

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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AND EQUALITY UNDER THE TRIBUNALS OF INQUIRY (EVIDENCE) ACT
1921, ON 17 FEBRUARY 2017, AS AMENDED ON 7 DECEMBER 2018

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

HELD IN DUBLIN CASTLE
ON WEDNESDAY, 27TH NOVEMBER 2019 - DAY 120

120

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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1 THE HEARING RESUMED, AS FOLLOWS, ON WEDNESDAY, 27TH
2 NOVEMBER 2019:

3
4 SUPERINTENDENT NOREEN McBRIEN CONTINUED TO BE
5 DIRECTLY-EXAMINED BY MR. MARRINAN, AS FOLLOWS:

10:51

6
7 1 Q. MR. MARRINAN: Good morning, superintendent.

8 A. Good morning.

9 2 Q. We were about to move on to 8th July 2014. Before we
10 do, do you mind if we just revisit an issue that I was 11:01
11 asking you about yesterday, and that was the report
12 that had come in from Garda Lyons and what there was to
13 investigate arising out of that reported conversation
14 with Liam McHugh. Just tell us in your own words.

15 A. Well, in my own words: Garda Lyons had given his 11:02
16 report of what happened. Garda Keogh was the other
17 member mentioned and he was required to give a report
18 of what happened. And Liam McHugh was asked to make a
19 statement and, depending on what Liam McHugh would have
20 or could have said, that would have been investigated. 11:02
21 But there was nothing from Liam McHugh, so at that
22 stage I can't guess what may have been said, if he said
23 it, but depending on what he said, would have been what
24 would have been investigated.

25 3 Q. I am not asking you about what was done subsequent to 11:02
26 the report coming in from Garda Lyons. I am asking
27 about, having read Garda Lyons' report, what you think
28 offences or investigations were first of all disclosed
29 and then warranted?

1 A. Well, as I said, Garda Lyons, the issue with Garda
2 Lyons' report had already been in process when I came
3 back on the 5th June. And, as I said, the report from
4 Garda Keogh, I had a report from Garda Lyons and then,
5 depending on Liam McHugh would or could have said, that 11:03
6 is what would be investigated.

7 4 Q. Well, I said to you yesterday, one of the questions I
8 asked you was in relation to Garda Lyons' intention
9 when he was putting together that report and submitting
10 it to Sergeant Curley. The quote was from a statement 11:03
11 that he made, it's at page 11719. I think you are
12 familiar with it. There's no need to open it. But he
13 said:

14
15 "My understanding is that Garda Keogh was encouraging 11:04
16 Mr. McHugh to make a false complaint."

17
18 Remember we discussed that yesterday?
19 A. Yes, and I think I said that Garda Lyons' statement was
20 made I think to the Disclosure Tribunal. 11:04

21 5 Q. Yes.
22 A. I am not sure of the date of it. But I am going by the
23 information that I had to hand when I looked at that
24 when I came back on the 5th June.

25 6 Q. Which was the report? 11:04
26 A. Which was the report.

27 7 Q. So, having read the report, did you think there was
28 something to investigate?

29 A. As I said to you, the process was already ongoing and

1 the only thing that I would require, I had the report
2 from Garda Lyons, I wanted a report from Garda Keogh,
3 that had come down from the chief superintendent as
4 well, that was reflecting his views, and then a report
5 from Liam MCHugh, a statement from Liam MCHugh. 11:04
6 Without Liam MCHugh, who was the central person in
7 this, telling us what allegedly happened, did happen,
8 didn't happen, I couldn't take it any further.

9 8 Q. But I am just trying to get a handle on what it was you
10 were enquiring into? 11:05

11 A. Into whatever complaint Liam MCHugh had.

12 9 Q. But it's clear that he had no complaint?

13 A. Not to me, it's not.

14 10 Q. Well is it not?

15 A. No. 11:05

16 11 Q. Right. I want to try and establish what was clear to
17 you and what was your impression having read --

18 A. Well, as I said, this investigation, this was already
19 in process. I took it up a number of days after. Liam
20 MCHugh had said something happened and then withdrew it 11:05
21 or said he didn't want to draw trouble on himself or
22 something to that effect, I don't have it in front of
23 me.

24 12 Q. Yes. I am going to go through it.

25 A. Yes, so that would be what -- that would be a concern. 11:05
26 Like if someone makes an allegation like that, you'd
27 like to get the bottom of it and give them the
28 opportunity --

29 13 Q. What was the allegation?

1 A. whatever was in Garda Lyons' report that was --

2 14 Q. But you read Garda Lyons' report?

3 A. Pardon?

4 15 Q. You had read Garda Lyons' report?

5 A. Yes. 11:06

6 16 Q. And you read it in 2014?

7 A. Yes.

8 17 Q. On the 9th June 2014, at page 524 of the materials, if
9 we could have, you wrote to the detective sergeant in
10 Athlone? 11:06

11 A. Yes.

12 18 Q. And you say:

13

14 "With regard to e-mail from Garda Aidan Lyons dated 2nd
15 June 2014, please ascertain if Mr. McHugh is willing to 11:06
16 make a statement about this incident. Arrange to have
17 such statement taken if forthcoming."

18

19 Okay. So, what was it that you were asking?

20 A. That report is written as a result of a report that 11:06
21 came back from Chief Superintendent Curran after
22 Inspector Farrell, who was acting for me, reported the
23 incident up to the chief superintendent. And it's
24 quite clear, ask him if he is willing to make a
25 statement about this incident. So, I don't know what 11:07
26 Mr. McHugh was or wasn't going to say. He is the only
27 one that appears to have the knowledge about what he is
28 reporting and he chose not to.

29 19 Q. You told us yesterday that you discussed this with

1 Garda Keogh and that you told him about the Liam McHugh
2 incident?

3 A. I told him that, yes, I would be discussing it with
4 him, yeah.

5 20 Q. And you told us that you told him the details of it? 11:07

6 A. Of what was said, which would be the content of Garda
7 Lyons' report.

8 21 Q. Can you recall what was it that you said to Garda Keogh
9 at that time?

10 A. I think I just have it in my notes that we discussed 11:07
11 Liam McHugh, so.

12 22 Q. What discussion took place? What did you convey to
13 Garda Keogh as being the information that had been
14 brought by Liam McHugh to Garda Lyons?

15 A. Exactly what it says in Garda Lyons' report. That 11:07
16 would be my recollection. I just have it in my notes I
17 discussed Liam McHugh.

18 23 Q. In any event, you wrote that letter to the detective
19 sergeant in Athlone, who would be Detective Sergeant
20 Curley, is that correct? 11:08

21 A. That's correct, yes.

22 24 Q. And you subsequently sent him a reminder on the 23rd
23 June?

24 A. Yes.

25 25 Q. 2014? 11:08

26 A. Yes, a reminder on the 20th June.

27 26 Q. That's page 525 of the materials. We don't need to
28 open that. And then you received a report from
29 Inspector Aidan Minnock?

1 A. Yes.

2 27 Q. That is dated 8th July 2014?

3 A. Yes.

4 28 Q. That's at page 1305, volume 5. And we see there:

5 11:08

6 "With reference to the above, I believe the association

7 of Garda members both with Liam McHugh and the members

8 involved in the investigation, Garda Lyons, Garda A and

9 Keogh make it inappropriate for Gardaí from Athlone to

10 interview Liam McHugh when colleagues are under 11:09

11 investigation. "

12

13 It seems to be fairly clear from that, that there is a

14 knowledge that Garda A is under investigation at that

15 time? 11:09

16 A. As I said to you, there was a knowledge around the

17 station from May the 12th, the first day I came back to

18 Athlone after being on leave, that there was something

19 to do with Garda A. That was a knowledge around the

20 station. And also, as I said yesterday I had welfare 11:09

21 interviews with the central parties and Garda A was of

22 the assumption that it was something to do with him

23 because he did say that he would get notes to Nicholas

24 Farrell.

25 29 Q. This is an official document that Inspector Minnock is 11:10

26 sending you?

27 A. Yes.

28 30 Q. Where he officially says that there is an investigation

29 in relation to Garda A?

1 A. He says "I believe", so that's just... And he said
2 "based on talk around the station".

3 31 Q. Thinking Garda Lyons, Garda A and Garda Keogh all
4 surrounding this Liam McHugh incident?

5 A. Well, that is Inspector Minnock's report, so... 11:10

6 32 Q. Then he says:

7
8 "I understand Detective Inspector Coppinger is the
9 external appointed officer to investigate this matter.
10 I feel he or his investigation team are the most 11:10
11 appropriate persons to interview Mr. McHugh."
12

13 Then he says he will obtain a mobile number from
14 Mr. McHugh which will assist the investigation team to
15 arrange a meeting. 11:11
16

17 Now, I think the following day, the 9th July, you get a
18 report from Detective Sergeant Curley, is that right?
19 That's at page 1306, if I could have that one the
20 screen. 11:11

21 A. Can I just say, just to give context to this, we had a
22 murder on the 20th June, which required the
23 participation and assistance of most of these people as
24 well as the whole station party in Athlone. There was
25 a very complicated and a successful conviction. And at 11:11
26 that time a lot -- there was a lot of workload on other
27 members there with regard to the murder. I just think
28 that should be highlighted as well.

29 33 Q. Well, I understand this to be Inspector Minnock

1 indicating that it's inappropriate --

2 A. Yes, but I am just trying to give a context for you of

3 the workload and what was going on at that time.

4 34 Q. But there's no suggestion, sure there's not, that it's

5 being handed on to Detective Inspector Coppinger 11:11

6 because you're short staffed?

7 A. No, no, no.

8 35 Q. Or you are too busy to deal with it?

9 A. No, no, I just wanted to give you the context of what

10 was going on in the station. That there was a lot more 11:12

11 going on than just giving consideration to this matter.

12 36 Q. Well this is a matter of principle that he is raising;

13 it's an issue that he doesn't believe that it's

14 appropriate in the circumstances?

15 A. Yes, that's Inspector Minnock's view. 11:12

16 37 Q. Yes. Then you received a letter from Detective

17 Sergeant Curley, as I say, 1306. He says:

18

19 "I note receipt of attached correspondence. Prior to

20 same being forwarded to me, I requested that I may not 11:12

21 be the most suitable person to pursue same as I am

22 personally known to Liam McHugh."

23

24 was that a conversation that you had with him that he

25 is referring to there? 11:12

26 A. Yes, I believe so. I believe that Detective Sergeant

27 Curley knew Liam McHugh from childhood and possibly

28 lived quite near him.

29 38 Q. Then he goes on to say:

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"I had requested personnel within the detective office to complete this task. I had tasked Garda Tom Higgins with this role. Garda Tom Higgins met with Liam McHugh and invited him to make a statement in relation to this incident." 11:13

So it would appear that despite the view of Inspector Minnock, Garda Tom Higgins had been tasked with going out and asking Liam McHugh would he make a statement? 11:13

A. I think Garda Tom Higgins was approached possibly before Inspector Minnock.

39 Q. "Liam McHugh refused to consent to provide a witness statement at that time but undertook to think about it and maybe make himself available to provide such a statement in the future." 11:13

A. Yes.

40 Q. Did Garda Higgins provide a statement to you or a report that you had sight of at that time? 11:13

A. Garda Higgins was dealing with Detective Sergeant Curley.

41 Q. Do you know what day that Garda Tom Higgins went out?

A. I would have to go through all the notes and documentation but... 11:14

42 Q. It doesn't appear that there is a report from Garda Tom Higgins, it doesn't appear there is a statement from Garda Tom Higgins?

1 A. I believe that the Tribunal are seeking a statement
2 from Garda Higgins.

3 43 Q. Yes. But none was available to you at that time, is
4 that right?

5 A. Detective Sergeant Curley wrote to me and I would take 11:14
6 Detective Sergeant Curley's word on the matter.

7 44 Q. "Garda Higgins reported this situation to me following
8 his meeting with Liam McHugh."
9

10 So, as matters stood then, Liam McHugh was not prepared 11:14
11 to make the statement in relation to his interactions
12 with Garda Lyons, but was going to think about it and
13 might do at some time in the future, is that right?

14 A. That's what's indicated there, that's correct.

15 45 Q. Then he goes on to say: 11:15
16
17 "Due to the fact that the matter under inquiry relates
18 to members within Athlone Garda Station, I feel it may
19 be prudent for a member other than Athlone prime drugs
20 office to pursue Liam McHugh further for a statement on 11:15
21 this matter."

22 A. Yes.

23 46 Q. Why was Liam McHugh being pursued in relation to this
24 matter?

25 A. Because Liam McHugh seems to have made an allusion or 11:15
26 an allegation to a possible crime involving Garda
27 members.

28 47 Q. What crime was that?

29 A. I don't have it in front of me. Garda Lyons' report,

1 where he alleged that Liam McHugh alleged in a
2 conversation to Garda Keogh through Garda Lyons that
3 money had been taken from him.

4 48 Q. This is what I was asking about earlier on. If we can
5 just refer to the evidence of Chief Superintendent 11:16
6 Curran, I think you were here for his evidence, were
7 you?

8 A. Yes.

9 49 Q. And this is on Day 117, please, at page 157. If we
10 could scroll down to line 24, please. 11:16

11 A. Yes.

12 50 Q. He is asked the appropriate question, what was the
13 allegation?

14 A. Yes.

15 51 Q. And his answer is: 11:16
16
17 "The allegation was that Guards had actually taken
18 money. "

19 A. Yes.

20 52 Q. "There's a number of possibilities here, but one of
21 them was that there was criminality involved and Guards
22 had taken money from this person and then went off and
23 squandered it. "

24 A. Yes.

25 53 Q. "The other possibility is there, did Garda Keogh
26 anticipate? Did he witness this and did he fail to
27 report it?

28 A. Yes.

29 54 Q. "And also, was it potentially something that he had

1 reported to the confidential recipient mechanism in the
2 first place."
3
4 A. Yes.
5 55 Q. Do you agree with that assessment? 11:17
6 A. Well, Chief Superintendent Curran probably had the
7 benefit, which I don't have at the moment, of Garda
8 Lyons' report in front of me. I do agree that we at
9 that time did not -- I was unaware whether this had
10 relevance to the Ó Cualáin investigation. We just 11:17
11 didn't know whether it would be something that could be
12 of interest.
13 56 Q. SO do you agree with that assessment that he made,
14 which is essentially what was disclosed?
15 A. That was chief Curran's view. But as I said to you, 11:18
16 there was a potential issue with regard to Garda
17 members disclosed, and I also was unaware whether that
18 was something that was of relevance to the Ó Cualáin
19 team, to the Ó Cualáin investigation. I couldn't take
20 it -- really, to take it any further, you would have to 11:18
21 speak to Mr. McHugh.
22 57 Q. Yes. The reason I am asking you these questions is you
23 will appreciate that Garda Keogh is in a very general
24 sense making a case that Chief Superintendent Curran
25 was pursuing these matters against him? 11:18
26 A. Yes.
27 58 Q. All right. Was giving instructions down the line to
28 you.
29 A. Yes.

1 59 Q. To have these matters pursued?
2 A. Yes.

3 60 Q. And that this constituted a targeting of him. Did you
4 have any sense at the time that these matters were
5 being pursued to a degree that perhaps wasn't warranted 11:19
6 by the information that was actually contained in Garda
7 Lyons' report?

8 A. No, I didn't. They're serious allegations. And as I
9 explained to Garda Keogh at the very outset, these were
10 incidents that happened in my district on my watch. I 11:19
11 was duty bound to investigate them. That didn't mean I
12 was investigating him or investigating a complaint
13 against him. I was doing my job with what was in front
14 of me.

15 61 Q. Was there any report requested in relation to the 11:19
16 reliability of the informant in this instance?

17 A. I answered that yesterday I think. I didn't know
18 Mr. MCHugh.

19 62 Q. Yes.

20 A. I think the process would be to speak to the person 11:19
21 first and see what he had to say.

22 63 Q. Well, was there a report sought from Garda Aidan Lyons,
23 who had brought this information from the informant?
24 Was he requested to give an assessment on the
25 reliability of his informant? And I use that word -- 11:20

26 A. Well, I don't think it was being put down -- actually
27 wasn't being put down as a criminal intelligence entry,
28 which would seek validation of the reliability. It was
29 put down as a record of a conversation where there may

1 have been a matter that involved criminality with
2 Gardaí.

3 64 Q. Was there any request from Garda Lyons for an
4 assessment of how reliable the information that he was
5 getting was? 11:20

6 A. There wasn't. But I wouldn't consider it at that stage
7 a requirement. There was something -- if that was an
8 issue, you could always go back to it at any stage.
9 Garda Lyons was working in the station and I could
10 always go back to it. 11:20

11 65 Q. Were there any inquiries commenced in relation to the
12 investigation, if this incident had occurred, of the
13 three Gardaí who were mentioned by Liam McHugh?

14 A. There was no investigation that could be taken any
15 further because Liam McHugh held that information. He 11:21
16 wasn't willing to give a statement. I had no date. I
17 had no time. I had no year. I had no idea who the
18 guards were.

19 66 Q. In any event, you thought that this was a matter that
20 needed to be pursued further and you then wrote to 11:21
21 Detective Superintendent Mulcahy; is that right?

22 A. I did.

23 67 Q. If we can just have a look at that letter, it's at page
24 1304 of the material. There we can see that it's
25 headed: 11:21
26
27 "Investigation regarding allegations made by Garda
28 Nicholas Keogh."
29

1 In the first instance and then it's the:
2
3 "Report of Garda Aidan Lyons regarding Mr. Liam
4 McHugh."
5 A. Yes. 11:22
6 68 Q. You give his pulse number there?
7 A. Yes.
8 69 Q. Pulse ID number.
9
10 "On 2nd June 2014, Garda Aidan Lyons, Athlone, made a 11:22
11 report regarding information he received from Liam
12 McHugh concerning Garda Nicholas Keogh. An e-mail
13 outlining this is attached."
14
15 I think that first paragraph, it's a matter concerning 11:22
16 Garda Keogh. Can I come back to the issue that Garda
17 Lyons has, where he says that he compiled a report, he
18 sent it to his superiors, and he is pretty clear what
19 he was trying to convey; namely, Garda Keogh had
20 attempted to coach Mr. McHugh. But in any event, we 11:22
21 will move on.
22 A. I think Garda Lyons' statement in relation to that was
23 made to the disclosures Tribunal. I am dealing there
24 with the facts I had at the time.
25 70 Q. Then you go on: 11:23
26
27 "I have requested that a statement regarding this
28 allegation be taken from Mr. McHugh. Detective
29 Sergeant Curley, who knows Mr. McHugh personally since

1 childhood, has stated that he would not be the most
2 suitable person to take this statement."

3
4 Then you refer to the fact that the Garda Tom Higgins
5 met with Mr. McHugh and invited him to make a statement 11:23
6 in relation to this incident. That he refused to make
7 a statement but undertook to think about it and maybe
8 make himself available to provide such a statement in
9 the future. And then you say:

10
11 "I have considered and agree with Inspector Minnock and
12 Detective Sergeant Curley's view that in light of your
13 investigation, it might be more appropriate and
14 impartial if someone from outside this district
15 approached Mr. McHugh to ascertain if he was willing to 11:23
16 make a statement. In the circumstances, would it be
17 possible for Detective Inspector Coppinger to arrange
18 to interview Liam McHugh in this regard? Inspector
19 Minnock, Athlone, will arrange to arrange such meeting.

20
21 Garda Keogh is aware that I know about this allegation.
22 He informed me last night that he is meeting his
23 confidential recipient on Monday and he will be making
24 him aware of it.

25
26 I would be grateful for your assistance in this
27 regard."

28
29 I suppose that arises out of what you perceived to be a

1 dilemma that you had at the time, that had been
2 highlighted by Inspector Minnock, isn't that right?

3 A. Yes. As I said, we were -- I was unsure whether this
4 had any relation to anything Garda Keogh was dealing
5 with, with the team from -- Donal Ó Cualáin's team from 11:24
6 the Western Region. Mr. McHugh, I believe, was
7 resident in the Western Region, which would have had
8 certain elements of convenience. And also, with regard
9 to this correspondence, I did tell Garda Keogh that
10 this was my view and I was considering this and I think 11:24
11 he thought it was a good idea as well.

12 71 Q. So you got a reply on the 15th July. It's at page 1191
13 of the materials. Then second paragraph:

14
15 "After reading the report, I believe that the issue 11:25
16 raised by Mr. Liam McHugh regarding Garda Nicholas
17 Keogh may require further investigation.

18
19 As you are aware, the current investigation pertaining
20 to Garda Nicholas Keogh is investigating allegations 11:25
21 outlined by the member himself. The report of Garda
22 Lyons concerns allegations made against Garda Keogh."

23
24 Do you see that?

25 A. Yes. And that gave me clarity that what had happened, 11:25
26 or that the content of Garda Lyons' report wasn't
27 something that was of concern to that team, which I
28 didn't know on the 9th when I wrote.

29 72 Q. Well he will be here to give evidence and he can answer

1 what he meant by that.

2

3 "And I feel that it may be prudent for an independent
4 investigation to be conducted to progress these
5 matters.

11:26

6

7 Perhaps this file can be forwarded to the chief
8 superintendent, Westmeath, to determine the most
9 appropriate and effective manner to investigate these
10 allegations. "

11:26

11

12 Okay. So, you here was an experienced superintendent
13 taking on advice from Inspector Minnock, decided to
14 refer the matter to Detective Superintendent Mulcahy.
15 That is the appropriate course, he believes, because it
16 concerns an allegation against Garda Keogh, that it
17 would be inappropriate, but he is recommending an
18 independent investigation in relation to the matter, is
19 that right?

20 A. Well, the views in Athlone between D/Sergeant Curley,
21 Inspector Minnock and my views were that this matter
22 may be of relevance and be appropriately investigated
23 by this team. That was my view as well, that the
24 content of Garda Lyons' report may of relevance to
25 them. This, to me, gives me clarity that it's not.
26 And that gives me some level of satisfaction in
27 relation to it.

11:27

28 73 Q. Then if we move forward then to the 8th July. I think
29 that you had a meeting with Garda Keogh, is that right?

1 A. The 8th July, I did, yes.

2 74 Q. Yes. I think the notes, the handwritten notes of that
3 meeting are at page 1100. If we could refer to the
4 typed copy, I think it might be easier, which is at
5 page 6410. It's recorded there that you had a meeting 11:27
6 with him in your office and that he was in good form.
7 He was keeping well. You discuss an incident that's
8 not relevant, a missing person case I think. You then
9 went on to say:
10
11 "He said he was monitoring Liam McHugh and Olivia
12 O'Neill."
13
14 Do you see there?
15 A. "Mentioning". 11:28
16 75 Q. Sorry, "Mentioning".
17 A. "Mentioning Liam McHugh and Olivia O'Neill."
18 76 Q. You are certain that that is the correct entry, are
19 you?
20 A. Oh absolutely, he said he was mentioning Liam McHugh. 11:28
21 77 Q. Absolutely, because it gives an entirely different
22 meaning.
23
24 "He said that Olivia had called in to the station about
25 a week ago about her previous incidents and that he had 11:28
26 advised her to go to GSOC."
27
28 Is that right?
29 A. That's what I have, yeah.

1 78 Q. You then discuss Liam McHugh with him, that you had
2 requested a statement from him; is that right?
3 A. Yes.
4 79 Q. And that you had not, as yet, got it?
5 A. That's correct. 11:29
6 80 Q. You said you were considering asking a Galway detective
7 superintendent to organise to have it taken?
8 A. Mm-hmm.
9 81 Q. And you had done that; isn't that right?
10 A. I think is my report dated the 9th? 11:29
11 82 Q. Yes.
12 MR. CARROLL: Sorry for interrupting, it appears to be
13 the sequence, the last letter was the 9th November,
14 which is after this.
15 MR. MARRINAN: Yes. 11:29
16 MR. CARROLL: We're going backwards and forwards in the
17 dates.
18 CHAIRMAN: Yes, that does appear to be the case.
19 MR. MARRINAN: That is right, yes.
20 CHAIRMAN: Is it not better to do it in chronological 11:29
21 order?
22 MR. MARRINAN: Well, I only did it, that was the only
23 time I've done got it.
24 CHAIRMAN: I think that's --
25 MR. MARRINAN: I have been trying to follow the diary. 11:29
26 CHAIRMAN: I think that is Mr. Carroll's point.
27 MR. MARRINAN: But in relation to the discrete incident
28 -- the discrete series of letters in relation to Liam
29 McHugh.

1 CHAIRMAN: Okay. You're doing it your way.

2 MR. MARRINAN: Yes.

3 CHAIRMAN: Anyway, Mr. Carroll points out that this is

4 earlier. I hadn't noticed that, I have to confess.

5 MR. MARRINAN: Yes. No, he is correct. 11:30

6 83 Q. You point out that you were requesting to ask Detective

7 Superintendent Mulcahy to organise to have it taken and

8 to keep everything impartial and he thought this was a

9 good idea?

10 A. Yes. I mentioned that in relation to -- 11:30

11 84 Q. Yes, you just mentioned that a moment ago, when you

12 were drafting the letter of the 9th July.

13

14 "He said that he'd trust Detective Sergeant Curley and

15 he wouldn't mind him taking it, if he didn't object." 11:30

16

17 And you informed him that Detective Sergeant Curley had

18 a personal relationship or knowledge of Liam McHugh and

19 this was not really suitable.

20 A. That's correct. 11:30

21 85 Q. So all this is being discussed in a very open and frank

22 way.

23 A. Yes.

24 86 Q. You're stating your position?

25 A. Yes. 11:31

26 87 Q. And Garda Keogh is stating his position?

27 A. Yes.

28 88 Q. Everybody seems quite happy with the way the matter is

29 progressing at that stage?

1 A. That's my understanding of it, yes.

2 89 Q. Then you mention the Pulse intelligence entry.

3 A. Yes.

4 90 Q. All right. Was this the first time that you raised
5 this issue with him? 11:31

6 A. Sorry, I am just checking my notes. I think I may have
7 mentioned it on the 9th June.

8 91 Q. It may help you if we put 1127 up on the screen. These
9 are your handwritten notes. But remember I asked but
10 whether or not you'd in fact prepared something for a 11:32
11 meeting with Garda Keogh and you will see there number
12 1 "intel"?

13 A. Yes.

14 92 Q. And then "outline"?

15 A. Yeah. 11:32

16 CHAIRMAN: "NF" that's Inspector Farrell, I assume,
17 isn't that right?

18 A. Yes.

19 93 Q. MR. MARRINAN: Do you see that?

20 A. Yes. That is like a note to myself to... 11:32

21 94 Q. That was a note to yourself.

22 A. Yes.

23 95 Q. And then when I brought you through your notes -

24 A. Yes.

25 96 Q. - of your actual conversation, they don't refer to 11:32
26 that?

27 A. They don't, yeah. That just -- maybe I just haven't
28 got the note to say that I -- as I said, the meeting on
29 the 9th June was 90 minutes, so it's possible.

1 97 Q. The note, I'm reminded, refers to the fact you asked
2 him was he in touch with criminals, but that seems to
3 be the only reference that you had during the course of
4 that conversation?

5 A. When I asked him was he in touch with criminals at that 11:33
6 time, on the 9th, that was in relation to my concern
7 that he was taking or perceived he was taking an active
8 role in the Ó Cualáin investigation.

9 98 Q. Yes.

10 A. Rather than a role as a witness. 11:33

11 99 Q. Yes.

12 A. I had a concern about that. I had a concern he could
13 have been meeting criminals and I had a concern about
14 his safety if he was doing so. I don't have a mention
15 in my note of the 9th June on that, even though I have 11:33
16 it there. That's not to say it wasn't mentioned. But
17 I just want to clarify why I mentioned meeting
18 criminals.

19 100 Q. We went through your typed note at page 6401?

20 A. Yeah. 11:34

21 101 Q. If I could have that up on the screen.

22 A. Yes.

23 102 Q. That's your typed note of the meeting. It starts off
24 at number 1 "wel fare".

25 A. Yes. 11:34

26 103 Q. It skipped what's written in your handwritten note?

27 A. Yes.

28 104 Q. Which is the first issue was to be intel?

29 A. Does my report to the chief of the 9th June -- I would

1 have typed a report to the chief on the 9th, the chief
2 superintendent on the 9th June.

3 105 Q. If we could have that, it's 1896. There doesn't appear
4 to be any reference?

5 A. It doesn't mention -- 11:35

6 106 Q. You go on at page 1897 to refer to the Olivia O'Neill
7 incident and the Liam McHugh incident. And it does
8 appear that this is the first reference that you have
9 made in any of your notes to a discussion with Garda
10 Keogh in relation to the intelligence entry? 11:35

11 A. I just can't be any clearer than what's in the notes.

12 107 Q. We'll pass on.

13 A. Yes.

14 108 Q. Sure, you can have a look at it again yourself and then
15 come back to us if you can find an earlier entry or if 11:35
16 we can find an earlier entry or reference to it. But
17 we will just proceed with it.

18

19 "I mentioned the Pulse intelligence entry. He said he
20 believed the current investigation would totally prove 11:35
21 his assertions. He said Olivia O'Neill said she was
22 approached several times for a statement. I said I was
23 aware that she had been approached once. I discussed
24 that these three incidents may require separate
25 investigation." 11:36

26

27 The three incidents being the Olivia O'Neill, the Liam
28 McHugh and then the intelligence entry, is that right?

29 A. Yes, yes.

1 109 Q. "But I was aware that he was, by him informing me,
2 going to discuss them with the confidential recipient."
3 A. Yes.

4 110 Q. "And it might be best to see what happened there.
5 Although he knows and understands that may be a 11:36
6 separate investigation inquiry, if deemed necessary."
7
8 And then you explain that such issues being
9 investigated would provide resolution. At that time
10 who did you think should be investigating these 11:36
11 matters? Obviously you had a view in relation to the
12 Liam McHugh incident, that it shouldn't be within the
13 division. In relation to the Olivia O'Neill incident,
14 she had refused to make a statement?

15 A. Yes. 11:37

16 111 Q. Was that not going to be the end of the matter? I mean
17 what was there to be investigated in relation to that?

18 A. I think we're talking about timeframe in that again,
19 the 8th July. I think it has been clarified,
20 correspondence came up to me on the 9th July, which I 11:37
21 wasn't aware of on the 8th July, so...

22 112 Q. Well, we know that Olivia O'Neill was approached in
23 relation to -

24 A. To make a statement and she chose not to.

25 113 Q. - to make a statement to Detective Sergeant Curley, and 11:37
26 he a long time previous to this reported that she was
27 declining to make a statement?

28 A. Yes.

29 114 Q. So what further was then to be investigated? Was that

1 not the end of the matter?

2 A. I think the report, there's a report dated the 9th July
3 to me that gives clarity that I didn't have on the 8th
4 July, from Detective Sergeant Curley. I think it has
5 been addressed. That Garda Keogh -- 11:38

6 115 Q. That was in relation to the Liam McHugh incident. I am
7 talking about the Olivia O'Neill incident.

8 A. He said she was approached several times for a
9 statement and I said I was aware she was approached
10 once. 11:38

11 116 Q. No, I am asking you what was to be investigated in
12 relation to the Olivia O'Neill incident?

13 A. In relation to Olivia O'Neill, the content of what she
14 said, was it accurate? And then we had a report in
15 from Stephanie Treacy and whatever information I 11:38
16 required from Garda Keogh, to see if the incident had
17 happened in the manor that it was alleged.

18 117 Q. Well, you see, one might think looking at this that
19 Olivia O'Neill, from the documentation, all of which
20 was available to you, and from Garda Treacy's report, 11:39
21 was that she mentioned this issue in relation to her
22 interaction with Garda Keogh. And again, Garda Treacy
23 has made it abundantly clear that what she intended to
24 convey in her report was that Olivia O'Neill had been
25 told what to say, advised of the information by Garda 11:39
26 Keogh. Okay. We dealt with this yesterday and we were
27 talking about coaching of a witness. She had been
28 advised at the time that she had two options: She
29 could either go to GSOC in relation to that information

1 or she could go and make a statement to the
2 superintendent?

3 A. Yes.

4 118 Q. She didn't do that?

5 A. Yes. 11:39

6 119 Q. She was then approached by Detective Sergeant Curley
7 and Garda Tom Higgins, it is suggested, and she was
8 asked would she make a statement in relation to her
9 conversation with Garda Keogh. Yes? Now, she had
10 declined to make a statement or make any complaint in 11:40
11 relation to her interaction with Garda Keogh?

12 A. Yes.

13 120 Q. You had spoken to Garda Keogh about his interaction
14 with Olivia O'Neill and he had advised you that he had
15 told Olivia O'Neill to go and make a full statement 11:40
16 to --

17 A. To GSOC.

18 121 Q. Yes. No, not to GSOC -- well to GSOC, yes.

19 A. Yeah.

20 122 Q. Now, what was there to be investigated as far as you 11:40
21 were concerned at that stage?

22 A. I still think there is correspondence that came to me
23 after that I didn't have at the time. I know there is
24 correspondence as well from Chief Superintendent Curran
25 down to me, saying that he felt he had everything in 11:41
26 about Olivia O'Neill and he was satisfied with that.

27 123 Q. Then you go on in your note, at page 6411, that we were
28 dealing with:
29

1 "Nick again reiterated that he does not want Inspector
2 Farrell dealing with him."
3 A. Yes.
4 124 Q. You said that Inspector Minnock and himself and
5 yourself would deal with him? 11:41
6 A. Yes.
7 125 Q. I think you add to that, at page 834 of your statement:
8
9 "Garda Keogh had previously stated to me that he did
10 not really deal with Inspectors Farrell and Minnock. 11:41
11 He also expressed views that he was not happy with
12 Karena Friel, the welfare officer. He wanted a
13 specific person to type his report and he said he
14 trusted Detective Sergeant Curlley."
15 11:42
16 A. Yes.
17 126 Q. "He also expressed a desire to have input into the
18 nominated members on the investigation team."
19 A. Yes.
20 127 Q. That is the bigger investigation, isn't that right? 11:42
21 A. It is, yes, the Ó Cualáin investigation.
22 128 Q. "He seemed to have views on who were trustworthy."
23
24 Then if we just move forward to the 9th July. You had
25 an interaction Garda Stephanie Treacy, isn't that 11:42
26 right?
27 A. That's correct.
28 129 Q. This is at page 1658 of the materials. Just tell us in
29 general terms what that interaction was about and her

1 concerns at that time?

2 A. well, the day beforehand, Stephanie had approached me
3 in the station, she wanted to talk to me. I was
4 meeting with Garda Keogh that night. She gave some
5 indication as to what was concerning her. I was 11:43
6 meeting with Garda Keogh that night, so it wasn't
7 appropriate for me to meet her on that date. So we
8 made an arrangement to meet the following day. She
9 came in and she spoke to me about the Olivia O'Neill
10 incident. She was very concerned. She was worried 11:43
11 about being dragged into something. She said she
12 worked well with both Garda Keogh and Garda A and she
13 gets on well with him and she wanted it to remain so.
14 She was worried about this. Her particular concern
15 about this, was Garda Keogh had indicated to -- 11:43
16 CHAIRMAN: I know it's difficult, but could you try to
17 use Garda A and Ms. B, when we are referring to them.
18 You have no doubt inadvertently mentioned -- so that
19 will be expunged from the record.
20 MR. MARRINAN: Yes, sorry. 11:44
21 WITNESS: Sorry, I didn't realise.
22 CHAIRMAN: I know. It's is impossible to think that we
23 are going to get through the full inquiry without
24 somebody, and you won't be the last person to do it,
25 but do try to be alert to that. we only really have 11:44
26 two names that we have to watch out for, so it's not as
27 if we have a whole lot. So now.
28 WITNESS: Sorry.
29 130 Q. CHAIRMAN: No. She was concerned, she said she got on

1 well with all the gardaí, including Garda Keogh and
2 Garda A.

3 A. Yes.

4 131 Q. CHAIRMAN: Now, sorry I didn't mean to -- well, I did
5 mean to interrupt you. 11:44

6 A. No, I was reading from notes that were in front of me.

7 132 Q. CHAIRMAN: I understand.

8 A. She was worried because Garda Keogh indicated to her
9 that this might be going further, that was I think in
10 relation to a phone call, she was ringing the station 11:45
11 one night about something. So we chatted and I
12 outlined to her that there was no decision yet as to
13 how this would progress. I didn't know how it was
14 going, and she shouldn't be worrying. I advised her re
15 welfare and she said she gets on well with Sergeant 11:45
16 Sandra Keane and she'd prefer to deal with her. She
17 was very -- she was worrying, she was very, very
18 agitated. So I said to her that in any investigation
19 she should tell the truth and stop worrying. And I
20 explained that in such circumstances as we found 11:45
21 ourselves in caused tension, whether intended to or
22 not. And then I just praised some recent work she had
23 done.

24 133 Q. MR. MARRINAN: I think the next important entry in your
25 diary is the 16th July. 11:45

26 A. Yes.

27 134 Q. I think that refers to a meeting that you had, it's a
28 telephone conversation that you had with Garda Keogh,
29 is that right?

1 A. Yes.

2 135 Q. This is at page 1102, your handwritten notes of that
3 conversation. And the types note are at 6411?

4 A. You know the notes, as I said, the memo to myself.

5 136 Q. Yes. 11:46

6 A. Is it possible to see the original of that?

7 137 Q. CHAIRMAN: Yes, of course.

8 A. Thank you.

9 138 Q. MR. MARRINAN: The original of?

10 A. You know the notes you referred to where you said 11:46
11 Inspector Farrell and I hadn't mentioned it, we thought
12 it was 9th -- for the 9th June, is it just possible to
13 see --

14 CHAIRMAN: Are you going back now to something you were
15 discussing earlier? 11:46

16 WITNESS: Yes.

17 CHAIRMAN: There is no problem doing that.

18 WITNESS: There is a note to myself, I'm not sure of
19 the sequence of it for myself.

20 139 Q. MR. MARRINAN: This is the 9th June? 11:47

21 A. Where it just has numbers, where I said it was like a
22 note to myself with regard to points.

23 140 Q. CHAIRMAN: Points you were going to raise?

24 A. Yes.

25 141 Q. CHAIRMAN: Points that you said you were intending to 11:47
26 raise with Garda Keogh?

27 A. Yes.

28 142 Q. CHAIRMAN: You would like to see the original of that?

29 A. Yes, please.

1 143 Q. MR. MARRINAN: well, the photocopy of the original is
2 at page 1227?

3 144 Q. CHAIRMAN: Let's have a look first of all at the
4 photocopy of the original, is that okay?

5 A. Yes, that's what I did want to look at. 11:47

6 CHAIRMAN: Now, is that sufficient for you.

7 WITNESS: Is there a date on that?

8 145 Q. MR. MARRINAN: No, there is no date.

9 CHAIRMAN: wait now, let's get the document. If we can
10 get the copy. Orla, could you get the copy, the actual 11:47
11 original one. what's the number?

12 MR. MARRINAN: It's page 1227 of the materials.

13 CHAIRMAN: Thanks very much.

14 146 Q. MR. MARRINAN: Your concern is, you think there may be
15 a date up on the left-hand side that might help you, is 11:48
16 that it?

17 CHAIRMAN: Peter, stop fiddling with it. I am so
18 sorry. Forgive me. Just have a look at it there.

19 147 Q. MR. MARRINAN: There doesn't appear to be -- there are
20 no redactions. 11:48

21 CHAIRMAN: well, just give her a chance to have a look
22 at it first of all. Find it first of all. 1227.

23 MR. MARRINAN: Yes.

24 CHAIRMAN: Have you got it there, superintendent?

25 WITNESS: Yes. 11:48

26 CHAIRMAN: So, I know that's a photocopy.

27 WITNESS: Yes.

28 CHAIRMAN: It doesn't always come out perfectly, are
29 you happy to deal with the photocopy?

1 WITNESS: No, that's fine. Just let me read it for a
2 moment. That piece of documentation, that note to
3 myself, is actually made around the 16th, before I
4 wrote to the chief. It's me pulling my thoughts
5 together. 11:49

6 148 Q. CHAIRMAN: The 16th of?
7 A. Of July. It's not relevant to --

8 149 Q. MR. MARRINAN: It's not the 9th June?
9 A. No.

10 150 Q. All right. 11:49
11 A. No, it's not.

12 151 Q. CHAIRMAN: How are you able to fix a date on it then,
13 superintendent?
14 A. Because it has my concerns, it fills in to what I write
15 in the report to the chief dated the 16th. If you can 11:49
16 look specifically as well on page 2, number 7 I have in
17 my own writing, it filters into my final paragraph of
18 my report to the chief on the 16th about no decisions
19 being made in isolation and that. So that to me looks
20 as if I am pulling my thoughts together before I write 11:49
21 to the chief, and it would be on the 16th and not, as
22 we were previously taking it, the 9th.

23 152 Q. MR. MARRINAN: Because you would have raised the issue
24 of intelligence had you had it on the list and it
25 doesn't appear that you did raise the issue of 11:50
26 intelligence?

27 A. No. And, as I say, if you look at page 2 of it, it
28 gives -- it filters in totally into my written report
29 to the chief. So I would guess that I am sitting down,

1 pulling my thoughts together before I write a report.

2 153 Q. Okay. And thank you for correcting that. So can we
3 just, so that we are clear in relation to this, for the
4 benefit of everybody and the Chairman in particular.
5 Page 1227 is what we have up on screen at the moment, 11:50
6 if we go to the introduction there. They are notes
7 that you prepared in advance of your meeting --

8 A. In advance of writing to the chief.

9 154 Q. In advance of writing to the chief?

10 A. My report. 11:50

11 155 Q. In advance of writing to the chief?

12 A. Yes.

13 156 Q. CHAIRMAN: On the 16th?

14 A. Yes.

15 157 Q. MR. MARRINAN: Okay. 11:50

16 A. Because that would kind of follow the sequence of the
17 headings and what I was thinking of.

18 158 Q. The notes at 1102, are the notes of that conversation,
19 is that right?

20 A. That's correct. 11:51

21 159 Q. At 6411, sorry, Mr. Kavanagh, 6411, they're the typed
22 notes of 1102?

23 A. Yes.

24 160 Q. All right. Is that clear?

25 A. Yes. 11:51

26 161 Q. So if we just go through this conversation that had you
27 with him. You refer to the intelligence entry,
28 Inspector Farrell, on 20th May 2014?

29 A. Yes, that's correct.

1 162 Q. You had raised this previously with Garda Keogh, but
2 you're revisiting it?

3 A. Yes.

4 163 Q. And you had specific questions that you had there.
5 Will you just tell us the questions that you had? 11:51

6 A. Yes. This is by telephone call, because it didn't suit
7 Garda Keogh to meet me.

8 164 Q. Yes.

9 A. Had he information -- this is in relation to the
10 intelligence, this aspect. 11:52

11 165 Q. Yes.

12 A. Had he information from a specific source which gave
13 rise to his assertion. He said it is investigated by
14 the Galway team. D/Superintendent Mulcahy has done the
15 appropriate business. That he has done the appropriate 11:52
16 business with the D/super. I think my concern re
17 putting it on.

18 166 Q. Would that be on Pulse?

19 A. Yes, on Pulse.

20 167 Q. The entry on Pulse. If we can just stop there in 11:52
21 relation to that. Did you share the concerns that
22 Chief Superintendent Curran had in relation to the
23 obligations that Garda Keogh had under CHIS?

24 A. Yes, I did.

25 168 Q. You did? 11:52

26 A. I did.

27 169 Q. Had you discussed it with Chief Superintendent Curran?

28 A. We often spoke on the phone about it, yes.

29 170 Q. Pardon?

1 A. We would speak on the phone about it. Chief
2 Superintendent Curran had the responsibility for the
3 integrity of CHIS in the division. As well as having
4 good theoretical knowledge, he had extremely good
5 practical knowledge of where I could go wrong on that 11:53
6 because he had been a CHIS handler in Coolock in the R
7 District for a number of years and DMMR, so he would
8 have good practical knowledge of how it could go wrong.
9 That level of knowledge for me was a privilege, to have
10 someone who had that. So I totally took his lead on 11:53
11 that and supported it.

12 171 Q. Did you have any concerns that it may have overlapped
13 with the inquiry that was being conducted by Assistant
14 Commissioner Ó Cualáin?

15 A. Sorry, in what way? 11:53

16 172 Q. In the sense that the content of the entry on Pulse was
17 a matter that was being investigated by Assistant
18 Commissioner Ó Cualáin?

19 A. With regard to this, again this is something that came
20 up when I was on my holidays and it was well 11:54
21 established and ongoing. The content of it, it could
22 well have had something to do with assistant
23 commissioner -- I don't know, I don't know what
24 Assistant Commissioner Ó Cualáin was investigating.
25 But what was important to us was the obligations, and 11:54
26 specifically to the chief superintendent, basically
27 carry the can on this one, was the obligation that the
28 CHIS policy was fully complied with.

29 173 Q. Well, I can understand, well, here was a second matter

1 that potentially could be of interest to Assistant
2 Commissioner Ó Cualáin?

3 A. Yes.

4 174 Q. The first matter is the Liam MCHugh issue?

5 A. Yes. 11:55

6 175 Q. And you decided, well it's not appropriate that we
7 should deal with that and we will ask the Ó Cualáin
8 investigation team to look into this?

9 A. Yes.

10 176 Q. And here's Garda Keogh saying this isn't a matter for 11:55
11 CHIS and Assistant Commissioner Ó Cualáin is
12 investigating the intelligence that's contained in that
13 report. Yes?

14 A. Garda Keogh is saying it but --

15 177 Q. He's telling you? 11:55

16 A. That's what he is telling me.

17 178 Q. Yes.

18 A. Garda Keogh has a very narrow focus on this, we have a
19 broad one. Garda Keogh couldn't -- wasn't qualified or
20 trained or that to make that decision, as to whether it 11:55
21 was a CHIS matter or not.

22 179 Q. But that was his assertion and he was consistent
23 throughout?

24 A. It was his assumption, but on the same date I was told
25 by the Ó Cualáin team that they weren't investigating 11:55
26 it.

27 180 Q. In hindsight, looking back on this, do you think there
28 would have been any benefit in perhaps having a round
29 table conference with the Ó Cualáin investigation?

1 A. The Ó Cualáin investigation was under the auspices of
2 an assistant commissioner who was well able to run his
3 own investigation. It was separate to anything we were
4 doing. If there was any correspondence or anything
5 required, I would imagine --

11:56

6 CHAIRMAN: would that have been legitimate,
7 Mr. MARRINAN? Having regard to the confidentiality of
8 the process, would that have been legitimate?

9 MR. MARRINAN: I don't know, I am just exploring.

10 CHAIRMAN: Maybe everybody should sit around and
11 discuss everything, but, I have to say, I have a query
12 as to whether, if you go to the confidential recipient
13 and that process proceeds, it may not be quite so
14 simple for the local team to say, let's have a general
15 chat, because there's a protection --

11:56

16 181 Q. MR. MARRINAN: There was no problem in relation to
17 Garda Keogh and confidentiality, because he was in fact
18 encouraging local management to communicate with the
19 Ó Cualáin investigation, isn't that right?

11:57

20 CHAIRMAN: Okay.

11:57

21 A. But Garda Keogh wasn't conducting the investigation.

22 182 Q. MR. MARRINAN: No, but he was --

23 A. Garda Keogh -- this goes back to what I am saying.
24 Garda Keogh was a witness in Assistant Commissioner Ó
25 Cualáin's investigation. Garda Keogh had a narrow
26 focus on his role in it. The broader focus is, as the
27 Chairman said, we couldn't approach them. What they
28 were doing, they could have been investigating me, I
29 don't know. I didn't know what it was. The chief

11:57

1 superintendent didn't, and nor were we entitled to. We
2 were there to facilitate the investigation. So I think
3 such an approach would be completely out of order.

4 183 Q. Well, you did make an approach in the sense that you
5 were suggesting to the Ó Cualáin investigation that 11:58
6 they would take up the running in relation to Liam
7 McHugh?

8 A. It was a request in relation to a matter because at
9 that stage I wasn't sure whether it was of concern to
10 them or not and they got back to me fairly quickly and 11:58
11 told me it wasn't, and that was the end of that. So
12 that was written, that was a total, you know, above the
13 table request to them.

14 184 Q. I am not in any sense attempting to criticise you for
15 it. I am saying, looking back in hindsight on this. 11:58
16 Because on the one hand you had concerns locally that
17 weren't being addressed, you had concerns in relation
18 to Liam McHugh, apparently there were concerns in
19 relation to Olivia O'Neill. Garda Keogh was quite
20 happy that you would go to the Ó Cualáin investigation 11:58
21 with the Liam McHugh incident. In fact, he said it was
22 a good idea; isn't that right?

23 A. When I said to him the day before, or the 8th, that
24 it's something I was considering.

25 185 Q. And he was encouraging you to go to the Ó Cualáin 11:59
26 investigation in relation to the intelligence issues
27 and the CHIS issue, isn't that right?

28 A. But it wasn't up to Garda Keogh to involve me in that
29 other investigation. That was Assistant Commissioner,

1 as he then was, Ó Cualáin's investigation.

2 186 Q. Okay. All right. So in any event, if we could just
3 move on then in relation to the notes that you have?

4 A. Yes.

5 187 Q. You gave him then advice in relation to HQ Directive 11:59
6 126/10 and the management of CHIS?

7 A. Yes.

8 188 Q. The revised code under HQ 29/13?

9 A. Yes.

10 189 Q. Do you recall, did you give him a copy of those? 11:59
11 A. No, it was on telephone.

12 190 Q. Or did you advise him to go to the Garda portal?

13 A. No, I was on the phone him to. The Garda portal is
14 very comprehensive, the page is available to all
15 members. Garda Keogh, being an experienced member of 12:00
16 An Garda Síochána, would be able to, as I say, just get
17 access, as anybody else is. Each guard has an
18 obligation to keep themselves in accordance with Garda
19 code, to keep themselves updated on policy procedures
20 and the law. So I outlined to him about that circular. 12:00
21 He said this is in exceptional circumstances and he
22 wasn't sure it would come under CHIS, it was being
23 investigated by a D/superintendent, as in Mulcahy.

24

25 "The intelligence is being investigated. D/super may 12:00
26 have a different opinion. In my opinion it will be
27 backed up."

28 191 Q. Then you asked him on what basis he entered the
29 additional information relating to Garda colleagues?

1 A. Yes.

2 192 Q. There:

3

4 "His collusion between members of An Garda Síochána and
5 an individual. 12:01

6 A. Yes.

7 193 Q. Well, this was asking questions about the investigation
8 that was being conducted by Assistant Commissioner Ó
9 Cualáin, was it not?

10 A. No. I didn't know what investigation Assistant 12:01
11 Commissioner Ó Cualáin -- what allegations he was
12 investigating, but I think that question is on what
13 basis has he entered it. You know, that's fairly -- I
14 don't think that is referring to the Ó Cualáin
15 investigation, on what basis has he entered the 12:01
16 additional information in relation to Garda colleagues
17 and assertion there was collusion. And he said he
18 wasn't placed to answer them, refer to D/Super Mulcahy.

19 194 Q. Yes. And again referred to Detective Superintendent
20 Mulcahy on the issue, is that right? 12:01

21 A. That's what he said.

22 195 Q. He indicated to you that he was getting fair play?

23 A. That's correct.

24 196 Q. Then there was the issue in relation to Olivia O'Neill?

25 A. Yes. 12:01

26 197 Q. He said he had advised her to go to GSOC?

27 A. Yes.

28 198 Q. He indicated that she called to the Garda station when
29 he was on shift?

1 A. Yes.

2 199 Q. And he was a public officer?

3 A. Yes.

4 200 Q. You gave him advice in relation to letting
5 investigations take their course. 12:02

6 A. Yes. Because that's -- I had had -- Stephanie Treacy
7 had been in to me and as well as that, I had told -- I
8 think Garda Keogh has actually referred to this in his
9 own evidence, where he said I was firm but fair. But I
10 told him that, you know, I said to people that they 12:02
11 weren't to be asking the investigation team questions
12 or anything like that, and I said the same applies to
13 you. I wanted to be fair to everyone in the station.
14 And he said he hadn't approached anyone. Then I
15 discussed claims with him. 12:02

16 201 Q. Just before that, if I could just deal with the asking
17 people what they will say?

18 A. Yes.

19 202 Q. Then, applies to you to you as well?

20 A. Yes. 12:02

21 203 Q. Was this a reference to Garda A?

22 A. Yes.

23 204 Q. And his concerns in relation to that?

24 A. Yes.

25 205 Q. What were his concerns that he was expressing at that 12:03
26 time?

27 A. What were Garda Keogh's concerns?

28 206 Q. Yes, in relation to Garda A?

29 A. He didn't express concerns. Garda Greene expressed

1 concerns. I think that's around the 9th or 10th June,
2 Garda Fergal Greene expressed concerns.

3 207 Q. It's mentioned here on the 16th July.
4 A. To Garda Keogh.

5 208 Q. "Asking people what they will say." You haven't got 12:03
6 who it was alleged was doing that but you said "applies
7 to you as well"?

8 A. Yes, it applied to everyone in the station.

9 209 Q. Okay. Then you discussed claims, is that right?
10 A. That's correct, because the correspondence had come 12:03
11 back from the finance section about the claims. So I
12 told him they were being approved. He said he
13 hadn't -- there were very strict -- how would you say,
14 budgets were extremely tight then. They're always
15 tight but they were extremely tight then. With regard 12:03
16 to claims, for me, for the ongoing annual management of
17 my budget, I needed to have the claims in on a monthly
18 basis in accordance with the code, so as I would know
19 how much my money was as such. So I had asked him
20 about his claims and he said he hadn't got them all in. 12:04
21 So I took from that, that the two, or whatever the ones
22 were that I'd approve on that date, was the end ones,
23 he hadn't any other claims in and I told him to notify
24 me in advance if he was going to be claiming in
25 accordance with the Code. 12:04

26 210 Q. We dealt with correspondence in relation to that
27 yesterday?

28 A. We did. That's on the 16th.

29 211 Q. Then you have a note:

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"Checked with D Mulcahy. Nicholas Keogh contacted him today re my questions this morning, 18th July 2014."

A. Yes.

212 Q. Was that a contact that you had subsequent to the conversation that we have just gone through with Garda Keogh? 12:04

A. I think from my notes that Detective Mulcahy called by that day and said that they weren't dealing with -- that's reflected in my report of the 16th. 12:05

213 Q. Yes, we will come to that.

A. Yeah.

214 Q. Then there's an issue in relation to the Data Protection Act, is that a note to yourself?

A. That's a note to myself. 12:05

215 Q. And then the obligation to tell the chief. Is that again a note to yourself?

A. That's a note to myself, yeah.

216 Q. And then you refer to a text from Garda Keogh.

A. Yes. 12:05

217 Q. Where he says that he had been talking to the detective superintendent.

"Can you give me a buzz if you get a chance?"

A. Yes. 12:05

218 Q. Then have you a note of the intelligence.

A. I think that "obliged to tell chief and intelligence" are linked into each other. That he is obliged to tell the chief -- obliged to answer the chief's

1 226 Q. Yes.

2 A. I don't know where I was when I took these notes.

3

4 "Confusion over today."

5 12:07

6 So I presume that meant my phone call.

7

8 "He spoke to the D super. He will look at it again

9 tomorrow. Consent is to do with it. Told them first

10 day. May have got muddled up. He will look at it and 12:07

11 decide tomorrow how he will deal with it."

12

13 And then:

14

15 "I don't think it is relevant to CHIS." 12:07

16

17 I have a little NK note beside that:

18

19 "Bombard him with so much stuff at the start."

20 12:07

21 That's to do with his meeting with the AC. I can't

22 specifically recall. 22:46 then I get a text from Nick

23 Keogh again:

24

25 "Can you let me know whether there is a complaint 12:08

26 against me, please?"

27

28 Now, he has been told numerous times by me that there

29 wasn't a complaint against him. I said:

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"Stop worrying. I have recommended they be investigated. You will be kept in the loop."

"He said he has no problem with this. I will let you know. I told him about welfare. Advised him to contact them. He told me I have been 100% with him. He has told the Judge this. Things have been okay with him. He is feeling okay. He asked if he could have the name of the person who be would investigating." 12:08

I don't know what he's talking about there.

"I said if there was an investigation he would be informed." 12:08

That's the end of that.

227 Q. Yes.

A. Then I got a text on the 17th, I was actually in hospital. 12:08

228 Q. That was the end of your --

A. That was the end of that one, apart from I got a text on the 17th. The 17th, I believe I was on leave that day in Dublin. At 15:43 I got a text to say: "Just to let you know..." 12:09

229 Q. Just before you move on.

A. Yes.

230 Q. We won't move on to the next day just yet.

A. Yes.

1 231 Q. Because you wrote a letter that evening, on the 16th?

2 A. I did.

3 232 Q. Which is in chronological order. That's at page 1186
4 of the materials. This is a letter to the chief
5 superintendent.

12:09

6 A. Yes.

7 233 Q. It's dated the 16th July. Then it deals with the
8 intelligence report. This is:

9

10 "Further to your correspondence dated 19th May 2014."

12:09

11 A. 9th June.

12 234 Q. "Inspector Farrell, acting superintendent, spoke with
13 Garda Keogh regarding this intelligence entry. His
14 report dated 20th May 2014 refers to this. On this
15 date, I had a telephone conversation with Garda Keogh,
16 as he was unable to meet with me. I again addressed
17 the concerns as outlined in your report of the 19th May
18 and questioned him accordingly. Garda Keogh said he
19 has discussed this matter with the confidential
20 recipient and that Detective Superintendent Mulcahy was
21 investigating the matter."

12:10

12:10

22

23 You then go on and deal with the report in relation to
24 Garda Aidan Lyons and you set out the position there.
25 I don't intend to open all that, we have it there. You
26 say:

12:10

27

28 "The information divulged by Olivia O'Neill to Garda
29 Stephanie Treacy on the 28th May..."

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At the beginning of that paragraph, the first three lines there:

"This is as a result of a visit to Athlone Garda Station on the 28th May. It is alleged that Garda Nicholas Keogh gave advice to Olivia O'Neill regarding a complaint she was making requesting her to make certain assertions."

12:10

Is how you deal with it. And then you point out that there is conflict regarding the specific content of this advice outlined in Garda Treacy and Garda Keogh's statements. And then you point out that she was approached by Sergeant Curley.

12:11

12:11

You then go on to deal with Garda Keogh's engagement with the confidential recipient regarding the above incidents. You say:

"Garda Keogh told me that he informed me the confidential recipient of the matters outlined above and that Detective Superintendent Mulcahy is investigating them. I informed Garda Keogh that the content of detail between him and the confidential recipient is confidential to them. However, he was happy that I know he has reported them. He advised me to contact Detective Superintendent Mulcahy to verify that these incidents were being investigated by him.

12:11

12:11

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On this date I met with Detective Superintendent Mulcahy and Detective Inspector Coppinger, I asked them if they were investigating these incidents. They advised me that they were not."

12:12

Do you have a recollection now of having that meeting with Detective Superintendent Mulcahy and Detective Inspector Coppinger?

A. I don't really, to be honest. As I say, when I was going through all my stuff that --

12:12

235 Q. Sorry.

"Meetings with Garda Keogh:

I meet with him regularly. I am aware that he is not currently engaging with the Garda welfare service. He said that he doesn't trust Inspector Farrell and Inspector Farrell is aware of this and I have made arrangements made that in my absence he will liaise with Inspector Minnock."

12:12

12:13

Then you deal generally with welfare of members in Athlone.

A. Yes.

236 Q. You say:

12:13

"I am aware that this situation may be difficult for members in Athlone. The contact details for employee assistance personnel and the welfare officer are

1 displayed in the station. Each member has been
2 e-mailed regarding their obligations with regard to
3 harassment and bullying in the workplace. I engage
4 regularly with members. I meet with members at the
5 core of this investigation. Inspectors and sergeants 12:13
6 are available and supportive of members. During my
7 conversation on this date with Garda Keogh, I outlined
8 to him that he was also obliged to be mindful of other
9 members, that I have a responsibility for all members
10 of the district. He said he was aware of this." 12:13

11

12 Then you have:

13

14 "Recommendations:

15 I am of the opinion that the above incidents warrant 12:13
16 further investigation."

17

18 That's all three incidents, is that right?

19 A. Yes.

20 237 Q. "However, I am mindful that legislation, labour law and 12:14
21 Garda policies could impact on any decision made in
22 this regard."

23

24 what did you mean by that?

25 A. Well, I meant that I was very much in the dark with 12:14
26 regard to a lot of what was going on. I didn't know
27 what was going on. I just want to refer back to Declan
28 Mulcahy and Nick Coppinger coming over, I'd say that's
29 on a follow on, I'd say that's just a follow on on the

1 conversation they wrote.

2

3 Garda Keogh was a confidential recipient and there was
4 a lot of things going on. They were all, as I say,
5 coming, you know, not so much to a head but they were 12:14
6 running consecutively, as well as the Ó Cualáin
7 investigation. And from my point of view, I was
8 totally in the dark about the Ó Cualáin investigation.
9 And I just felt that a broader perspective, a broader
10 look at these things may be beneficial at the time, so 12:15
11 as they wouldn't be taken in isolation because I wasn't
12 sure or comfortable that my view was broad enough at
13 that stage.

14 238 Q. You then go on to point out:

15

12:15

16 "Garda Keogh is engaging with a confidential recipient
17 and is subject to benefits under the Protected
18 Disclosure Act 2014."

19

20 Then you say:

12:15

21

22 "I believe that the view of Legal Affairs and Human
23 Resource Management should be sought to ensure that a
24 decision is not made in isolation."

25 A. That's correct. I just felt maybe a broader 12:15
26 perspective would be helpful. Maybe there was
27 something that from my perspective I wasn't aware of or
28 I wasn't seeing or that. So...

29 239 Q. Well, I suppose when you throw into the mix the issue

1 of CHIS, Olivia O'Neill, Liam McHugh, this had become a
2 little bit complex. Would it be fair to say that your
3 view at the time was that you should seek the advice,
4 as you have suggested there, of Legal Affairs and also
5 the Human Resource Management? 12:16

6 A. Well, that was it, yes. I felt from a broader
7 perspective an examination of the issues might be
8 warranted.

9 240 Q. Then if we move on to the 23rd of July, you had a brief
10 phone conversation on the phone. That's at page 1106 12:16
11 in your handwritten notes.

12 A. Yes. There's also -- there's the 17th July and the
13 19th July, a conversation with Nick Keogh. I had text
14 on the 17th July from Garda Keogh.

15 241 Q. Oh, yes, sorry. Yes, you have a number of texts - 12:17
16 A. Yes.

17 242 Q. - on the 17th July?
18 A. Yes.

19 243 Q. They're in volume 5, at page 1183. 1183, this is one
20 from Garda Keogh to you: 12:17
21
22 "Just to let you know, was talking to the judge and he
23 is contacting Commissioner re separate investigation."
24
25 That's sent at 15:43. Then if we just scroll down. We 12:17
26 have lost it there. 1184. Yes, this is another one.
27
28 "Judge."
29

1 He's contacting the Commissioner.

2 A. Yes.

3 244 Q. He is contacting the Commissioner re a separate
4 investigation.

5 12:18

6 Sorry, that's the same one. 1185. Sorry, if you just
7 scroll up there, if you don't mind, Mr. Kavanagh. We
8 have lost it again. 1185. You reply:

9

10 "Grand Nick. We'll catch up next week." 12:18

11

12 And we continue on. And then:

13

14 "Was on the beat and McHugh came over."

15 12:18

16 This is on the 19th July, isn't that right?

17 A. 11:30 at night on the 19th July, yes.

18 245 Q. Then just scroll down "okay talk next week."
19

20 Sent on the 20th July. I think those are the messages 12:19
21 that you had.

22 A. That's correct.

23 246 Q. Then, sorry, the 21st July. You received a letter from
24 the chief superintendent. This is at page 1886.

25 A. Yeah. 12:19

26 247 Q. Chief Superintendent Curran gave evidence in relation
27 to your recommendations. They weren't recommendations
28 that he followed?

29 A. That's correct.

1 248 Q. I am not entirely sure, because I haven't an exact
2 recollection of his evidence, but I thought that
3 indicated that he may not have received that letter.
4 But in any event, it's clear that he did. Because at
5 1886, he is writing to you, referring to your 12:20
6 correspondence on the 16th July, which I've just
7 opened?

8 A. Mm-hmm.

9 249 Q.
10 "This matter has been ongoing for some time and while I 12:20
11 am satisfied that all of the required information has
12 now been forwarded in respect of the information
13 divulged by Ms. O'Neill, I am now requesting that the
14 following matters be attended to in advance for
15 forwarding these matters for a review by an independent 12:20
16 chief superintendent."
17

18 It would appear that that's the view that he settled on
19 at that time.

20 A. It is. 12:20

21 250 Q. Rather than going to Legal Affairs, is that right?
22 A. Yes.

23 251 Q. Then two bullet points:
24

25 "The initial report of Inspector Farrell dated 20th May 12:20
26 2014, Garda Keogh nodded when he was advised that any
27 informant he had should be registered with CHIS. Has
28 this informant been registered with CHIS in accordance
29 with HQ Directive 126/10 in the interim, as

1 considerable time has now passed to allow for the
2 referral of this informant to the Eastern Region
3 management. "

4
5 It would be fairly clear from your letter to him and 12:21
6 all your dealings with Garda Keogh that he had taken a
7 consistent view in relation to this matter and he
8 wasn't, in fact, going to provide any more information
9 and he was referring to you the Ó Cualáin investigation
10 team. 12:21

11 A. Yeah, but I think Garda Keogh's view -- and Chief
12 Superintendent Curran outlined that with regard to
13 CHIS, there's very strict policy there to be followed.

14 252 Q. Yes.

15 A. He was entitled to ask such questions. He would have 12:21
16 been negligent if he didn't ask such questions and get
17 answers.

18 253 Q. And then, the second bullet point:

19
20 "Has it been established with Garda Keogh whether or 12:22
21 not he had a conversation with Liam McHugh in relation
22 to the matters outlined in the report of Garda Aidan
23 Lyons. Has Garda Keogh been asked to comment on the
24 veracity of the information contained within the report
25 of Garda Lyons. 12:22

26
27 These matters should be addressed immediately and a
28 report forwarded to this office at the conclusion of
29 your next meeting with Garda Keogh. "

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Then we move on to the 23rd July. At page 1106 you have a note saying:

"Rang Garda Keogh. Offered to meet him."

12:22

A. I did.

254 Q. It didn't suit him. Sorry, the typed version of that is at 1256, which might be easier to read.

A. Yeah. "Told him I was sending down two reports. One re intelligence entry and Liam McHugh. He is resting today and starting nights tomorrow. He will answer then. I asked how he was and he is fine."

12:22

255 Q. Yes. Then the same date we have, at page 1182, the letter in relation to Liam McHugh dated the 23rd July:

12:23

"Further to our telephone conversation on this date, can you provide me with a report outlining your contact with Mr. Liam McHugh over the past three months and the nature of such interaction."

12:23

Then, at 1155, this is headed "intelligence report", dated 23rd July 2014:

"With regard to intelligence report made on 18th May 2014, I require a report from you indicating whether the informant has been registered with CHIS in accordance with HQ Directive 126/10."

12:24

Now, that is in fact responded to there in the body of

1 the report on the 27th July by Garda Keogh, where he
2 says:

3
4 "Superintendent McBrien, Athlone.

5 This is not a CHIS matter. The information is in the
6 care of Assistant Commissioner Donal Ó Cualáin.

12:24

7
8 Forwarded for your information."
9

10 If you could just come back to the issue of whether or
11 not and what discussions you actually had with
12 Detective Superintendent Mulcahy in relation to the
13 intelligence entry? Can you help us in relation to
14 that and what your recollection is of the discussions
15 you may have had with him?

12:24

12:25

16 A. I think they're just what was outlined in my report of
17 the 16th to the chief, that they said they weren't
18 investigating those issues. Whatever page that's on,
19 that reflects what was -- I don't recall there being
20 anything -- I think it would be more of kind of
21 basically sticking their head in the door for a minute,
22 I don't think I was expecting them.

12:25

23 256 Q. If we can scroll to page 8366. This is a report from
24 Detective Superintendent Mulcahy to the assistant
25 commissioner, Western Region. If we scroll down to the
26 third paragraph there:

12:25

27
28 "The matters outlined in his intelligence report are of
29 a very serious nature. The difficulty that arises for

1 the investigation team is that the matters are still
2 under investigation. Furthermore, to discuss with any
3 third party the contents of that statement would be in
4 breach of confidentiality, which is the whole basis for
5 the confidential reporting legislation." 12:26

6
7 Do you see there?

8 A. Yes.

9 257 Q. That was the matter that in fact had been raised by the
10 judge. 12:26

11
12 "The allegations contained in the intelligence report
13 have been again alluded to in his statement to the
14 investigation team, but to date they have been
15 unsubstantiated. The creation of the intelligence 12:26
16 report is not a matter I believe that the investigation
17 team can directly investigate. I feel that this is a
18 matter perhaps for both the divisional officer and the
19 district officer to deal with in whose division Garda
20 Keogh is currently serving. I have spoken to both the 12:27
21 divisional and district officers in respect of this
22 matter."

23 A. Yes. On the 24th October, around that time I was out
24 sick, I had a very serious medical condition and I was
25 out sick from the 2nd October. 12:27

26 258 Q. This is his letter of the 28th October.

27 A. Yes.

28 259 Q. But it's with his dealings in relation to this matter
29 over the previous months?

1 A. Yes.

2 260 Q. But do you have a recollection of --

3 A. I met with him on the 23rd September in Headquarters
4 with Chief Curran, that wasn't in relation to this, and
5 my only previous one was the 16th July. As I said, on 12:27
6 the 16th July, I think my recollection is very
7 informal, I don't think I was expecting them and I
8 think the comments are reflected in my correspondence
9 to the chief of that date.

10 261 Q. Yes. I'm sorry, if we could just go back to your notes 12:28
11 on the 16th July 2014, at 1102. Do you see there,
12 number 1, the intel entry?

13 A. Yes.

14 262 Q. If you just look after the subparagraph (a) and then
15 after that, we have: 12:29
16
17 "Concern re putting it on."

18 A. Yes.

19 263 Q. Could you just tell us what you have written there?

20 A. My concern -- I had actually -- that looks like "sep 12:29
21 than content."

22 264 Q. Are we to understand from that:
23
24 "My concern re putting it on --" then

25 A. Separate than content it looks like. It's hard to 12:29
26 understand. Sometimes it's hard to understand your own
27 writing. It looks like "sep than content".

28 265 Q. It might suggest that you weren't concerned about the
29 content of what was placed on Pulse, but it was the

1 fact that it was placed on Pulse?

2 A. Yeah, as I say, I was probably separating the two
3 issues to Garda Keogh.

4 266 Q. CHAIRMAN: I am not understanding that. How could one
5 be concerned about putting it on Pulse without being 12:30
6 concerned about what he put on it? I am just trying to
7 understand. He makes this entry on Pulse, surely the
8 concern reflects what's in it?

9 A. Yeah, I'm referring back to Chief Superintendent
10 Curran's evidence as well. 12:30

11 267 Q. CHAIRMAN: Yes.

12 A. It's the content -- there was a conundrum with the
13 content of what was put on Pulse, was that being
14 investigated?

15 268 Q. CHAIRMAN: Yes. 12:30

16 A. That type of thing. But also, the putting of it on
17 Pulse and where his source was coming from.

18 269 Q. CHAIRMAN: Yes.

19 A. Was the source registered and that. That was an issue
20 as well. 12:30

21 270 Q. CHAIRMAN: Oh, I see what you mean, I think. So the
22 question of the sources, the source or sources, apart
23 from the content, that's what you're inferring, looking
24 at it now.

25 A. It's a long time ago but --. 12:31

26 271 Q. CHAIRMAN: Looking at it now, it's not clear but that's
27 what you are thinking it might mean?

28 A. That's what I think it might mean.

29 272 Q. CHAIRMAN: I understand. Obviously I don't know

1 whether I agree with that, but I am understanding that.
2 I understand.

3 A. Yes.

4 273 Q. CHAIRMAN: You're drawing a distinction between the
5 content? 12:31

6 A. Because, you see, previous to this he says he has told
7 the D/super.

8 274 Q. CHAIRMAN: I understand.

9 A. Where I am saying my concerns is, putting it on.

10 275 Q. CHAIRMAN: Yes. 12:31

11 A. So I would imagine my concern is in relation to, like
12 where did you get this information from? Is this
13 person who is making the -- you know, giving you this
14 information, it's that aspect of it.

15 CHAIRMAN: I understand. Thank you? 12:31

16 276 Q. MR. MARRINAN: If we move onto the 30th July, at 1106,
17 we have your handwritten notes and your typed notes.
18 We don't need them up on the screen, Mr. Kavanagh.
19 6412. It indicates that you rang Garda Keogh to meet
20 him on the 5th August. He had no problem with that, 12:32
21 and that he would call up to you. Then you said you
22 wanted to put certain allegations to him about Liam
23 McHugh?

24 A. Yes.

25 277 Q. He said that he would call up. 12:32

26 A. Yes.

27 278 Q. And that had you a chat about his duty the night
28 before.

29 A. Yes.

1 279 Q. And how busy it was. He said it was like the old days
2 in Bray and he enjoyed it.
3 A. Yes.

4 280 Q. "Everyone was there for each other."
5
6 And to you he sounded well, is that right?
7 A. Yes.

8 281 Q. Then you had the meeting that you had arranged on the
9 5th August?
10 A. Yes. 12:32

11 282 Q. Your handwritten notes are at page 1107.
12 A. Yes.

13 283 Q. Your typed notes are at page 6412. We can deal with it
14 on the basis of your handwritten notes, if you don't
15 mind? 12:33
16 A. Yes.

17 284 Q. Because they're a bit more comprehensive and you have
18 noted something in the margin. So where did this
19 meeting take place?
20 A. In my office. 12:33

21 285 Q. In your office. You have a note here saying that you
22 read out the allegation to Garda Keogh?
23 A. I did. I wanted to -- as I say, that had been -- with
24 regard to the Liam McHugh incident, there was the
25 report sought on that. So I read out what was on Garda 12:33
26 Keogh's -- Garda Lyons' e-mail.
27
28 "Garda Keogh said he knew nothing about it or any part
29 of it, even the content of the story, and if he had the

1 information he would have put it in with his complaint
2 to the confidential recipient. And Liam McHugh's name
3 isn't on it."
4

5 So that would be nothing I would be aware of, you know, 12:34
6 what he said to the confidential recipient was between
7 them.

8
9 "He said he didn't know anything about this alleged
10 meeting with Liam McHugh and if he had that information 12:34
11 he would have put it in his complaint"

12 286 Q. Did you have a copy of the report there with you?

13 A. Which report?

14 287 Q. Garda Lyons' report?

15 A. Yes, I did. 12:34

16 288 Q. Yes. Did you show it to him?

17 A. I did.

18 289 Q. You did. You didn't show him that it was from Garda
19 Lyons?

20 A. I didn't show him the name, I just said -- with regard 12:34
21 to the context of this meeting, he was telling me that
22 apart from what we had discussed on the 19th, which
23 wasn't an arranged meeting, he hadn't spoken to
24 Mr. McHugh for a long time. Garda Keogh was --

25 290 Q. Sorry, just before you on to that. 12:35

26 A. Yes.

27 291 Q. I was asking you there about Garda Lyons' report?

28 A. Garda Lyons' report.

29 292 Q. You showed him a copy of it?

1 A. Yes, I did.

2 293 Q. You removed the fact that it had been reported by Garda
3 Lyons. why did you do that?

4 A. Because I didn't think it was appropriate at the time.
5 Because I was trying to keep the -- I had -- I was 12:35
6 trying to keep harmony in the station and I was trying
7 to just keep -- just keep harmony and keep everyone on
8 an even keel in the station. And I didn't feel -- I
9 felt that he had -- I told him it was a member in
10 Athlone. I showed him the full content except the 12:35
11 member's name, to satisfy him and to allay any fears he
12 had that it was any more than what was being said.

13 294 Q. But was it because Garda Lyons was Garda A's partner?

14 A. Absolutely nothing to do with it.

15 295 Q. Nothing to do with it? 12:36

16 A. No.

17 296 Q. Okay. so if we just proceed then on with the rest of
18 your note.

19 A. "Apart from Garda Keogh's meeting on the 19th July '14
20 on the beat with Liam McHugh, he hasn't met or spoken 12:36
21 to him for a long time."
22

23 Then I have a little side note:

24

25 "This was not an arranged meeting." 12:36

26 297 Q. Yes.

27 A. "I allowed Garda Keogh to have sight of the allegation
28 and read it. I have read this back through Garda
29 Keogh."

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we went through the whole interview. I read him all my notes. I asked him did he want to sign it, did he want to change it, did he want to do anything with it, and he didn't

12:36

298 Q. why did you do that?

A. Because I just felt that to let him know that this was exactly it, this was the record of our conversation this, was all that was to it. So...

299 Q. But it's not something that you had done previously?

12:36

A. No, but he -- you know, he was just concerned and probably I suppose somewhat persistent to know the actual -- I think he was making out to me that there was probably more in the allegation, you know, when I say there was more description to the allegation it there was, I said, no, this is it, that's all I am asking you for and don't be imagining anything else, this is all it is. So, just for clarity, if he wanted to, just to pacify him. He was -- I read the stuff, I said, would you like to sign it. He didn't sign it. I said, do you want to change it? He didn't want to do that. If he did, there would have been no problem.

12:37

12:37

300 Q. Yes. But it's just you'd had many conversations with him.

A. Yeah.

12:37

301 Q. You had discussed incidents with him.

A. Mm-hmm.

302 Q. Olivia O'Neill previously, you had discussed Liam McHugh?

1 A. Yes.

2 303 Q. You discussed the Pulse entry?

3 A. Yes.

4 304 Q. And you have been happy to part with your notes?

5 A. Yes. 12:37

6 305 Q. And your understanding of what took place?

7 A. Yes.

8 306 Q. And here, on the 5th August, you're reading it over to

9 him?

10 A. Yes. 12:38

11 307 Q. You're asking him does he want to make any changes to

12 it?

13 A. Yes.

14 308 Q. Or any alterations. It seems just a little bit of a

15 step up in terms of Garda Keogh and your interactions 12:38

16 with him?

17 A. Garda Keogh is sitting in front of me. I was viewing

18 Garda Keogh. The decision and the -- Garda Keogh has

19 no issue with my notes, he has accepted them. And

20 there was nothing -- that was what I would describe as 12:38

21 a harmonious meeting. It was an informative meeting.

22 We both had a good chat with each other. He was being

23 allowed to see, this is it, there is nothing more to

24 it. He kept saying there was more to -- he kept

25 thinking there was more to the allegation or to the 12:38

26 report. I showed it to him to allay his fears. And I

27 showed him my notes, read them back to him, to allay

28 his fears. There was no problem. I didn't see any

29 problem with that and I don't think Garda Keogh did.

1 309 Q. Then I think that you were -- sorry, yes, I
2 neglected -- there was a response to the letter of 23rd
3 July 2014 that I opened and the response is at page
4 8712. That's in relation to Garda Keogh's interaction
5 with Liam McHugh.

12:39

6
7 "Can you provide me with a report?"

8
9 And his response is there.

10 12:39

11 "I wish to report I met Liam McHugh at 21:50 on 19th
12 July 2014, Church Street, Athlone, while on the beat.
13 Prior to that, I had no contact or dealings with Liam
14 McHugh over the past three months."

15 12:40

16 Then, on the 5th August, the same day you wrote a
17 report then to Chief Superintendent Curran, isn't that
18 right?

19 A. I did.

20 310 Q. This is at page 1156. 1157, I beg your pardon. It's
21 further -- well, it's headed "Intelligence created" and
22 then "Conversation with Liam McHugh":

12:40

23
24 "Further to your correspondence of the 21st July, I
25 wish to report as follows."

12:41

26
27 And then in relation to the intelligence created:

28
29 "Attached for your information correspondence received

1 from Garda Nicholas Keogh dated the 27th July. "

2

3

we opened that just a few minutes ago.

4

5

"In response to my query as to whether the informant
has been registered with CHIS in accordance with HQ
Directive 126/10, he states that this is not a CHIS
matter, the information is in the care of Assistant
Commissioner Donal Ó Cualáin.

12:41

10

12:41

11

In addition, I attach correspondence received from
Garda A, Athlone, regarding the same intelligence
entry. I received this correspondence on the 30th
July. I met with Garda A on that date. He

12

13

14

15

acknowledged that this is the first time he informed me
of his upset regarding this matter. "

12:42

16

17

18

I think that was an interaction that you had on the
30th July with Garda A.

19

20

12:42

21

"I informed him that I would be meeting with Garda
Keogh this week and would include his concerns in my
correspondence following this meeting. I regularly
meet with Garda A to discuss his welfare. "

22

23

24

25

A. That's correct.

12:42

26

311

Q. And then:

27

28

"Conversation with Liam McHugh: I attach for your

29

information correspondence received from Garda Nicholas

1 Keogh dated the 27th July regarding Liam McHugh. He
2 states that apart from meeting Liam McHugh on the 19th
3 July 2014 while on the beat, he had not met him within
4 the past three months. On the 19th July, Garda Keogh
5 sent me a text stating 'was on the beat and McHugh came 12:42
6 over to me'. In addition, I met with Garda Keogh by
7 arrangement on this date. This was the earliest
8 opportunity we could meet. I read out the allegation
9 as outlined in the report of Garda Lyons dated 2nd June
10 2014. He requested to view the allegation. I allowed 12:43
11 him to do so without disclosing the identity of the
12 member making the complaint. He was informed it was a
13 member in Athlone Station.

14
15 Garda Keogh says he knows nothing about this or any 12:43
16 part of it, even the content of the story. He said if
17 he had the information alleged, he would have put it
18 with his complaint. . . "

19
20 **That should be,** 12:43

21
22 "... to the confidential recipient. He said Liam
23 McHugh's name is not on the complaint he made to the
24 confidential recipient. Garda Keogh said he does not
25 know anything about this alleged meeting with Liam 12:43
26 McHugh and if he had such information he would have
27 used it when making his complaint. Garda Keogh said
28 that apart from his meeting with Liam McHugh on the
29 19th July while he was on the beat, he had not spoken

1 to Liam McHugh for a long time. He said that this
2 meeting was not arranged. I read my notes of my
3 meeting with Garda Keogh back to him. He was invited
4 to make any changes or alterations he considered
5 necessary. He did not wish to do so. He was also 12:44
6 invited to sign my notes. He declined to do this.

7
8 His assertion that he had not been in contact with Liam
9 McHugh is consistent with his conversation with me on
10 the 9th June, which is covered in my correspondence to 12:44
11 you on the same date."

12
13 Is there anything else that you wish to add -

14 A. No.

15 312 Q. - in relation to your thinking at the time, I think 12:44
16 that that clearly indicates that.

17 A. That's it.

18 313 Q. Now, on the 22nd September you had a meeting with Garda
19 Keogh in your office. It was a short meeting and we
20 can see it at page 1108. 12:45

21 A. I was on leave from the 13th August until the 18th
22 September.

23 314 Q. Yes. I think if you just read your note there.

24 A. Yes.

25 315 Q. "Spoke to Garda Keogh in my office." 12:45

26 A. Yes.

27

28 "Spoke to Garda Keogh in my office. Asked him how he
29 was. I hadn't met him for a few weeks because of

1 annual leave. He is fine. He is in good form. The
2 dogs are well. He is taking a few earlies off over the
3 next few weeks. I told him I had sent correspondence
4 to him from the chief superintendent. It is with
5 Sergeant Haran."

12:45

6 316 Q. Now, in the meantime, I think at page 6275, if we could
7 have it on the screen, this is a letter from Chief
8 Superintendent Curran to you. It's dated the 11th
9 July, but that's in error?

10 A. Yeah.

12:46

11 317 Q. It should be the 22nd August. It refers to previous
12 correspondence from this office above and your reply
13 dated 5th August.

14
15 "I have noted Garda Keogh's suggestion that the matter
16 is not a CHIS matter as it has been referred to
17 Assistant Commissioner Ó Cualáin. I am not satisfied
18 that this negates our responsibilities as outlined in
19 HQ directive 126/10 and have to request that the source
20 be referred in line with Garda policy."

12:46

12:47

21
22 And then that's by return. I think in response to
23 that, on the 18th September, you wrote to Sergeant
24 Haran. That's at page 1154.

25 A. Yes, 18th September.

12:47

26 318 Q. In the second paragraph you say:

27
28 "Chief Superintendent Curran is not satisfied that this
29 negates our responsibilities as outlined in the HQ

1 Directive and has requested that the source be referred
2 in line with Garda policy.

3
4 Garda Keogh should comply with this request and report
5 by return. " 12:47

6
7 And then we have the handwritten report from Garda
8 Keogh, which is at page 1251. We have already had all
9 this opened previously but if I can just go four lines
10 down, he asserts that in his view: 12:48

11
12 "...I believe that it is inappropriate while the
13 investigation is ongoing for the chief superintendent
14 to seek the source related to intelligence report which
15 is directly linked to this investigation at this stage, 12:48
16 at least as it could jeopardise the said
17 investigation. "

18
19 And then, seven lines from the bottom, he says:

20 12:48
21 "I wish to add that I have been advised by Judge
22 Patrick McMahon not to speak with any member of An
23 Garda Síochána about any part of this investigation,
24 with the exception of the investigation team under
25 Assistant Commissioner Ó Cualáin. And therefore, I 12:48
26 request that any dealings between myself and Chief
27 Superintendent Curran, divisional officer at Westmeath,
28 should not be informal. I intend to be compliant once
29 the investigations have been concluded. "

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I think then at page 1250, on 19th September 2014, you forwarded that to Assistant Commissioner Ó Cualáin, isn't that right?

A. No, the chief superintendent, westmeath. 12:49

319 Q. Sorry, it was chief superintendent, I promoted him. If we can just move forward then to the 30th September, it's just an e-mail, for the sake of completeness, at 1293. This is an e-mail from you to Inspector Minnock?

A. Yes. 12:50

320 Q. "I wish to advise that Sergeant Moylan informed me that on Saturday, 27th September 2014, Garda Keogh enquired if he was in the station when he returned.

Sergeant Moylan said Garda Keogh didn't state why but there was an overlap with Garda A." 12:50

I think that was an occasion on which this matter was drawn to your attention, is that right?

A. Yes, so that was sent to the two inspectors. 12:50

Inspectors Farrell and Minnock would be the senior management team with me in the district, so as that we would be aware of it.

321 Q. Then if we could just move forward to the 1st October. There's a letter at page 8619. This is a letter which 12:51
is dated the 24th September and it's to the detective sergeant in charge of Athlone and it concerns Garda Keogh and another garda performing a check on the Pulse system in relation to Garda A. It reads:

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"On 20th September 2014, I noticed that the above named two Gardaí --"

CHAIRMAN: we have had this before, Mr. Marrinan. We have been well over this.

12:51

MR. MARRINAN: very well.

CHAIRMAN: Then there was a query about it and Garda Keogh says that was fair enough, because he got a complaint, there was complaint from Garda A, and he doesn't blame Superintendent McBrien for following it up.

12:51

MR. MARRINAN: Yes, indeed.

CHAIRMAN: But he suspected that the thing had emanated from Chief Superintendent Curran and if and insofar as it had emanated from Chief Superintendent Curran, he didn't think that was good, because he thought that was targeting. But he didn't blame this witness. All I am saying that we really have been over that.

12:52

322 Q. MR. MARRINAN: Yes. I think that your sole role in relation to it was to ask for a report from Garda Keogh -

12:52

A. That's correct.

323 Q. - as to why he had conducted the search, is that right?

A. Yes.

324 Q. Now, I think that we then move into another issue in relation to the concerns, the car tax issue?

12:52

A. Yes.

325 Q. That's been left over to another module. And then subsequently, your transfer over to or hand over on the

1 4th March to now Chief Superintendent Murray. We will
2 be dealing with that later on. Is there anything
3 further you wish to add in relation to the matters that
4 I have opened to you in your notes?

5 A. No. 12:53

6 326 Q. Have we gone through all the relevant material that you
7 think --

8 A. I think so.

9 CHAIRMAN: So the position is, we are stopping there in
10 relation to issues 1 to 4. 12:53

11 MR. MARRINAN: Yes.

12 CHAIRMAN: Superintendent, where you have an
13 involvement in any other matter, we are leaving that
14 over. You're happy with that?

15 WITNESS: That's absolutely fine. Perfect, thank you. 12:53

16 CHAIRMAN: Okay. Mr. Kelly, I suppose you are the
17 first person to ask any questions. Do you want to
18 start now or would you refer to leave it until after
19 lunch. I am completely happy either way.

20 MR. KELLY: I will start just after lunch, given the
21 time. 12:53

22 CHAIRMAN: I think that makes sense. Ms. McGrath, are
23 you pointing out something that you think we should
24 raise, that Mr. Marrinan should raise? Is there
25 something else. 12:53

26 MR. MARRINAN: I can do it in re-examination.

27 CHAIRMAN: Okay. Very good. Thanks very much. Then
28 we will assemble again at two o'clock, thanks very
29 much, and proceed then. Mr. Kelly will be first and we

1 will come around and Mr. Carroll, I imagine you will be
2 last but one and then we will come back. Is that the
3 way we will do it? Okay. Thank you very much.
4

5 THE HEARING THEN ADJOURNED FOR LUNCH AND RESUMED, AS
6 FOLLOWS:

12:54

7
8 MR. MARRINAN: Chairman, before the parties start -

9 CHAIRMAN: Yes, thank you, Mr. Marrinan.

10 MR. MARRINAN: - to cross-examine the superintendent,
11 if I could just have liberty to mention the one
12 document that I didn't open.

14:00

13 CHAIRMAN: Certainly.

14 MR. MARRINAN: It has been brought to my attention. It
15 concerns the possible breach of the Data Protection Act
16 in relation to Garda A. We just skirted over it before
17 lunch. There was one document that was put to Chief
18 Superintendent Curran, and that's a letter that you
19 wrote to him on the 24th September and it's at 8617.

14:01

20
21 "Attached find correspondence received on this date
22 from Garda A."

14:01

23
24 Then you point out the concerns that had been raised by
25 Garda A, that two members, namely Garda Keogh and
26 another garda recently accessed personal details on
27 Pulse.

14:01

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29 In the third paragraph you say:

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"It is known that in or around the time of these Pulse checks, both Garda Keogh and other guards supplied information to the then Garda confidential recipient which it is suspected related to Garda A and said checks may be related to same. However, in the light of Garda A's concerns, I am seeking views in relation to same."

14:02

Did Chief Superintendent Curran ever reply to that letter or state his views in relation to the issue?

14:02

A. I think he responded by a phone call.

327 Q. By phone call?

A. Yes, I think so.

328 Q. Do you recall what he said to you?

14:02

A. He advised me to contact the superintendent in IT, in Garda Headquarters.

329 Q. Right. And did you do that?

A. I did.

330 Q. Yes. Now you went out on sick leave in October, isn't that right?

14:03

A. Yes. I took ill in work on the 2nd October. I had a long standing medical condition that was worsening throughout the year, so I had taken a lot of leave to receive treatment and that, where I actually took ill in work on the morning of the 2nd October and I was out for a long time.

14:03

331 Q. Okay.

A. Thank you.

1 332 Q. CHAIRMAN: And you were out for approximately?
2 A. Oh, I was out, I came back for two days in December and
3 then I took -- I came back in December to go --
4 333 Q. CHAIRMAN: I don't want to pry.
5 A. No. I came in December for two days and then I went on 14:03
6 annual leave until mid January. I came back in January
7 for about two, two and a half, three weeks and I took
8 ill again and I was out until the transfer.
9 334 Q. CHAIRMAN: So you were out a good bit between then and
10 the take over by Superintendent Murray in early March? 14:03
11 A. I was, yes.
12 CHAIRMAN: Okay, thanks very much.
13
14 END OF EXAMINATION
15 14:04
16 CHAIRMAN: Now, Mr. Kelly.
17
18 SUPERINTENDENT NOREEN McBRIEN WAS THEN CROSS-EXAMINED
19 BY MR. KELLY, AS FOLLOWS:
20 14:04
21 335 Q. MR. KELLY: Good afternoon, Superintendent McBrien.
22 A. Good afternoon.
23 336 Q. If I understood the thrust of your evidence correctly,
24 you viewed your role as being quite supportive towards
25 members under your command in difficulties, is that 14:04
26 right?
27 A. That's correct.
28 337 Q. Yes. In fact, you in a statement that was made to the
29 Tribunal's investigators, the reference can be brought

1 up if you like, volume 21, page 6211. Do you recognise
2 this statement?

3 A. Yes.

4 338 Q. It's down towards line 106:

5
6 "A. I am familiar with the policy of HQ
7 directives regarding confidential reporters and
8 protected disclosures, which set out the duties of the
9 various parties when a confidential report is made. As
10 far as my role was concerned, where the confidential 14:04
11 reporter was under supervision, my role was to ensure
12 confidentiality, ensure member's welfare was looked
13 after and to ensure that the confidential reporter was
14 not adversely affected or treated as a result of making
15 a confidential report or protected disclosure and that 14:05
16 the dignity at work policy was adhered to by all
17 members. This also applied to the member against whom
18 the complaint was made, who is also under my
19 supervision."

20 14:05

21 Is that right?

22 A. That's correct.

23 339 Q. So there was an awareness there by you that anything
24 which would adversely affect or impact upon the
25 reporter should be avoided, in fact it shouldn't 14:06
26 happen. That's right, isn't it?

27 A. Yes.

28 340 Q. I see. Now, insofar as Nick Keogh was concerned, there
29 had been no previous difficulties or complaints in

1 respect of him, isn't that right?

2 A. That's correct.

3 341 Q. Yes. You also say that after this, after he had made
4 his protected disclosure that there was an awareness in
5 Athlone that Nick Keogh had made allegations against 14:06
6 Garda A, is that right?

7 A. There was an awareness in Athlone that Garda Keogh had
8 made allegations or was a confidential recipient by his
9 own self disclosure, that was fact because that had
10 happened in the Dáil and it was a matter of record. 14:07
11 But with regard to Garda A and the awareness, that was
12 just a feeling that was in the station, an
13 understanding in the station at the time.

14 342 Q. Yes. If you just scroll further down the page, 6219,
15 in your statement, where it says, the question is: 14:07
16
17 "I have been asked when I first became aware either
18 officially or unofficially that Garda Nicholas Keogh
19 had made allegations concerning Garda A which were
20 being investigated by former Assistant Commissioner 14:07
21 Ó Cualáin and his investigation team.

22 A. There was an awareness of the allegations made by
23 Garda Keogh involved Garda A and this awareness was
24 around the station before the assistant commissioner
25 was appointed to investigate Garda Keogh's confidential 14:07
26 report."

27
28 So, there was an awareness in Athlone that he had made
29 allegations concerning Garda A, that's right, isn't it?

1 A. That's right, and I met with Garda A on the 12th May.

2 343 Q. Yes.

3 A. I have a note of that.

4 344 Q. What was the extent of this awareness? Was it that
5 they were aware of? 14:08

6 A. That's all, that I would be aware that there was an
7 understanding or an awareness that Garda A was the
8 other member. That would be all I would know.

9 345 Q. What I am trying to get at is, what did you understand
10 the awareness to be? 14:08

11 A. My understanding was that the awareness was a
12 recognition or an understanding or a supposition that
13 Garda A was the member that Garda Keogh had made an
14 allegation about. That's it. That's as far as I'd put
15 my knowledge. 14:08

16 346 Q. Was there any awareness as to what the nature of the
17 allegation might be?

18 A. Not by me.

19 347 Q. Just reflect on that. He had been named in the Dáil?

20 A. Yes. 14:09

21 348 Q. There was an awareness in the station -

22 A. Yes.

23 349 Q. - that he had made allegations against Garda A?

24 A. Yes.

25 350 Q. We may take it that it wasn't that Garda A had looked
26 at his dogs badly or something. You must have had some
27 idea as to what the nature of the allegation was? 14:09

28 A. I didn't.

29 351 Q. None whatsoever?

1 A. whatever the allegations were, they were confidential.
2 They were part of a confidential report or
3 investigation. Apart from the fact that there was an
4 awareness, I wasn't informed or I wasn't -- nor would I
5 ask, nor did I think I should have been if there is an 14:09
6 investigation by an external assistant commissioner.

7 352 Q. And what was that atmosphere in the station?
8 A. Throughout summer 2014?

9 353 Q. Yes, after these allegations had been made.
10 A. It was tense. Probably, I suppose, deflated. There 14:10
11 had been a lot, as I alluded to earlier, an awful lot
12 of events since September 2013. In October 2013 a
13 family of two little girls had actually released a
14 press statement saying how good the Guards were with
15 their compassion and what they had done for a family. 14:10
16 In March 2015 -- sorry, that was -- in March 2015,
17 families of a fisherman that was killed in Loughrea,
18 they actually extended an invitation to my members to
19 go up to Portadown and they were welcomed into the
20 community and spoken positively about from the altar. 14:10
21 So, this deflated all that and there was a sense of, I
22 suppose, suspicion and just -- it was just as if a
23 balloon had burst; it just brought everyone down. That
24 was across the board in the station. It was difficult.

25 354 Q. Suspicion about what and of whom? 14:11
26 A. I think people just felt they didn't know what was
27 going on.

28 355 Q. Were people feeling that somebody had broken ranks and
29 it wasn't good for the Gardaí?

1 A. No. No.

2 356 Q. So what was the suspicion about?

3 A. I think, from recollection, it would be people just
4 didn't know at that stage what was happening. There
5 was an investigation team in the station. Just that 14:11
6 would cause, I think, a level of probably unsettlement
7 in any working environment and I think Athlone Garda
8 Station at that time was no different. And as well as
9 that, because of the confidential reporter going
10 public, it was also out in the public and it was out in 14:12
11 the -- the people in the town of Athlone knew all about
12 it as well. So I think that had to be all difficult
13 for the members.

14 357 Q. You were aware, weren't you, that it was being talked
15 about in Athlone that one guard was consorting, put it 14:12
16 that way, with a known drugs dealer in the town?

17 A. Are you asking me when I was aware?

18 358 Q. No, you were -- I am asking you: At that time were you
19 aware of that?

20 A. I don't think so. No. Initially. No. 14:12

21 359 Q. When did you become aware of that?

22 A. I think I read it in the papers.

23 360 Q. What about the Pulse entry?

24 A. The Pulse entry?

25 361 Q. Mm. 14:12

26 A. That --

27 362 Q. A senior members of the drugs squad.

28 A. -- was providing -- can you read the Pulse entry for
29 me?

1 363 Q. We can get it somewhere. Page 1802. It's 18th May
2 2014. You see it there.

3 A. Yeah.

4 364 Q. "Observed Ms. B in her [blank] at the [blank] On
5 seeing, she smiled and stuck out her tongue. Ms. B is 14:13
6 seriously involved in the heroin trade in Athlone with
7 a turnover of approximately €2,500 per week. She has
8 no previous convictions for drugs due to the fact that
9 she has been aided and abetted for years by a senior
10 member of the drugs unit, who himself is a close 14:13
11 associate of a high ranking Garda officer. Fact."
12

13 You must have known by then.

14 A. I saw that when I came back in June. That says "aided
15 and abetted". You'd have to repeat your question to 14:14
16 me.

17 365 Q. When did you become aware, just to put it directly,
18 that there was a member of the drugs squad who was
19 working hand in glove with a drugs dealer in Athlone?

20 A. I'm not aware that during my service in Athlone it was 14:14
21 ever said to me definitively that it was proven that a
22 member in the drugs squad was behaving this way.

23 366 Q. I am not asking you whether it was proven or not, I am
24 asking you when you became aware of it?

25 A. Well, I would have seen this on the 5th June, but this 14:14
26 is "aided and abetted", I think there was more specific
27 information in the newspaper.

28 367 Q. Okay, let's move on. I want to come to the MCHugh and
29 O'Neill scenario briefly again?

1 A. Yes.

2 368 Q. Was it not when you had received the documents, which
3 Mr. Marrinan took you through, blindingly obvious that
4 the allegation was in respect of Pulse that nick Keogh
5 was coaching witnesses or potential witnesses? 14:15

6 A. My view on both of those were they were open to
7 investigation and that was what I followed through
8 with. As I say, both these matters had been started
9 and in a process before I returned on the 5th June.

10 369 Q. Well, if we look at your statement, I think it's 21, 14:16
11 6278. This is an exhibit to your statement. It's a
12 report from you to the chief superintendent. 6278.
13 It's dated 16th July 2014. If you look down at the
14 section on Olivia O'Neill, which is "As a result of a
15 visit" do you see that bit, "information divulged by 14:16
16 Olivia O'Neill". Do you see at the top of the page?
17 A. Yes, I see that.

18 370 Q.
19 "This is as a result of a visit to Athlone Garda
20 Station on the 28th May. It is alleged that Garda 14:17
21 Nicholas Keogh gave advice to Olivia O'Neill regarding
22 a complaint she was making, requesting her to make
23 certain assertions."

24 A. Yes.

25 371 Q. Is that not an allegation of coaching? 14:17

26 A. It's a --

27 372 Q. "...requesting her to make certain assertions."

28 A. It's a reflection of what was in Garda Treacy's
29 statement, who was there at the time. I wasn't there

1 at the time. I wasn't in the country at the time.
2 This had started when I came back. So I would consider
3 I was open minded on this and had aspects of it
4 investigated.

5 373 Q. When you saw this and then both of these words "was 14:17
6 requesting her to make certain assertions" did it not
7 run through your mind, they're saying here he's
8 coaching her?

9 A. I can't recall exactly the 5th June and what went
10 through my mind when I read it, but I do recall that 14:18
11 all the documentation that was there and every other
12 bit of information, and to me it was something that had
13 to be taken into account and had to be investigated.
14 And I followed on the track of what had already
15 started. I had no issue with the way that had gone. I 14:18
16 thought it was progressing appropriately.

17 374 Q. Let's look again at the statement of Garda Stephanie
18 Treacy, which is to be found at Volume 3, page 472.
19 This is a statement you have read and seen, yes?

20 A. Yes. 14:18

21 375 Q. I want to draw your attention to line 48. Well, we
22 will start just before that, 46:

23
24 "I was just getting the background to the incident when
25 Olivia said to me she had been told to put in her 14:19
26 statement that Ms. B was friendly with certain members
27 of the Guards in Athlone and that she is protected by
28 these members. Olivia said that she was told to put in
29 her statement that Ms. B was told when any search or

1 investigation was going on so that she could get rid of
2 any weapons and drugs she had. Ms. B will be told of
3 any statement of complaint."
4

5 And so on. 14:19

6
7 "Olivia kept saying she was told to make sure this
8 information went in her statement. I asked her who
9 told her this and she said 'Garda Nick at the counter
10 downstairs'."

11
12 Stephanie Treacy there doesn't appear to be in any
13 doubt that this was coaching.

14 A. That's Stephanie Treacy's view in her statement to the
15 Tribunal. I had Stephanie Treacy's report that was 14:20
16 dated the end of May, which, as I said, was made when I
17 was abroad. As I say, I was interested in the
18 allegation, the allegation of what -- the content of
19 Olivia O'Neill was saying was of concern to me.

20 376 Q. Well, I am suggesting to you that given the information 14:20
21 you had at that time, it was blindingly obvious that
22 the allegation was being made that Nick Keogh was
23 coaching her. Do you accept or reject that?

24 A. I wouldn't agree that that's what I considered
25 immediately. I was considering the content of what was 14:20
26 being alleged by -- to have been said to Olivia
27 O'Neill. That to me was very, very serious.

28 377 Q. If we turn now to the Liam McHugh stuff. That's
29 something you have been over already. It's been said

1 here, I am suggesting to you, that this again was being
2 viewed and could only be viewed as an allegation
3 against Nick Keogh that he was coaching witnesses and
4 making up stuff. Do you accept that?

5 A. No. 14:21

6 378 Q. Liam McHugh supposedly making this allegation, Lyons
7 reporting it. That the purpose of that report was to
8 suggest that Nick Keogh was coaching witnesses, making
9 up evidence?

10 A. To me, the purpose of that report was a Guard that's on 14:22
11 duty reporting something that he thinks may be of
12 certain and reporting it up the ranks.

13 379 Q. I am looking at the statement of sergeant Aidan Lyons,
14 it can be found at Volume 2. It begins at page 11714.
15 Have you got that? 14:22

16 A. Yes, it's on the screen.

17 380 Q. If we look at paragraph 4.31. Do you see that, which
18 is on page 11719, the very top paragraph. I think it
19 may have gone through far too far, Mr. Kavanagh?

20 A. Yes, it's gone past. 14:23

21 381 Q. Yes, stop there.

22 A. Yes, I see that.

23 382 Q. "My understanding is that Garda Keogh was encouraging
24 Mr. McHugh to make a false complaint."

25 A. Yes. That's Garda Lyons' view. 14:23

26 383 Q. It's not your view?

27 A. This is a statement Garda Lyons has recently made, I
28 believe, to the disclosures Tribunal. I was operating
29 on a report that was there at the time that had already

1 been enacted upon by the acting superintendent in my
2 absence.

3 384 Q. We have heard evidence from Chief Superintendent
4 Curran, who says that in respect of this he now
5 believes Nick Keogh's version of this; that is, it was 14:23
6 all made up to discredit him?

7 A. Yes.

8 385 Q. You were in the Tribunal when he said that?

9 A. I was, yes.

10 386 Q. Do you agree with that? 14:23

11 A. Well, there was nothing -- there was nothing --

12 MS. O'ROURKE: I don't believe that that is what Chief
13 Superintendent Curran said.

14 MR. KELLY: we will call it up. Day 117, page 184/5.
15 If we go to the bottom of it. 14:24

16 CHAIRMAN: where, Mr. Kelly?

17 MR. KELLY: At the bottom of it. Hold on, I have got
18 it now. Do you see it, page 184.

19 CHAIRMAN: Yes.

20 MR. KELLY: It's at is line 22, question 652. 14:24

21

22 "It comes up to you and she says, the last paragraph
23 there. I just want, Mr. Kavanagh, to go down to the
24 last paragraph:

25

26 "His assertion that he has not been in contact with
27 Liam McHugh is consistent with his conversation with me
28 on the 9th June, which is covered in my correspondence
29 to you on the same date."

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A. Yes.

Q. Now, do you see that as the end of the matter?

A. Yes. I believe Garda Keogh on this. If you ask me, I don't believe there was an interaction with Liam McHugh. "

Do you agree with that?

A. I agree with my comments that his assertion hadn't changed. Chief Superintendent Curran's view, it was my understanding that he felt that the conversation as it happened -- 14:25

387 Q. CHAIRMAN: He didn't believe there was an interaction between Liam McHugh and Garda Keogh. 14:26

A. Yes, that's my understanding.

388 Q. CHAIRMAN: That does not mean, Mr. Kelly, what you suggested.

A. Yes, that there was an interaction with Garda Lyons--

CHAIRMAN: In other words, what you are suggesting is that Chief Superintendent Curran said, I accept that this was a phony report. He didn't say that, and that's what you have just put. 14:26

MR. KELLY: Okay.

CHAIRMAN: what he said was, I don't believe there was an interaction between Garda Keogh and Liam McHugh. In other words, I accept what Garda Keogh said. That was his evidence. At least as I recall, that was his evidence. 14:26

1 MS. O'ROURKE: Yes. That was made abundantly clear on
2 Day 118, Chairman.

3 CHAIRMAN: Say that again, Ms. O'Rourke.

4 MS. O'ROURKE: That was made clear on Day 118, yes,
5 Chairman. 14:26

6 CHAIRMAN: Okay, thank you very much. So maybe he made
7 it clearer on some other occasion, but certainly that
8 was my impression.

9 MR. KELLY: I see.

10 CHAIRMAN: I may be wrong, Mr. Kelly. Don't think just 14:27
11 because that's my impression, that that's my thing.
12 But I'm not reading that statement as an indication of
13 Chief Superintendent Curran saying, yes, I believe this
14 was a phony, fabrication of a report. That's my
15 understanding of it, rightly or wrongly, but please 14:27
16 show me where I am wrong, if I'm wrong.

17 389 Q. MR. KELLY: From what you have seen, do you think there
18 was an interaction between Garda Keogh and Liam McHugh?

19 A. My understanding of what has been said is the same as
20 what the Chairman has said. And there was nothing 14:27
21 presented to me that would show there was an
22 interaction between Liam McHugh and Garda Keogh.

23 390 Q. So, I put to you again, do you read those two examples
24 I have given to you, McHugh and O'Neill, as allegations
25 that Garda Nick Keogh was coaching witnesses? This is 14:28
26 only the third time I have put it to you, I think.

27 A. Yeah, my understanding -- as I say, these allegations
28 were something that happened in my absence. When
29 you're not there and you're reading it on paper -- I

1 was reading it on paper. They were incidents, they
2 were separate incidents of issues that had happened.
3 The investigation was progressed. And it was to get to
4 the bottom of these allegations, to come to a
5 conclusion. That's where I stand on it.

14:28

6 391 Q. Well, perhaps I am just being thick, but are you saying
7 that you don't read it as being allegations that Garda
8 Nick Keogh was coaching witnesses?

9 A. At that stage, when I come back, as I say, on the 5th
10 June, it's very hard to remember exactly and I can only
11 go from my notes, but my recollection is, for me, at
12 that stage, they were isolated incidents that just
13 warranted a separate investigation. I had lots of
14 conversations with Garda Keogh afterwards in relation
15 to these and I don't recall ever using the term
16 coaching.

14:29

14:29

17 392 Q. Did you ever meet with Garda Lyons or Garda Treacy to
18 ask them about this?

19 A. Garda Treacy came in to me in July because she was very
20 anxious and concerned about a conversation she had on
21 the phone with Garda Keogh. That was welfare related.
22 And she was upset about that, because she worked with
23 both members and she wanted to keep that situation
24 going well. I didn't -- I don't recall, I have
25 nothing, no notes to indicate that I met with Garda
26 Lyons, but I believe Sergeant Curley may have and I
27 have faith in Sergeant Curley's decisionmaking, as had
28 Garda Keogh, as he indicated, he trusted Detective
29 Sergeant Curley.

14:29

14:30

1 393 Q. Was there any reason why you yourself didn't meet with
2 Garda Lyons?
3 A. No.
4 394 Q. Had you have met with him, you could just easily have
5 said, look, are you saying that Keogh was coaching 14:30
6 witnesses?
7 A. I was satisfied with the report of Garda Lyons and the
8 report of Garda Lyons was a reflection or a
9 recollection of a conversation that he had, and he
10 reported it accordingly. 14:30
11 395 Q. Do you think these two incidents could fairly be
12 described as getting at Nick Keogh because he had made
13 protected disclosures?
14 A. I don't think -- I think if an incident happens in a
15 district -- like both these incidents were reported by 14:31
16 members of An Garda Síochána and from what I can
17 recall, I think Garda Keogh may have had some input, in
18 the office, in the public office that day, with Garda
19 Treacy being nominated to take the statement. Both of
20 these were incidents that happened. I don't -- I think 14:31
21 to tie them in as a consequence of Garda Keogh making a
22 protected disclosure, I wouldn't see how two separate
23 members, and especially something that Garda Treacy
24 said actually happened in the office that Garda Keogh
25 had some input into, I don't know how you could see 14:31
26 that as targeting. And as a district officer, when
27 something is brought to my attention or the person who
28 is acting on behalf, you are duty bound to deal with
29 it.

1 396 Q. So you don't see it as targeting at all?

2 A. No, absolutely not.

3 397 Q. Okay. When you put those all together, you still
4 wouldn't see those as targeting?

5 A. No.

14:32

6 MR. KELLY: Thank you.

7

8 END OF EXAMINATION

9

10 CHAIRMAN: Thanks very much. You're finished,
11 Mr. Kelly, thank you very much.

14:32

12 MR. KELLY: Chairman, obviously I have a lot of other
13 matters, but that's back into another module.

14 CHAIRMAN: 1 to 4. This is where we stand.

15 MR. KELLY: Yes, that's right.

14:32

16 CHAIRMAN: Superintendent McBrien is just dealing with
17 issues 1 to 4. Any questions about any other matter,
18 of course.

19 MR. KELLY: Even I have got that, Judge, yes.

20 CHAIRMAN: Mr. Kelly, I hope I didn't give the
21 impression that -- no, but I think it's as well that we
22 understand exactly what that situation is.

14:32

23 MR. KELLY: Yes sure.

24 CHAIRMAN: So, forgive me if I state the obvious. It
25 wouldn't be the first time in my career I've stated the
26 obvious, Mr. Kelly, either professionally or
27 domestically. Anyway. Now, where do we stand? Who is
28 next? Ms. O'Rourke, have you any questions.

14:32

29 MS. O'ROURKE: I just have a very short question.

1 CHAIRMAN: Certainly. Mr. Carroll, are you going to
2 have any questions.

3 MR. CARROLL: Mr. O'Higgins -- I would be second last,
4 I probably don't have any questions.

5 MR. MÍCHEÁL O' HIGGINS: I will have some short 14:33
6 questions as well on behalf of An Garda Síochána.

7 CHAIRMAN: Sorry, of course. I am trying to get where
8 everybody is. Ms. O'Rourke, if you ask your questions.
9 Mr. O'Higgins, are you happy that you go after
10 Ms. O'Rourke, followed by Mr. Carroll. 14:33

11 MR. MÍCHEÁL O' HIGGINS: No difficulty at all with that.

12 CHAIRMAN: Very good. Thanks very much.

13

14 SUPERINTENDENT NOREEN MCBRIEN WAS THEN CROSS-EXAMINED
15 BY MS. O' ROURKE, AS FOLLOWS: 14:33

16

17 398 Q. MS. O' ROURKE: I just have a very brief question for
18 Superintendent McBrien. I think yesterday in your
19 evidence, at page 107, and I don't think we need it up,
20 you said that Garda Keogh had mentioned that he didn't 14:33
21 trust I think Inspector Farrell. If I could just ask
22 Mr. Kavanagh to bring up at Volume 5, your handwritten
23 notes, at 1227. They're notes, something we have seen
24 this morning. It's at 1227. I think it's the notes
25 that predated your letter of 16th July 2014. I know 14:34
26 Mr. Marrinan brought you through some of these
27 yesterday, but maybe if you can scroll to the end of
28 the page.

29 A. It's the 8th July. My handwritten notes of the 8th

1 July.

2 399 Q. If you see number 6, it's "interaction with garda
3 management", and you indicate:
4
5 "He will not deal with NF, doesn't trust him." 14:34
6
7 I think it is:
8
9 "He may a fine person but doesn't trust association
10 with persons he has complained of." 14:34
11 A. That's actually Nick Keogh's words.

12 400 Q. Yes. So, what was it your understanding that Garda
13 Keogh's views of Inspector Farrell weren't based on his
14 interaction was Inspector Farrell or Inspector
15 Farrell's actions but rather it was a perception that 14:35
16 Garda Keogh held?

17 A. I think it was a perception of people he may be
18 friendly with.

19 401 Q. Yes.

20 A. That was my understanding. 14:35

21 402 Q. I think on the 16th July you wrote to Chief
22 Superintendent Curran. I don't know if it's necessary
23 to bring up the letter, but it is at 6279, which is
24 volume 21. We have looked at this earlier today. In
25 the course of that letter you indicated that the 14:35
26 inspectors and sergeants are available and supportive
27 of members. I think that was all members in the
28 station. But you would understand that Inspector
29 Farrell was someone who was both available and

1 supportive to all members, including Garda Keogh, is
2 that correct?

3 A. Inspector Farrell was extremely supportive of all
4 members. He had a very good understanding of them and
5 he was always available to Garda Keogh, even if Garda
6 Keogh didn't accept his support. 14:35

7 MS. O'ROURKE: Thank you very much, superintendent.

8
9 END OF EXAMINATION

10
11 CHAIRMAN: Now, Mr. O'Higgins.

12
13 SUPERINTENDENT NOREEN MCBRIEN WAS THEN CROSS-EXAMINED
14 BY MR. MÍCHEÁL O'HIGGINS, AS FOLLOWS:

15
16 403 Q. MR. MÍCHEÁL O'HIGGINS: Superintendent McBrien, Micheál
17 O'Higgins is my name, I am going to be asking some
18 questions on behalf of An Garda Síochána and the
19 Commissioner. Now, just as a road map for you and the
20 Tribunal, I am going to principally be working from, 14:36
21 and try to do this with some dispatch, from your
22 initial statement to the Tribunal, commencing at page
23 85 of the materials in volume 4. From time to time I
24 am going to bring you to documents, most of which,
25 perhaps all of which you may have seen already but I am 14:36
26 going to ask you very briefly some questions pertaining
27 to them.

28
29 So, if I can start then with what you say there on page

1 825. It's the case, isn't it, that you were on annual
2 leave on the 8th and 9th May 2014.

3 A. That's correct.

4 404 Q. You appreciate I am going to be dealing with items 1 to
5 4 in the list of pleadings? 14:37

6 A. Yes.

7 405 Q. But I think whilst you were on annual leave, Mark
8 Curran, chief superintendent, contacted you and relayed
9 the fact that Garda Keogh had been mentioned in the
10 Dáil by Deputy Flanagan? 14:37

11 A. That's correct.

12 406 Q. Now, I think the position is that -- well, can I ask
13 you: At this point in time you had a conversation
14 obviously with Mark Curran at this time and then
15 subsequently, isn't that right? 14:37

16 A. I had a conversation on the phone with him that day,
17 yes.

18 407 Q. Yes. Am I correct that your concern and Chief
19 Superintendent Curran's concern principally at this
20 point in time was for Garda Keogh's welfare? 14:37

21 A. Absolutely. Absolutely. And specifically because he
22 had been mentioned publicly.

23 408 Q. Right. Did you and Mark Curran discuss what steps you
24 proposed to take regarding his welfare? What I am
25 getting at there is: On the same page, page 825, you
26 make reference to a conversation you had with Chief
27 Superintendent Curran on the 12th May, relating to a
28 particular welfare concern. 14:38

29 A. My understanding of that conversation, you know, his

1 welfare was discussed. I don't know whether I said
2 I'll contact him or he said you contact him. But on
3 the day his welfare was discussed and there was an
4 agreement to contact him. Garda Keogh was also -- or
5 sorry, the chief was also concerned that Garda Keogh 14:38
6 would know he was available to him and he would meet
7 him. But the conversation, it's very difficult to say
8 who said what first, but the general conversation was:
9 Check in on him, make sure he's okay, I'm available to
10 talk to him. That's with regard to my recollection of 14:39
11 Chief Superintendent Curran. Then, I was in Dublin for
12 that weekend and I was on annual leave, so I contacted
13 Sergeant Haran to make contact with Garda Keogh for me,
14 to see would Garda Keogh speak to me. I spoke to Garda
15 Keogh on the Sunday on the phone. On Monday Chief 14:39
16 Superintendent Curran rang me, that was my first day
17 back in Athlone after that break, to see how I got on
18 with Garda Keogh and to ensure I met with him as soon
19 as possible.

20 409 Q. Right. Elsewhere in your statement you made reference 14:39
21 to Sergeant Haran.

22 A. Yes.

23 410 Q. In particular, in a welfare regard from Garda Keogh's
24 perspective. I think Sergeant Haran was the community
25 policing sergeant? 14:39

26 A. Sergeant Haran was the community policing sergeant, but
27 he also used to look after unit C as well and he had a
28 very good rapport with Garda Keogh.

29 411 Q. I see on page 826 you make reference again to a

1 conversation you had with Sergeant Haran on 15th May of
2 2014, where the subject of Garda Keogh's welfare came
3 up?

4 A. Yes. I thanked Sergeant Haran for the assistance he
5 had given me over the weekend, because he gone to a lot 14:40
6 of effort. I think Garda Keogh wasn't answering his
7 phone to everyone and Garda Haran had made arrangements
8 for us to have a conversation, for Garda Keogh to --
9 you know, to know I was ringing him and to engage with
10 him. 14:40

11 412 Q. Right. The first of the themes the Chairman is
12 concerned with in this aspect of the module is the
13 Pulse entry of 18th May 2014?

14 A. Yes.

15 413 Q. Mindful that you were on leave when it initially arose. 14:40

16 A. That's correct.

17 414 Q. -- could I ask you to turn to page 1303 of the
18 materials for a moment, which I think we will see, when
19 it comes up, is communication and administrator in
20 Inspector Farrell's office sent, drawing to the 14:41
21 attention of the Chief Superintendent Curran, the
22 fact -- we have it there on screen, the fact of the
23 Pulse entry made by Garda Keogh. Do you see that
24 there?

25 A. I have that here, yes. 14:41

26 415 Q. That is dated 19th May 2014.

27 A. Yes.

28 416 Q. Which is the day after the date mentioned on the Pulse
29 entry itself?

1 A. Yes.

2 417 Q. Do you see there, it just captures essentially the gist
3 of it.

4 A. It does.

5 418 Q. "I wish to draw your attention to an intelligence 14:41
6 report created by Garda Nicholas Keogh on 18th May
7 2014."

8

9 Then there is a quote from it.

10 14:41

11 "Observed Ms. B in her white Volvo..."

12

13 I needn't read it out. Those words there "seriously
14 involved in the heroin trade... turnover of
15 approximately €2,500... aided and abetted by a senior 14:42
16 member of drugs unit."

17

18 I think everyone would agree, these were matters that
19 warranted needed looking into at the very least?

20 A. They are, yes. 14:42

21 419 Q. We know that Inspector Nicholas Farrell sent a report,
22 that's at page 1301, it needn't delay us unduly.

23 A. Yes, I have that.

24 420 Q. Can I ask you though, you made reference to the fact
25 that at some point in time Garda A, who stated that he 14:42
26 was the person against whom the allegation was being
27 made in the Pulse entry, made a complaint about the
28 fact of the Pulse entry, isn't that so?

29 A. He made it around the end of July. He made it in

1 writing to me about the end of July.

2 421 Q. Can I ask you just to about that?

3 A. Yes.

4 422 Q. We might look at it, it's page 1163?

5 A. Yes.

14:43

6 423 Q. If we pause there for a moment. This is Garda A's
7 memorandum complaining about the existence of the Pulse
8 entry. It says:

9

10 "I wish to report on the above intelligence record
11 which was created by Garda Nicholas Keogh on the 18th
12 May. I am obviously the senior members of the drugs
13 squad referred to, as Garda Keogh has recently made a
14 number of complaints against me which I believe are the
15 result of a personal grievance which Garda Keogh holds
16 against me."

14:43

17

18 I am not inviting you to get involved in that. But he
19 says in the next paragraph:

20

21 "I previously verbally reported my dissatisfaction with
22 this intelligence record to my superiors in Athlone and
23 was informed that the matter would be dealt with. The
24 matter has not been dealt with. The intelligence
25 record is still in existence and the matter has not
26 been reviewed."

14:43

27

28 Perhaps if Mr. Kavanagh can scroll down. I think at
29 the bottom of this memorandum of complaint, if that's

1 the right expression, he states that he is expressing
2 his severe disappointment that the matter has not been
3 dealt with and if it is not resolved he will be forced
4 to take legal advice.

5
6 As far as you're concerned, did Garda management,
7 including yourself, have any duty towards Garda A, who
8 was seemingly the subject of this Pulse entry?

9 A. Well, Garda A is a member of an staff, the same as
10 every other member of my staff is. So, there are
11 obligations under data protection with regard to data
12 and which way it's being generated and accuracy and
13 distribution and all of that. There would be
14 responsibilities under that, but with regard to Garda
15 A, I have a duty to his health, safety and welfare, as
16 I do any other member. And he received that from me.
17 I met with him as well regularly.

18 424 Q. Yes. But could I ask you in that connection if we
19 could briefly look at page 1186, which is your report
20 to Chief Superintendent Curran of the 16th July. We're
21 skipping forward for a moment, just to develop the
22 point you just mentioned.

23 A. Yes.

24 425 Q. On page 1188, a couple of pages on within that same
25 document, you refer to a conversation you had with
26 Garda Keogh on the 16th July?

27 A. Yes. Is it the front page? The first? Intelligence
28 report. 1186, is it?

29 426 Q. It's page 1188 and you indicated to the report, that

1 "During my conversation on this date with Garda Keogh,
2 I outlined to him that he is also obliged to be mindful
3 of other members, that I have a responsibility for all
4 members of the district. He said he was aware of
5 this."

14:47

6 A. Yes.

7 432 Q. What point were you making to Garda Keogh and what did
8 he say to indicate that he was aware of this?

9 A. I have to refer back to my notes of the telephone
10 conversation on the 16th June -- July, and I believe
11 Stephanie Treacy and that had been in with me
12 beforehand. I had already indicated to Garda A, you
13 know, around the station, leave the investigation team
14 to do their job. And I believe I reaffirmed that with
15 Garda Keogh, that he wasn't an exception to this rule,
16 that he had to --

14:47

14:47

17
18 "Advised him let the investigations take their course,
19 etcetera."

14:47

20
21 And I told him that it applies to him as well,
22 asking people -- because it had come to my attention
23 that some people were asking others what they would say
24 and he said he hadn't approached anyone. But that
25 was -- he had spoken to Garda Treacy on the phone when
26 she rang in, about saying this would go further. But
27 it applied to him as everyone else.

14:48

28 433 Q. If I can return then to the issue that we were dealing
29 with, the Pulse entry. Could we have page 1164,

1 please? we've looked at this document before. It's a
2 document of 23rd July 2014. It's from yourself to
3 Garda Keogh himself, simply indicating that you require
4 the report, indicating whether the informant has been
5 registered with CHIS in accordance with HQ Directive 14:48
6 126/10?

7 A. Yes.

8 434 Q. It has been suggested to you by Mr. Marrinan a little
9 while ago that perhaps in hindsight, and I hope I am
10 not mischaracterising the gist of his question, but as 14:49
11 I look it up, it was suggesting that maybe in hindsight
12 it would have been better, rather than raising the
13 matter of the Pulse entry with Garda Keogh, that it
14 would have been better, for instance, if management had
15 had a round table conference with the Ó Cualáin 14:49
16 investigation team. Do you recall being asked about
17 that?

18 A. I do.

19 435 Q. Well, could I ask you, what would you say to my
20 suggestion, a different suggestion, that it was Garda 14:49
21 Keogh perhaps who had pursued a dual channel, not Garda
22 management?

23 A. That's absolutely correct.

24 436 Q. You agree with that?

25 A. I do. I agree with that, because apart from my 14:49
26 correspondence of the 9th July, the correspondence,
27 anything that was coming in relation to the Ó Cualáin
28 team was just -- the initial meeting on the 10th July,
29 or the 10th June with D/Super Mulcahy and that, the

1 chief and I were both very strict on the fact that the
2 investigation takes its course, it's separate to us and
3 that's it. So, we didn't -- we didn't engage with
4 them. If they wanted anything, they contacted us.

5 437 Q. Garda Keogh had taken the decision to publish the 14:50
6 intelligence reports?

7 A. Yes.

8 438 Q. As far as you were concerned, was it reasonable for
9 management to look into the Pulse entry and take the
10 steps that were taken to do that? 14:50

11 A. Absolutely. Specifically in relation to the CHIS
12 aspects of it. Chief Superintendent Curran was the
13 owner of the -- to ensure CHIS was run appropriately in
14 his division. He carried, as I say, that can, I said
15 that this morning. And if anything went wrong, it was 14:50
16 his baby, so to speak. It's a very serious and a very
17 burdensome load to carry and I think he was quite
18 entitled and I would support his line of analysis with
19 regard to how the separation and the recording and
20 proper treatment of the CHIS in this, the possible CHIS 14:51
21 as well in this instance.

22 439 Q. You made reference to it being his baby, so to speak.
23 I think that's a reference to his own evidence?

24 A. Certainly. The integrity -- it's in the policy
25 document, the integrity of CHIS in a division is the 14:51
26 responsibility of the divisional officer.

27 440 Q. But insofar as Garda Keogh, I think you accurately
28 quote his words, regarded the disclosure of corruption
29 as being his baby. Can you assist the Tribunal, from

1 your knowledge of Garda Keogh and without being unduly
2 unfair to him now, did he have a tendency to immerse
3 himself in investigate matters?

4 A. I believe in relation to the Ó Cualáin investigation, 14:52
5 and I had to address it from the very outset, I thought
6 Garda Keogh felt he was taking on an investigative role
7 rather than a role as a witness and I had concerns and
8 I outlined that to him at the very outset.

9 441 Q. Yes. Returning to your statement then, you have told 14:52
10 us that between the 19th May and the 4th June you were
11 on annual leave?

12 A. That's correct.

13 442 Q. You telephoned Garda Keogh to arrange a meeting with
14 him, isn't that so?

15 A. Yes. Before I went on leave or when I came back from 14:52
16 leave?

17 443 Q. Page 827 of the materials, you made reference to being
18 on annual leave from the 19th May until the 4th June?

19 A. Yes.

20 444 Q. And the 5th June, on return from leave, you contacted 14:52
21 Garda Keogh by telephone with a view to meeting him?

22 A. That's correct.

23 445 Q. What was your focus in relation to this and the other
24 meetings that you were having with him at this time?

25 A. Welfare. To see how he was. To see that he was doing 14:53
26 well. To see if he felt supported. I knew he wasn't
27 engaging with the welfare officer. Just to make sure
28 he was good. I knew of his historical medical issues
29 and I just wanted to make sure that he was doing okay.

1 446 Q. Right. Over the page, at page 828, you make reference
2 to what you learned on returning from annual leave
3 regarding Garda Stephanie Treacy's report?
4 A. Yes.

5 447 Q. And acting Inspector Farrell's report of the 29th May? 14:53
6 A. Yes.

7 448 Q. That's in relation to the Olivia O'Neill matter, which
8 we can move to presently. But I think it's the case
9 that on 9th June '14 you met with Garda Keogh and
10 raised with him both the Olivia O'Neill matter and the 14:54
11 Liam McHugh matter?
12 A. That's correct.

13 449 Q. That's at page 829 of the materials?
14 A. That's correct.

15 450 Q. Your report, and we will do this quickly, is at page 14:54
16 1217. Would you mind moving to that for a moment
17 please? Now, the Chairman has seen this repeatedly, so
18 we will do this with dispatch. I just want to ask you
19 about the second last paragraph, where it says Garda
20 Keogh said that with regard to Olivia O'Neill -- this 14:54
21 is on the last page.
22 A. I see it, yes.

23 451 Q. That's it there. So the second last paragraph:
24
25 "Garda Keogh said that with regard to Olivia O'Neill he 14:55
26 had heard that members had contacted her to see if she
27 would make a complaint against him. I clarified to him
28 that in certain situations a statement is sought,
29 that's not to be confused with seeking to have someone

1 make a complaint. Such statement can provide
2 clarification and even exoneration. He understood
3 this."

4
5 That's my question: what did he say to indicate or 14:55
6 that caused you to conclude he agreed or understood
7 that point?

8 A. He said he totally understood, I have in my notes,
9 which are contemporaneous. I will read a paragraph in
10 my notes: 14:55

11
12 "I said he has to understand that an issue was to
13 brought to my attention, I have to address it and he
14 should not misunderstand this. He said he totally
15 understood it." 14:55

16
17 It would be my recollection of that night that I was
18 possibly quite firm with him with regard to
19 specifically taking on what he may perceive to be a
20 role in the investigation team, and he was on about 14:55
21 kind of complaints or investigations into him. And I
22 made it quite clear to him that there wasn't
23 investigations into him, there wasn't complaints, but I
24 was investigating and clarifying and trying to get
25 clarity on issues that had happened within my district. 14:56
26 As district officer, that was my role.

27 452 Q. Yes.

28 A. He understood this. And it was the same in relation to
29 other matters that we discussed then, he said that he

1 A. No.

2 460 Q. His awareness that Olivia O'Neill had members calling
3 up to see her?

4 A. No, I didn't.

5 461 Q. All right. In terms of the timeline, it would follow, 14:57
6 wouldn't it, that Garda Keogh became aware of that from
7 somebody, very possibly Olivia O'Neill, at some stage
8 between the 28th May and the 9th June, that would
9 follow?

10 A. Yes, I would say so. 14:58

11 462 Q. Would you mind then for a moment going to page 434 and
12 the entry for the Thursday. This is Garda Keogh's
13 diary. Do you see it on screen there, the entry for
14 Thursday, the 26th June?

15 A. Yes. 14:59

16 463 Q. It reads:

17

18 "Informed Judge and D/Superintendent my notebook
19 missing 5:30 Olivia O'Neill calls to the station asked
20 to speak to me in private, stated D/Sergeant Curley and 14:59
21 Higgins called to her house, then to her in another
22 house to try to get her to make a statement about me
23 but refused to take her statement of assault. Informed
24 her to go to GSOC."

25 14:59

26 Do you see the reference there, the second line:

27

28 "Olivia O'Neill called to station, asked to speak to me
29 in private" ?

1 A. Yes.

2 464 Q. Did Garda Keogh mention any of these conversations or
3 visits he had to you with Olivia O'Neill in your
4 inquiries with him?

5 A. I think in my notes of the 8th July, he refers back to 14:59
6 saying that she called in to the station the previous
7 week and he told her to go to GSOC, I think. Sorry, I
8 will get my notebook now.

9 465 Q. Maybe I might assist with you that. If you wouldn't
10 mind turning to page 1187. 15:00

11 A. Yes.

12 466 Q. You see it on screen, first paragraph, about four lines
13 down?

14 A. Yes.

15 467 Q. Five lines down, halfway along: 15:00

16

17 "Garda Keogh informed me --"

18

19 This is your own report:

20 15:01

21 "Garda Keogh informed me during the conversation on 8th
22 July 2014 that Olivia O'Neill had called in to the
23 station about a week previously about her previous
24 incident and he had advised her to go to GSOC. I again
25 asked him about this today and he stated this happened 15:01
26 when she called into the station at the start of his
27 shift. He was in the public office doing PO. He does
28 not know if she has contacted GSOC "

29 A. Yes.

1 468 Q. Just to assist the Chairman, because I am just a little
2 bit unclear in my own mind of this. Where your notes
3 record:

4
5 "Garda Keogh informed me during the conversation on 8th
6 July 2014 that Olivia O'Neill had called in to the
7 station about a week previously..."

8

9 A. Yes.

10 469 Q. Is that a week previous to her visit on the 28th May, 15:01
11 or is it a week previous to this note?

12 A. I would say to this note. I think. If I could read my
13 8th July notes briefly.

14 470 Q. Yes.

15 MR. CARROLL: 1100. 15:02

16 CHAIRMAN: Thanks, Mr. Carroll.

17 A. It says in this, in my exact note:

18

19 "He said that Olivia O'Neill had called in to the
20 station about a week ago about her previous incidents 15:02
21 and that had he advised her to go to GSOC."

22

23 So I would imagine that's a week before the 8th July.

24 471 Q. MR. MÍCHEÁL O'HIGGINS: I sorry, I may be succeeding 15:02
25 only in shedding darkness rather than light on this
26 issue, but the point I'm seeking to achieve some degree
27 of clarity on is this: Insofar as I can read the
28 materials, neither Olivia O'Neill or Garda Keogh have
29 referred to a meeting between the 30th May '14 and the

1 26th June '14. The various conversations that are
2 referred to would appear to indicate that there may
3 have been some engagement between Garda Keogh and
4 Olivia O'Neill on this issue on other occasions. Does
5 that accord with your understanding.

15:03

6 A. Well --

7 CHAIRMAN: May I suggest, Mr. O'Higgins, with respect,
8 that really what we are looking at is what the
9 superintendent wrote and the meaning of what she wrote.
10 What meetings took place or didn't take place -- and I
11 thought you asked a question that I was happy to have
12 clarified. In other words, it seems to me, I was
13 assuming that when this -- it records, rightly or
14 wrongly, I'm not saying anything about that, but it
15 says Garda Keogh that about a week ago Olivia O'Neill
16 called in. I am assuming that's a week before I am
17 writing this. That's what I am assuming. In other
18 words, a week before your conversation with him.

15:03

15:03

19 A. A week before the 8th.

20 CHAIRMAN: He says a week ago, that's what it looks
21 like to me. Maybe it means something different, I
22 don't know. If it follows, if that is correct -- I am
23 sorry to be tedious about this. If that is correct, it
24 may mean that there were more meetings than we
25 previously knew about. But that's not something that
26 the superintendent really knows about because that's a
27 conclusion that will follow from -- do you follow me?

15:03

15:04

28 MR. MÍCHEÁL O' HIGGINS: I take your point, Chairman.

29 472 Q. CHAIRMAN: Okay. So as far as you're concerned, you

1 think this means, when he says she called in about a
2 week ago and so on, you think that's about a week
3 before your conversation that you're referring to?

4 A. Yes, on the 8th July.

5 CHAIRMAN: Okay.

15:04

6 MR. MÍCHEÁL O' HIGGINS: Yes.

7 CHAIRMAN: All right.

8 473 Q. MR. MÍCHEÁL O' HIGGINS: In your later report then of
9 the 5th August, which we have seen on the screen a
10 number of times already, for your assistance, at page
11 1157, you give what I think is your conclusion on the
12 Liam McHugh matter.

15:04

13 A. Yes.

14 474 Q. Do you see in the last three lines of this document --

15 A. Yes.

15:05

16 475 Q. -- and again, we have been over this, so I will do it
17 with dispatch. You say:

18

19 "His assertion that he had not been in contact with
20 Liam McHugh is consistent with his conversation with me
21 on the 9th June 2014, which is covered in my
22 correspondence to you on the same date."

15:05

23

24 And this is your report to Chief Superintendent Curran,
25 isn't that right?

15:05

26 A. That's correct.

27 476 Q. Can we take it from that, that as far as you were
28 concerned at this point the matter was finished and you
29 and Garda management accepted Garda Keogh's position on

1 the Liam MCHugh matter?

2 A. Yes. There was nothing further to add.

3 477 Q. Regarding the Olivia O'Neill matter, which is another
4 theme the Chairman is looking into through the lens of
5 whether there was targeting or discrediting? 15:06

6 A. Yes.

7 478 Q. Mindful of what was in Garda Treacy's report -

8 A. Yes.

9 479 Q. - as to what they says Olivia O'Neill said to her on
10 the occasion of the visit to the station. In your view 15:06
11 and from your perspective, was it reasonable for Garda
12 management and for yourself to take the steps you took
13 to enquire into the matters arising from Garda Treacy's
14 report?

15 A. I think it was reasonable and necessary. We were duty 15:06
16 bound to.

17 480 Q. Can I conclude by asking you to deal with matter that
18 was raised by Mr. Marrinan yesterday in your own
19 evidence, and it is a more general matter concerning
20 Garda Keogh's alcohol sickness. 15:07

21 A. Yes.

22 481 Q. And his work attendance record.

23 A. Yes.

24 482 Q. You knew a sergeant Pat Tully, isn't that right?

25 A. I did, yes. 15:07

26 483 Q. He was somebody who you had regard for, I think also it
27 was also indicated by Garda Keogh he had regard for in
28 the station?

29 A. That's correct, that's correct.

1 484 Q. Could I ask you to look briefly at page 9267, it's
2 either volume 32 or volume 33, at page 9267. If we
3 just scroll up a small bit we will get the -- sorry,
4 the other way, Mr. Kavanagh, please, just at the top of
5 the document. This is Sergeant Patrick Tully's minute 15:07
6 to superintendent, Athlone. It's date stamped 4th
7 October 2012. Am I correct that you took up duty in
8 July 2012, taking over from Superintendent Aidan
9 Glacken?

10 A. That's correct. 15:08

11 485 Q. So you're in situ, so to speak, at the time of this
12 report?

13 A. I am.

14 486 Q. If we look to see, there's numbered paragraphs set out
15 in the body of the document, if we can skip down to -- 15:08
16 if we stop there. So paragraph 3, Sergeant Tully
17 reports:

18
19 "His coping skills are being tested due to his alcohol
20 problems. Even though he is currently off the drink, 15:08
21 it is certainly taking its toll on him but he is making
22 a huge effort to overcome his problem."

23
24 Then paragraph 4 says positive things about his
25 relationship with his peers and supervisors. Then 15:08
26 paragraph 5, he says the following:

27
28 "This member is not the most robust individual and is
29 easily upset by the rough and tumble of life. He

1 believes he needs a transfer from Athlone although he
2 is not sure where he wants to go. He claims he is
3 happy with his work colleagues and has no issue in that
4 regard. Over all, he is a bit mixed up but hopefully
5 will make a recovery and become more self reliant and
6 settled." 15:09

7
8 Now, you may have been here for his evidence or you may
9 not have been, Garda Keogh was asked about this by
10 Mr. Murphy, my colleague, earlier in evidence. If we 15:09
11 can just very briefly have the transcript interest Day
12 105, which is the 22nd October. Day 105, page 67. And
13 halfway down line 6 on page 67

14 A. Yes.

15 487 Q. Mr. Murphy requests if a document we've just looked at 15:10
16 could be called up on screen. Then in line 17 there's
17 a quotation from the document, which we can pass from.
18 If you could turn over to page 68, line 7, Mr. Murphy
19 asks:

20
21 "So, can I just suggest to you, that was Sergeant
22 Tully's assessment of your position; that you had gone
23 through a difficult time in the middle of 2012, you had
24 gone through rehab and you returned to work?

25 A. I never informed Sergeant Tully of what the
26 difficult time was.

27 Q. Yes."

28
29 If you turn over the page then to page 69, halfway

1 down, line 12, there is a further exchange on this
2 issue, line 12:

3
4 "Q. But would you agree, Garda Keogh, in 2012 you
5 weren't well for a long period of time during that
6 year, with your alcohol problem?

7 A. I'm not disputing that."
8

9 Is the recorded answer. And then at in line 16:

10
11 "Could I ask you, please, to be shown document 9448."
12

13 we needn't go to that
14

15 "Garda Keogh, this is an absence report in relation to
16 you. It details materials in relation to a number of
17 years. I just want to look, if I could please, at
18 2012. Will you see that towards the last part of the
19 page. I think again there will be no dispute between
20 us, that that shows that in the year 1st January 2012
21 to 6th January 2012..."

22
23 I think that should be -- it's down as '12 but I think
24 it should be 2013.

25
26 "...you were off sick for 106 days.

27 A. That's correct."
28

29 So, mindful that that was Garda Keogh's position in

1 relation to (a) his sick record and (b) his alcohol
2 addiction, broadly speaking were you aware of those
3 matters as his superintendent during 2012, that his
4 ability to scope as a guard was under challenge?

5 A. He -- I was made aware of his condition by Chief 15:12
6 Superintendent Glacken when I was taking over and I was
7 aware he was -- had the alcohol addiction and I think
8 this ties in with my meeting with him in February 2013,
9 when we had a long conversation, where did we all go
10 wrong, or where did it all go wrong, and he went back 15:12
11 to his movement to Ballynacargy. So I would have been
12 aware and that's part of the reason why I met him that
13 night in February 2013.

14 488 Q. Yes. Lastly, superintendent, can I ask you this, and 15:12
15 tying matters back to the core matter the Chairman is
16 investigating: what do you say to the suggestion that
17 you and Garda management participated in a pattern of
18 discrediting and targeting Garda Keogh because he made
19 a protected disclosure --

20 MR. CARROLL: Sorry, Chairman, I don't think there was 15:13
21 a suggestion that my client participated in that
22 activity.

23 CHAIRMAN: I think that's right.

24 MR. CARROLL: So I would ask for that be rephrased.

25 CHAIRMAN: Mr. O'Higgins, I think, in fact, of all the 15:13
26 officers in question, I think Garda Keogh was explicit
27 in saying the one person he didn't lay a finger on, so
28 to speak, was Superintendent McBrien. Not alone that,
29 her notes, her statements, he agreed with everything in

1 them, I think.

2 MR. MÍCHEÁL O' HIGGINS: Yes.

3 CHAIRMAN: That's my recollection. Mr. Kelly or
4 somebody will correct me if I am wrong, but I thought
5 that was what he made absolutely clear. 15:13

6 MR. KELLY: Chairman, what you say about Garda Keogh is
7 absolutely right. But I think Mr. O'Higgins probably
8 is entitled to ask the question on the basis that it's
9 not actually Garda Keogh's view which is the definitive
10 one, it will be the evidence as a whole. And on that 15:14
11 basis, it seems to me he's entitled to ask it.

12 CHAIRMAN: Very good. Mr. Kelly says that
13 independently of what Garda Keogh thinks or of his
14 complaints, that it would be possible for the Tribunal
15 to say, well, while Garda Keogh thinks that 15:14
16 Superintendent McBrien did absolutely nothing wrong,
17 the Tribunal, nevertheless, is going to find that she
18 was involved in targeting and discrediting. So,
19 against the possibility of that finding, Mr. O'Higgins,
20 which strikes me as being just a tad remote, but 15:14
21 against the possibility, given that all things are open
22 to the Tribunal, you better ask the question.

23 MR. CARROLL: Just on that point, Chairman, without
24 being difficult. Not alone would the situation arise
25 as the Chairman has said, but would it not be reverse 15:14
26 in relation to the evidence we have heard in this
27 module, and this is the module we are dealing with.

28 CHAIRMAN: I think, Mr. Carroll, I think every lawyer
29 in the room would understand that before I signed off

1 on a document I think I might have voices saying, are
2 you really sure this might be a sound finding. So I
3 might have find myself putting another correction in a
4 few years time on the website. Anyway. Ask away,
5 Mr. O'Higgins, but Mr. Carroll understands and 15:15
6 everybody understands.
7 MR. MÍCHEÁL O' HIGGINS: Chairman, could I say, I didn't
8 intend, excuse me, I didn't intend to trigger an
9 inquiry.
10 CHAIRMAN: It's all right. 15:15
11 489 Q. MR. MÍCHEÁL O' HIGGINS: It was a loose question, full
12 stop. Could I ask you this question, superintendent:
13 Were you aware of any targeting or discrediting being
14 engaged in by senior management against Garda Keogh?
15 A. No, I wasn't. 15:15
16 MR. MÍCHEÁL O' HIGGINS: Thanks very much.
17
18 END OF EXAMINATION
19
20 CHAIRMAN: Now, Mr. Kane, you're not involved in this, 15:16
21 are you?
22 MR. KANE: No, thank you, Judge.
23 CHAIRMAN: You don't have any questions. Thanks very
24 much. So, Mr. Carroll, any questions?
25 MR. CARROLL: Yes, Chairman, just one matter. 15:16
26 CHAIRMAN: Sure.
27
28
29

1 SUPERINTENDENT NOREEN McBRIEN WAS THEN EXAMINED
2 BY MR. CARROLL, AS FOLLOWS:

3
4 490 Q. MR. CARROLL: I suppose primarily, Mr. Marrinan has
5 brought you through an extensive examination, so I 15:16
6 don't really have any questions. There's just one
7 matter that arises that may be of note on one aspect,
8 and that was to do with the general awareness at the
9 time in Athlone Garda Station as to the disclosures, as
10 to what was going on. I think you've already indicated 15:16
11 and it's part of the evidence before the Tribunal,
12 Mr. Murphy dealt with it in some detail earlier on,
13 about media reports, Dáil reports and whatnot. I think
14 you were absent actually on the 8th and 9th May, isn't
15 that right? 15:16

16 A. I was.

17 491 Q. But you were back into the station then after that.
18 There is just one aspect, it was touched on maybe
19 previously and we will hear from I think Sergeant Haran
20 in relation to it, but it would appear that Garda Keogh 15:17
21 actually had some sort of meeting, at Sergeant Haran's
22 suggestion it would appear, on the evening of the
23 protected disclosure with some of the members. And it
24 may be relevant to what was known in the station and
25 the knowledge of others in the station as to what was 15:17
26 going on. Were you aware of that at the time or when
27 did you become aware of that?

28 A. I think I was aware of it afterwards, when I came back,
29 when I had been talking to Sergeant Haran, he may have

1 mentioned that he allowed Garda Keogh address the unit.
2 492 Q. That was part of -- it would appear, we will obviously
3 hear from Sergeant Haran, we have a statement, we can
4 get it up if needs be, bit that would appear to be
5 Garda Keogh trying to allay concerns of other persons 15:17
6 in his unit that it was nothing to do with them, so to
7 speak, is that right?
8 A. That would be -- that's what it seems to me, yes.
9 493 Q. Again, that would be a matter for Sergeant Haran's
10 evidence. There is nothing else. 15:18
11
12 END OF EXAMINATION
13
14 CHAIRMAN: Thank you very much, Mr. Carroll. Now,
15 Mr. Murrinan. 15:18
16
17 SUPERINTENDENT NOREEN MCBRIEN WAS THEN RE-EXAMINED BY
18 MR. MARRINAN, AS FOLLOWS:
19
20 494 Q. MR. MARRINAN: Yes, there is just one matter that 15:18
21 arises out of the questions that you were asked by
22 Mr. O'Higgins there and a reference to Sergeant Pat
23 Tully's report in 2012.
24 A. Yes.
25 495 Q. Was Garda Keogh always open in relation to his alcohol 15:18
26 addiction problems?
27 A. He was -- I can only account from July 2012.
28 496 Q. Yes.
29 A. When I went there.

1 497 Q. Yes.

2 A. I believe there was an awareness of his problems. I
3 didn't speak to Garda Keogh myself until February '13.

4 498 Q. Well, you see, this arises out of the question that I
5 asked you in relation to Garda Keogh's performance as a 15:18
6 member of An Garda Síochána.

7 A. Yes.

8 499 Q. Under your watch in Athlone Garda Station?

9 A. Yes.

10 500 Q. I don't think it would be particularly fair if it was 15:19
11 watered down in some way. Because I asked you the
12 question whether or not Garda Keogh at any time had
13 been disciplined during your period on watch?

14 A. He hadn't been.

15 501 Q. I asked you had there ever been a complaint made by a 15:19
16 member of the public in relation to Garda Keogh?

17 A. I wasn't aware of one, no.

18 502 Q. And had any sergeant or inspector called into question
19 the quality of his work?

20 A. And I mentioned Sergeant Haran with regard -- 15:19

21 503 Q. Sergeant Haran, had difficulty with paperwork?

22 A. Yes.

23 504 Q. Yes. But other than that?

24 A. If you're referring to Sergeant Tully's report, it's a
25 medical report for the CMO, it's to do with a 15:19
26 condition.

27 505 Q. This is back in 2012, I am talking about?

28 A. Yes.

29 506 Q. Under your watch.

1 A. Yes.

2 507 Q. And your period of time. You received in complaints in
3 relation to the quality of the work that Garda Keogh
4 was undertaking, is that right?

5 A. The only comment that I had was that in relation to 15:20
6 Sergeant Haran saying Garda Keogh was slow on
7 paperwork.

8 MR. MARRINAN: Thank you very much.

9

10 END OF EXAMINATION 15:20

11

12 CHAIRMAN: Thank you very much. Thanks very much,
13 superintendent.

14 WITNESS: Thank you, Chairman.

15 CHAIRMAN: Just give me a moment. 15:20

16

17 THE WITNESS THEN WITHDREW

18

19 CHAIRMAN: where do we stand now, Mr. McGuinness,
20 Mr. Murrinan? 15:20

21 MR. MCGUINNESS: Chairman, could I suggest a short
22 recess for five minutes.

23 CHAIRMAN: Yes, certainly. I will say ten minutes, I
24 will say 3:30.

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THE HEARING THEN ADJOURNED BRIEFLY AND RESUMED, AS
FOLLOWS:

REGISTRAR: Ladies and gentlemen, the Tribunal will
resume tomorrow at 10:30

15:27

THE HEARING THEN ADJOURNED UNTIL THURSDAY, 28TH
NOVEMBER 2019, AT 10:30AM

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