put it
8 in writing after. I said they banged me up to the --"
9

10 349 Q. Perhaps it's not necessary to read it all. But I think 14:53
11 the point there is that you weren't actually in Athlone
12 that day?

13 A. No, I was in Portumna meeting with --

14 350 Q. Can I ask you this: Did Detective Superintendent
15 Mulcahy ever raise the issue of car tax with you? 14:53

16 A. No. Again, like the Aidan Lyons report, he would have
17 been the last person I would have suspected on that,
18 Judge.

19 351 Q. Can I ask you this, how often does a superintendent go
20 around bothering with car tax? 14:54

21 A. Well, a superintendent --

22 352 Q. Do you see much of this in Athlone?

23 A. Well, in Athlone, Athlone is a very different station
24 to normal Garda stations. But, Judge, no, you wouldn't
25 see -- like Superintendent Mulcahy's job is to 14:54
26 investigate my allegations. But it appears at the very
27 start he looks into me and unfortunately it's out of --
28 he obviously spots this is how the car tax issue
29 starts.

1 353 Q. Can I take it, it isn't the normal run-of-the-mill
2 stuff for a superintendent to be bothered with car tax?

3 A. Sorry?

4 354 Q. It's not normal run of the mill stuff for a
5 superintendent to be bothered with --

14:54

6 MR. MURPHY: I wonder could I just raise an objection,
7 Chairman. I have a concern. There have been a number
8 of leading questions but this question is clearly a
9 leading question as well. I appreciate in
10 re-examination there is a need to try and keep matters
11 concise, but there has been a series of leading
12 questions and this is something which I certainly have
13 to object to.

14:55

14 CHAIRMAN: well, I am not concerned Mr. Murphy. I
15 appreciate that certainly it's a leading question, but
16 we're getting a move on. It contains also an assertion
17 that it's not really a matter for a superintendent.
18 That is a proposition, maybe some people will agree
19 with that, maybe some people won't agree with that.
20 Maybe some people might say, well, if a guard has the
21 wrong tax on his car it should be the matter for a
22 superintendent or anybody else, or the Commissioner who
23 notices it, I don't know. It's a point of view. But
24 Mr. Kelly is asserting a point of view. He is saying,
25 no, this is too trivial for a detective superintendent
26 to be bothering his head with and he shouldn't be doing
27 it. That's what he's suggesting.

14:55

14:55

28 MR. MURPHY: Chairman, that's my second concern.
29 Because this witness has been cross-examined and

1 examined by the Tribunal. To my understanding that's
2 the first time there's an attempt being made to make an
3 accusation against Detective Superintendent Mulcahy,
4 who you will recall, this witness said he had no
5 complaint about.

14:56

6 CHAIRMAN: He did.

7 MR. MURPHY: Now in re-examination, for the first time
8 there is an attempt to develop a line through leading
9 questions suggesting that Superintendent Mulcahy did
10 something improper.

14:56

11 CHAIRMAN: Mr. Murphy, I am slow to interfere. I
12 appreciate that the point you make about Mr. Kelly's
13 question is entirely valid. But equally, I appreciate
14 that Mr. Kelly's purpose is to move things along,
15 there's a certain amount of supposition, assumption,
16 assertion and submission, as there often is when
17 counsel are asking questions. We have been over a lot
18 of this ground before. So I am sympathetic to the idea
19 that Mr. Kelly truncates, if you like, a proposition
20 and a submission into a question. Now, if it goes too
21 far, I am sure I will be very happy to entertain an
22 application.

14:56

14:57

23 MR. MURPHY: Sure.

24 CHAIRMAN: At this stage I treat it -- as I say, in my
25 mind, there's a proposition advanced by Mr. Kelly, I
26 regard it as a proposition, I don't regard it as a
27 heinous allegation against Detective Superintendent
28 Mulcahy. Some people will call it an interesting
29 proposition, that having the wrong tax is a matter so

14:57

1 trivial that it shouldn't be that somebody so elevated
2 as a detective superintendent should find it unworthy
3 to interest himself in the matter. Others might take a
4 different view and say, well, anyway, punctilio is
5 never to be ignored. That's the position we find 14:57
6 ourselves in, so I am not stopping Mr. Kelly, that's
7 his proposition.
8 MR. MURPHY: Chairman.
9 355 Q. CHAIRMAN: It came as a bit of a disappointment to you
10 to find that the trail of the wrong tax came back to 14:58
11 Detective Superintendent Mulcahy, in whom you had
12 reposed and do repose such faith. So here is a little
13 blot on his escutcheon as far as you're concerned?
14 A. Judge, I did say at the start, it took a time for
15 myself and Detective Superintendent Mulcahy to build 14:58
16 trust.
17 356 Q. CHAIRMAN: Agreed. And trust you did build, but here
18 is a blot we have to put on his escutcheon if you are
19 correct. All right. Thank you. Now, Mr. Kelly. It
20 says in on the transcript "a blot on his discussion", 14:58
21 well I suppose it is a blot on his discussion but it's
22 his escutcheon.
23 357 Q. MR. KELLY: well, I was thinking of all the different
24 literary allusions but I am going to leave literary
25 allusions well alone in this case. I want to turn at 14:59
26 the car tax issue. Another garda was asked, I think, to
27 check your car tax on Pulse on the 30th September and
28 1st October 2014. We find this at volume 13, page 486,
29 if that's called up, it's a statement of evidence of

1 Gerry white. He is now a retired garda. Can you find
2 it?

3 A. Yes. 486.

4 358 Q. What he is saying, four lines down:

5 15:00

6 "It would appear that I am being requested to clarify
7 my checking of Garda Nick Keogh's private vehicle on
8 the Garda Pulse system on the 30th September and the
9 1st October 2016. On this matter I would state as
10 follows: I do not recall specifically checking Nick 15:00
11 Keogh's vehicle on any occasion. It would not be a
12 normal practice for me to check Garda members' vehicles
13 beyond the occasional check where a car may be blocking
14 access to or from the car parking spacing in the Garda
15 station yard." 15:00

16
17 what we do know is that he did do such a check.

18
19 "However, having checked the Pulse printouts supplied
20 with the disclosure showing my checks of Nick Keogh's 15:00
21 car, I do recall being at an informal meeting with the
22 district finance officer and the district officer
23 Noreen McBrien while I was employed as a district clerk
24 in Athlone. I do not, however, recall the actual date.
25 During our conversation, the finance officer showed us 15:01
26 a large number of travel and subsistence allowance
27 claims she had from Garda members for processing and
28 payment. I do recall Superintendent McBrien asking me
29 to do with a check on a car registration details of

1 random Garda members whose claims were in for
2 processing. This check would have been done to ensure
3 that the vehicles were properly taxed and insured on
4 the dates claims were incurred. I cannot recall if
5 Superintendent McBrien or the finance officer handed me 15:01
6 the claims to be checked or if I took them from the
7 bundles being processed. I do not recall if Nick
8 Keogh's vehicle was one of those checked. However,
9 Pulse entries supplied would indicate that it may have
10 been. Nor do I recall the results of my enquiries or 15:02
11 how I transmitted them back to McBrien.

12
13 I am at a loss to explain why I checked Nick Keogh's
14 vehicle a few times in a short period of time. In an
15 effort to confirm that this recollection of events is 15:02
16 correct, I requested sergeant Michael McArdle to source
17 my Pulse search history of the 30th September and the
18 1st October 2016. The same shows my check on a number
19 of motor vehicles on the afternoon of the 30th
20 September. These checks appear to be of vehicles of 15:02
21 Garda members who were stationed in Athlone at that
22 time. From this I am satisfied that my recollection of
23 events as outlined above is correct and my checking of
24 Garda Nick Keogh's vehicle was connected with this
25 request by Superintendent McBrien, to check the 15:02
26 validity of claims of a number of Garda members which
27 were being submitted for payment.

28
29 I have never had any personal or professional animosity

1 towards Nick Keogh and would hope that he feels the
2 same about me. "

3
4 Just pausing there, when you do a Pulse search, what
5 does that absolutely show up in relation to a vehicle? 15:03
6 I presume it shows the registration, you have to put
7 that in, but what else does it show up

8 A. Well, you type in the registration number, is how it
9 would start, you type that in. Then a number of tabs
10 crop up. The first tab, just from recollection, would 15:03
11 be the name and address of who the car is registered
12 to. Then on other tabs you can go into tax details,
13 insurance details, things like that. So you could find
14 quite a lot of information about a car.

15 359 Q. They seem to be saying here it's not -- well, he 15:03
16 actually says it would not be normal practice for him
17 to check Garda members vehicles unless it was somebody
18 blocking access. Presumably if somebody was blocking
19 access, you would put in the registration number, that
20 would tell you who owned it and you could then go and 15:04
21 say, well move the thing. Is that about right or have
22 I oversimplified it?

23 A. Well, Judge, in this thing, my belief is on this, this
24 whole thing is a cover story for the original.
25 Detective Superintendent Mulcahy had said look at the 15:04
26 car tax, Judge. I believe in order to look at the car
27 tax, that they needed an excuse to look at the car tax,
28 so they then went down the lines of subsistence claims,
29 sub claims, and used that as a cover to go into the

1 car. In order to look at my car, Judge, they had to
2 check a number of other cars, to justify doing the
3 checks. Judge, what was unusual was, this was actually
4 brought to my attention by another guard, who had his
5 car checked. The difference was, when his car was 15:04
6 checked it had marked "enquiries Athlone" but when my
7 car was checked, it had "call to super's office" and
8 that is the big thing that I had an issue with. I was
9 trying to find out who was the caller to the
10 superintendent's office that caused the car to be 15:05
11 checked. I have never -- I am still in the dark as to
12 that, Judge.

13 360 Q. Who did you speak to about it? Was it Noreen McBrien
14 you spoke to about it in the first instance, or who?

15 A. No. I don't think I was even aware of the -- no, I 15:05
16 wasn't aware of the car tax issue at all. It was the
17 sub claims, Judge.

18 361 Q. I see.

19 A. They went missing. That was it, they went missing.
20 Then I right to Ms. Catriona Quirk, RIP, Judge, she was 15:05
21 the clerk that dealt with all the allowances and stuff
22 like that. When my sub claims went missing, Judge, I
23 asked her and I put it in writing to her. She didn't
24 know anything about it and she wrote back to me saying,
25 I haven't got anything to do with sub claims from you. 15:06
26 They appear to go missing. I didn't see them for years
27 until they reappeared in those volumes there. But,
28 Judge, I believe this whole was just to cover to check
29 the car, to check the car from the initial detective

1 superintendent. They needed a reason to look at the
2 car, a formal reason, and they checked the other
3 guards, Judge, just because --

4 362 Q. We will come on to that in a moment. Maybe we will
5 look at the statement of Pat Murray, it's page 2042. 15:06
6 This is another meeting in the office in Athlone. Have
7 you got that?

8 A. 2042?

9 363 Q. Yes, it is, 2042.

10 A. Yes. 15:07

11 364 Q. This is one of Pat Murray's notes of his meetings.
12
13 "The primary objective of the meeting as far as I was
14 concerned was to discuss with Garda Keogh a file left
15 for me by my predecessor Superintendent McBrien, 15:07
16 relating to financial claims by Garda Keogh in 2014 for
17 travelling expenses involving the use of his personal
18 jeep to travel to and from Galway."
19
20 Did you go up and down to Galway often? 15:07

21 A. No, Galway would be Portumna, where I was meeting
22 Assistant Commissioner Ó Cualáin.

23 365 Q. Right.

24 A. This was on duty business.

25 366 Q. Okay, right. 15:07
26
27 "My predecessor explained to me on 4th March 2015 that
28 she had been informed by Detective Superintendent
29 Mulcahy at Galway that Garda Keogh's private vehicle

1 was not correctly taxed. She felt that his claims for
2 travelling expenses were in breach of financial code
3 regulations and could not therefore be paid in those
4 circumstances. She made me aware that Garda Keogh had
5 been querying the nonpayment of his claims in writing 15:08
6 but that no one had spoken to him about the matter.
7 From my perspective, Garda Keogh and I had an amiable
8 conversation."

9
10 CHAIRMAN: Amicable. 15:08

11 MR. KELLY: "Amicable", yes correct.

12
13 "...and told me about his career and his time in Bray.
14 He reminded me that we met before in court when he was
15 a garda in Bray and I an inspector in Wicklow, but I 15:08
16 unfortunately had no recollection of a meeting.

17
18 I discussed his sickness record..."

19
20 And appearances in work and so on. The bit I'm 15:08
21 interested in, he goes on to talk about appointing a
22 sergeant. We have been over this before.

23
24 "I showed him the results. I then spoke with him about
25 his car tax and he got slightly annoyed and indicated 15:09
26 he felt people were getting at him. I showed him the
27 results of enquiries I had Inspector Minnock make at a
28 tax office in Tullamore in relation to his jeep, which
29 showed it was taxed in the wrong category, commercial

1 instead of private, resulting in a loss of revenue to
2 the State.

3
4 I spoke about the effect of that on his claims for
5 travelling expenses." 15:09

6
7 Then he goes on:

8
9 "I offered a solution to dealing with the matter."

10 15:09

11 First of all, so he had Inspector Minnock make
12 enquiries at the Tullamore tax office. We know later
13 he says that it resulted in a loss of revenue to the
14 State. Could we call up volume 8, at page 2200. These
15 are emails that have been disclosed concerning this. 15:10
16 If we start with the bottom and read up the with all
17 the e-mails. 19th March 2015, 2200.

18 CHAIRMAN: Sorry, we have the wrong one. We need 2200?

19 MR. KELLY: Yes, 2200.

20 CHAIRMAN: Yes. 15:10

21 MR. KELLY: Thanks very much for calling it up. If you
22 just scroll it down a little because it's emails, we
23 will read from the bottom up. That will do there,
24 that's fine. You see at 19th March 2015, 16:08, do you
25 see that? This is to a person in the motor tax office. 15:10
26 We can see that it's from Aidan Minnock, right?

27 A. Yes.

28 367 Q. There is a vehicle and the number is blanked out?

29

1 "I would be obliged if you could provide me with the
2 taxation history of vehicle [blank] particularly
3 covering the period June to December 2014. I
4 understand the vehicle is taxed as per our records.
5 However, I am interested in the class of tax; private 15:11
6 or commercial. If taxed as a commercial vehicle, I
7 will be looking for a copy of the signed declaration
8 that the vehicle is a goods vehicle and would
9 appreciate a scanned copy of the same or otherwise pop
10 it in the post. Your assistance in this matter is 15:11
11 appreciated and I would be grateful if you could send
12 the reply to me Superintendent Murray in Athlone."

13
14 Then he gives Pat Murray's e-mail address. If we look
15 up, we will see what was replied: 15:11

16
17 "I have attached some scanned documents for you. One,
18 a motor tax renewal from that form that was processed
19 on 20/4/15. The next document shows details of the
20 vehicle and tax history. 15:12

21
22 This is a goods van taxed as an own goods but we have
23 had no declaration attached to our form,
24 unfortunately. " 15:12

25
26 why would they be looking for a statutory declaration?

27 A. Fraud, Judge. They were aiming to go down the route of
28 fraud here on this. That's what they were looking at.

29 368 Q. So he is specifically asking for a statutory

1 declaration, it comes back, bang, there isn't one?

2 A. And bear in mind, Judge, I wrote them. Like the thing
3 with the sub claims, I actually wrote, if there is a
4 problem with the claims, this is year prior, roughly,
5 months prior, if there is a problem can you let me 15:12
6 know, you know, what the problem is and I'll sort it
7 out. But they never told me anything.

8 369 Q. CHAIRMAN: Did you know the difference between
9 commercial and private tax?

10 A. I know. But, Judge, you see, my car -- 15:13

11 370 Q. CHAIRMAN: Did you know the difference?

12 A. I do.

13 371 Q. CHAIRMAN: No, no, did you know the difference between
14 commercial and private tax?

15 A. I'm sure I did, Judge. I am sure I did. But my car 15:13
16 was a commercial -- I had only two seats in it.

17 372 Q. CHAIRMAN: No, I understand that?

18 A. Like it was -- I couldn't --

19 373 Q. CHAIRMAN: I understand. I know the car had originally
20 been taxed as commercial. 15:13

21 A. Yes. Judge, even at that, I couldn't put it through
22 the NCT, it had to go through a DOE.

23 374 Q. CHAIRMAN: In the end of the day?

24 A. Yes, I accept that.

25 375 Q. CHAIRMAN: There is a difference between commercial and 15:13
26 private.

27 A. Yes.

28 376 Q. CHAIRMAN: And you knew that?

29 A. Yes, Judge. I was going to say something else.

1 377 Q. CHAIRMAN: That's all right, say anything you like.
2 Anything that you say, not a problem, I am putting
3 something to you, I am asking you a question, if you
4 think there is an implication in it, you may well be
5 correct and if you disagree with the implication, you 15:14
6 just tell me?

7 A. Judge, just, when I made my protected disclosures and
8 knowing, because I am a guard, the first thing they're
9 going to do is look at your car.

10 378 Q. CHAIRMAN: I am not concerned with whether you look at 15:14
11 your car. I am concerned with whether your car was
12 correctly taxed or not, A, and whether you knew it was
13 not correctly taxed. I mean, because if that's the
14 case and Superintendent Murray says to you, your car is
15 not properly taxed, I don't know -- I don't see 15:14
16 somebody terribly wrong with that, Mr. Kelly, I may as
17 well tell you. You may say the checking out on the --
18 and he wants to see are you making a declaration that
19 this is used as a goods vehicle, which would make it
20 pretty serious. 15:14

21 A. Can I just answer, Judge.

22 379 Q. CHAIRMAN: On one view.

23 A. I put new tyres and everything onto the car. I never
24 thought of the tax thing. I would have --

25 380 Q. CHAIRMAN: I know, but everybody else has to do that as 15:15
26 well?

27 A. I know.

28 381 Q. CHAIRMAN: I have to tax my car and I have to put my
29 tyres on it and I have to insure it?

1 MR. KELLY: I don't imagine you running around in a
2 two-seater jeep.

3 CHAIRMAN: Forgive he.

4 A. Can I say one thing, I never thought about the car tax.

5 382 Q. CHAIRMAN: I have your evidence about that, I 15:15
6 understand that.

7 A. I had wrote to them, is there a problem. I actually
8 never thought of it. I would have had it addressed.

9 383 Q. CHAIRMAN: Sorry, I am sounding more unsympathetic than
10 I intend. Do you understand what I mean by that? 15:15

11 A. Yes, Judge.

12 CHAIRMAN: Okay.

13 384 Q. MR. KELLY: Judge, I just say, a question for Garda
14 Keogh, I had also understood and I don't profess any
15 degree of expertise in this area, that the motor class 15:15
16 taxation related to the nature of the vehicle. But we
17 don't have to go there either for the purpose of this
18 inquiry. What I am directing at here is motive.

19 CHAIRMAN: I understand that.

20 MR. KELLY: And I point to the statutory declaration. 15:16

21 CHAIRMAN: I understand.

22 MR. KELLY: I am merely asking the question, well, why
23 would you do you that.

24 CHAIRMAN: Because he wanted to know was Garda Keogh
25 making a false declaration. 15:16

26 MR. KELLY: Yes.

27 CHAIRMAN: That's what he wanted to know. In other
28 words, did you have to make a declaration every year to
29 say this is actually a commercial vehicle. That's what

1 he was looking for. Rightly or wrongly, I think it's
2 very obvious that's what he was looking for.
3 MR. KELLY: That's right.
4 CHAIRMAN: Subject to what anybody else may say as to
5 the purpose of it, but that's what it looks like. 15:16
6 MR. KELLY: We can get on with this later, what we may
7 be looking at here is motivation.
8 A. Judge, can I just say.
9 385 Q. CHAIRMAN: Yes.
10 A. The minute it was brought to my attention, I did 15:16
11 rectify it.
12 386 Q. CHAIRMAN: Yes, I understand that, absolutely, and
13 within a very short number of days?
14 A. Immediately, I think.
15 387 Q. CHAIRMAN: Okay, immediately. 15:16
16 A. I would have done that if it was brought to my
17 attention months before, I would have done it then as
18 well.
19 CHAIRMAN: I understand that.
20 388 Q. MR. KELLY: So here we have this going on in March, 15:17
21 this is the one currently on the screen. I want to
22 take you to a different volume now, volume 1, it's at
23 page 184.
24 A. Yes.
25 389 Q. Right. So, Superintendent Murray is doing this with 15:18
26 you in March. Then, on 22nd April 2015, a month later,
27 he sends out this letter to each station unit, sergeant
28 in charge, to all members at Athlone district.
29

1 "I refer to the above and wish to inform each member
2 that I have been made aware in a general way that the
3 private vehicles of some members are not in order in
4 relation to no valid tax, no valid insurance, no NCT
5 certs, no valid Driving Licences.

15:18

6
7 In order to allay any fears that exist, I wish to
8 advise all members that commencing 1st June 2015, I
9 will have the necessary checks carried out as follows:

15:19

10
11 - All members will be asked to voluntarily present
12 their vehicles and driving licences for inspection to
13 their immediate supervisors, who will certify all is
14 correct.

15:19

15
16 - The supervisors will in the same manner be asked to
17 present their driving licences and vehicles for
18 inspections to their immediate inspectors, who will
19 certify all is correct.

15:19

20
21 - I have asked both inspectors to present to me.

22
23 - I in turn will present to the divisional officer.

24
25 In that way, I will be in a position to confirm
26 members' private vehicles are in order in the
27 district."

15:19

28
29 Then he goes on and says:

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"All members are reminded that any claims involving the use of a member's private vehicles will only be approved if the vehicle being used complies with all road traffic legislation in force."

15:19

So this is a month later he's sending this out. It's the 24th April, and he is giving everybody until 1st June 2015 to get their act together. So, if you are a policeman and you haven't got a driving licence, you have until 1st June to come up with one.

15:20

This was after your meeting. Did anybody ever say to you well, look, if this isn't in order, go and get it sorted and that's the end of it?

15:20

A. Like I just said, Judge, if anyone prior to this had ever said it to me, I would have done it immediately. When it was said to me, I did it immediately. Like, as well, also, Judge, these are Al Capone tactics, if you can't get him on the big stuff, you go after the little stuff, the tax.

15:20

390 Q. Another thing, it may be obvious but I'm going to ask you, is it normal to give an amnesty if you are concerned about this sort of stuff, vehicles going around with no road tax, to say, look, you've two months to get your act together, in your experience as a guard?

15:21

A. For insurance?

391 Q. Well, that's what it is saying?

1 A. Judge, you can go to prison for that, no insurance.
2 CHAIRMAN: I haven't missed that, Mr. Kelly. I haven't
3 missed the range.
4 MR. KELLY: Yes.
5 A. Judge, like no tax -- 15:21
6 CHAIRMAN: Don't worry. We are understanding each
7 other on this one.
8 MR. KELLY: Judge, I will pass through this very
9 quickly. I was going to move on to another section,
10 which I think is going to take much longer, so it's 15:21
11 perhaps a little earlier than you intended.
12 CHAIRMAN: You are moving on to another area now?
13 MR. KELLY: I was going to, yeah.
14 CHAIRMAN: Well, yes, you're not going to finish that
15 in 15 minutes. 15:22
16 MR. KELLY: Definitely not.
17 CHAIRMAN: Okay. Very good. Well then that is a
18 convenient time to break. There is nothing else you
19 want to say about that?
20 A. No. 15:22
21 392 Q. CHAIRMAN: I mean Mr. Kelly is making the case.
22 A. Yes.
23 393 Q. CHAIRMAN: He said, look at the comparison of the
24 approach that the superintendent takes, including much
25 more serious, as one might say, matters such as driving 15:22
26 licence and insurance and so on. That's the point he's
27 making?
28 A. Yes. Everyone else, Judge, was given a chance.
29 394 Q. CHAIRMAN: I understand.

1 A. I wasn't.

2 395 Q. CHAIRMAN: That's the point that Mr. Kelly and you have
3 been making and Mr. Kelly is emphasising. Okay.

4

5 Very good. So, until Monday, thank you very much.

15:22

6 Very good

7 MR. KELLY: Thank you, Judge.

8

9 THE HEARING THEN ADJOURNED UNTIL MONDAY, 11TH NOVEMBER

10 2019 AT 10:30AM:

15:23

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