

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

ESTABLISHED BY INSTRUMENT MADE BY THE MINISTER FOR JUSTICE
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 TUESDAY, 3RD DECEMBER 2019 - DAY 124

124

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

GWEN MALONE STENOGRAPHY
SERVICES

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I N D E X

W I T N E S S

P A G E

C H I E F S U P E R I N T E N D E N T P A T R I C K M U R R A Y

D I R E C T L Y - E X A M I N E D B Y M R . M A R R I N A N 6

1 THE HEARING RESUMED, AS FOLLOWS, ON TUESDAY, 3RD
2 DECEMBER 2019:

3
4 CHIEF SUPERINTENDENT PATRICK MURRAY CONTINUED TO BE
5 DIRECTLY-EXAMINED BY MR. MARRINAN, AS FOLLOWS:

10:18

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

8 A. Good morning, Chairman.

9 2 Q. If we could have page 184 up on the screen. What were
10 the circumstances giving rise to this direction that
11 you sent to the sergeant in charge and for the
12 attention of all members? What was the background to
13 you...

10:30

14 A. Chairman, as I said yesterday, I met Garda Keogh on the
15 26th March for the first time, and during the course of
16 dealing with his tax with him, he got annoyed, as I
17 said, and in what I felt might be a reactionary way, he
18 made a general allegation that are other people who may
19 have issues with their cars. And when I heard that, I
20 tried to explore it with him, but he wasn't anxious to
21 give me any information that might help any further
22 with it. The allegation was just left there in that
23 fashion.

10:30

24 3 Q. Did you make any other enquiries, perhaps of the
25 inspectors or the sergeants, whether or not this was an
26 issue?

10:31

27 A. Well, I asked Garda Keogh first.

28 4 Q. Yes.

29 A. And then he wouldn't go further. And I told him I

1 couldn't unhear it and I would have to deal with it.
2 But he was anxious then that perhaps I not deal with
3 it.

4 5 Q. Yes.

5 A. Then I told him I would take his views on board, but I 10:31
6 couldn't unhear it and I would have to think about it.
7 So I did discuss it with both inspectors, to see how
8 would I handle this.

9 6 Q. Well first of all, when you spoke to them, did you ask
10 them was this an issue? Were there members who were 10:31
11 not complying with the law in relation to their
12 vehicles?

13 A. I told them what had happened and neither of them
14 expressed any concern in that regard to me. We
15 discussed it and how we might deal with it or what we 10:32
16 might do about it. I felt that I suppose, every member
17 -- the allegation was, you know, toward every member in
18 the absence of any information directly alleging any
19 pain against anyone, and I felt, I suppose, that
20 everyone is entitled to the presumption of innocence 10:32
21 and I couldn't go about, in the absence of specific
22 information, accusing anybody of anything.

23 7 Q. So this direction was solely based on what had been
24 said to you by Garda Keogh?

25 A. Absolutely, yeah. 10:32

26 8 Q. And you had no other anecdotal evidence to suggest that
27 there were guards who weren't complying --

28 A. No.

29 9 Q. -- with their obligations under the Road Traffic Act.

1 In any event, it's dated 22nd th April 2015. It is:

2

3

"Members private vehicles.

4

5

I refer to the above and wish to inform each member
that I have been made aware in a general way that the
private vehicles of some members are not in order in
relation to..."

10:33

6

7

8

9

10 And then you list:

10:33

11

12

"...no valid tax, no valid insurance, no valid NCT
certs and no valid Driving Licences."

13

14

15

I don't think Garda Keogh had actually itemised the
offences which he believed had been committed by other
members?

10:33

16

17

18

A. No, he left it in a general way. He said that members
had issues with their cars. I didn't know how to take
that.

19

20

10:33

21

10 Q. "In order to allay any fears that exist, I wish to
advise all members that commencing on 1st June 2015 I
will have the necessary checks carried out as
follows..."

22

23

24

25

10:33

26

27

28

29

So you are giving a period in which members are to --
if they aren't complying with the requirements under
the Road Traffic Act, this period is a period of grace,
as it were, for them to put their act and get their act

1 in order.

2 A. Yeah, I don't see it like that, because I had no
3 information that anyone wasn't complying with the Road
4 Traffic Act. It's not normal for members of An Garda
5 Síochána not to comply with the Road Traffic Act, in my 10:34
6 experience. You know, I haven't come across it too
7 many times in my career.

8 11 Q. "All members will be asked to voluntarily present their
9 vehicles and Driving Licences for inspection to their
10 immediate supervisors, who will certify all is correct. 10:34

11
12 The supervisors will in the same manner be asked to
13 present their Driving Licences and vehicles for
14 inspection to their immediate inspectors, who will
15 certify all is correct. 10:34

16
17 I will ask both inspectors to present to me.

18
19 In turn will present to the divisional officer.

20 10:35
21 In that way I will be in a position to confirm members'
22 private vehicles are in order in the district.

23
24 All members are reminded that any claims involving the
25 use of a member's private vehicle will only be approved 10:35
26 if the vehicle being used complies with all road
27 traffic legislation in force."

28
29 Had you previously, before you arrived in Athlone,

1 issued a similar direction in relation to any other
2 station?

3 A. Not that can recall.

4 12 Q. Pardon?

5 A. No, not that I can recall. 10:35

6 13 Q. Well, it would be something that you would recall,
7 surely?

8 A. Well, I have been in 14 stations in my service
9 altogether I think and I became an inspector in 2006,
10 so I can't recall ever doing it in that period of time. 10:35

11 14 Q. Well, I thought you were indicating that this was quite
12 exceptional, that as far as you were concerned most
13 members of An Garda Síochána complied with the
14 requirements under the Road Traffic Act?

15 A. That's my experience, yes. 10:36

16 15 Q. That you didn't regard this as being an issue and that
17 the only reason it was an issue was because Garda Keogh
18 had raised it as an issue. Surely you would remember
19 and recall if on a previous occasion that you had
20 issued a similar direction? 10:36

21 A. I don't recall issuing one. I can't recall if I issued
22 a similar direction in the past. That's all I can tell
23 you about that.

24 16 Q. You're not in a position to say definitively that you
25 didn't? 10:36

26 A. I can't tell you one way or the other, because I can't
27 recall at the moment whether I did or not. But I mean,
28 any person that uses their car on duty, that's allowed
29 to, makes an application where they certify that

1 everything is correct with their car, on the form that
2 they're applying. So, that's the normal circumstances
3 in which I would deal with them, issue of members using
4 their vehicles on duty.

5 17 Q. You know what Garda Keogh's complaint is in relation to 10:37
6 this; that he sees it as being victimisation of him
7 insofar as he was disciplined for a revenue offence in
8 relation the taxation of his vehicle. And what he says
9 in relation to this is that people who perhaps were
10 guilty of more serious offences, such as no insurance, 10:37
11 no Driving Licences, were given a period of grace to
12 get their act together, as it were. What do you say in
13 relation to that?

14 A. Well, I think the complaint has, I suppose, conflated
15 or twisted my action into a negative against Garda 10:37
16 Keogh in an unfair way. Garda Keogh, I suppose, made
17 the allegation in a general way, he wouldn't back it up
18 in any way when I asked him. I felt that I was in a
19 position where to do nothing wasn't an option for me,
20 having heard what he had to say. Having discussed it 10:38
21 with my inspectors and decided on this course of
22 action, to be fair to the hundred or so other employees
23 against whom the general allegation was made in that
24 way.

25 18 Q. You were interviewed by our investigators in relation 10:38
26 to this issue. If we could have page 3077 up on the
27 screen, please. And if we can scroll down to line
28 1051. You say:
29

1 "I decided to have everyone's vehicle checked. I
2 understand one other member was in a similar position
3 to Garda Keogh and was dealt with in the same fashion,
4 i.e. by way of regulation 10."

10:39

5
6 Further on, at 3079, please, at 1080, the question is:

7
8 "I have been asked, given that I issued a regulation 10
9 notice to Garda Nicholas Keogh after he had remedied
10 the situation regarding his car tax, and then gave 10:39
11 other Garda members a grace period of approximately
12 five weeks to remedy any defects relating to tax,
13 insurance, NCT, Driving Licences, whether this amounted
14 to me targeting or discrediting Garda Nicholas Keogh as
15 per term of reference (p)."

10:40

16
17 Your answer is:

18
19 "No, absolutely not. I have explained how that came
20 about. As noted above, there was one person who had to 10:40
21 back tax and that was dealt with in the same way."

22
23 Now, this was dealt with by the Tribunal in a series of
24 letters, which I don't intend to open, but they're in
25 volume 54 and they're from page 15229 to 15236, for the 10:40
26 benefit of the parties. But the initial letter is
27 written by the Tribunal's solicitor Mr. Davis to Alison
28 Morrissey in the Chief State Solicitor's Office:

29

1 "We refer to previous correspondence in relation to the
2 above and would be obliged for confirmation as to
3 whether Garda Brendan Madden --"
4

5 This is the garda who was eventually nominated as the 10:41
6 guard who received a regulation 10.

7
8 " -- was disciplined by way of regulation 10 or in any
9 other way arising out of the resolution of his car tax
10 issue in 2015/2016. If he was disciplined by way of 10:41
11 regulation 10, please let us have a copy of the
12 document. We look forward to hearing from you as soon
13 as possible. "
14

15 Now, it appears that Garda Madden wasn't disciplined by 10:41
16 way of regulation 10, you would accept that to be the
17 position?

18 A. I wouldn't accept it to be the position. He was
19 approached by a sergeant, I understand, who was I
20 suppose to deal with this issue. To explain my 10:41
21 involvement in it, because the certification of this
22 was a live reminder in my office being dealt with by a
23 clerk there to ensure it was being brought to a
24 conclusion in a swift way. The initial report about
25 the guard in question was made to me by his then 10:42
26 sergeant, who had checked the other members and
27 indicated that Garda Madden had a tax disk goods on his
28 vehicle, but that all his other documents were in
29 order. She indicated that she highlighted the matter

1 to him and asked him to rectify it. He then
2 unfortunately was injured on duty and went sick for a
3 period and the sergeants in that station changed. And
4 Sergeant Moylan was transferred there. And in a
5 reminder that went to him, I asked him to deal with the 10:42
6 matter immediately, as it was running since May '15 and
7 Garda Madden was the last person to have certified.
8 Sergeant Moylan indicated to me that Garda Madden was
9 on sick leave. I said despite the fact he is on sick
10 leave, it needed to be certified that his vehicle was 10:43
11 taxed and therefore you should visit him to deal with
12 the issue. I asked him to report back to me on that.
13 And he did report back to me to indicate that Garda
14 Madden had corrected his tax and he had spoken to him
15 about it and gave him advice. 10:43

16
17 I think I explained yesterday, the discipline
18 regulations and part 1 in regulation 10 allows
19 unfettered, I suppose, discretion to the person dealing
20 with the issue to deal with it under regulation 10. 10:43
21 It's a matter for Sergeant Moylan to indicate what way
22 he felt the advice he gave to Garda Madden was dealt
23 with or treated.

24 19 Q. If we could have volume 31, page 87 --

25 MR. KELLY: Judge, just before my learned Friend goes 10:44
26 on to that, could I ask what it was that the chief
27 superintendent has been reading from, documents
28 relating to this.

29 CHAIRMAN: Yes.

1 WITNESS: They're documents that were supplied to the
2 Tribunal, I understand, it's in relation to the tax.
3 Documents written by me.

4 CHAIRMAN: Chief superintendent, just what is it, so
5 that Mr. Kelly and everybody else knows exactly where 10:44
6 we --

7 WITNESS: It's the file in relation to Garda Madden's
8 tax, car tax.

9 CHAIRMAN: You have the materials relating to --

10 WITNESS: Yes. 10:44

11 CHAIRMAN: I suppose in fairness to Garda Madden, who
12 isn't accused of anything and isn't here, we should --
13 I suppose there it is, he has been mentioned.

14 MR. MARRINAN: He has been mentioned.

15 CHAIRMAN: It's is not exactly the most heinous matter, 10:44
16 I think everybody would agree. So there it is. But
17 what you are actually referring to are the notes which
18 have been supplied to the Tribunal. Do we have those?

19 MR. MARRINAN: I was just about to open the report from
20 Sergeant Moylan in relation to the matter. 10:45

21 CHAIRMAN: Okay. But just before we go anywhere, so
22 that we all know exactly where we are, chief
23 superintendent, can you identify, is it a bundle of
24 documents you have in front of you? There's no
25 suggestion of any impropriety or anything, we just want 10:45
26 to clarify where we are at the moment. So the
27 documents that you are referring to are documents in
28 the Tribunal's voluminous disclosure?

29 WITNESS: Yes, I understand that.

1 CHAIRMAN: Okay. Can you identify them a bit more
2 precisely so that we all know what documents you're
3 actually referring to?
4 WITNESS: They start off with a document from Sergeant
5 McDonnell in Kilbeggan. 10:45
6 CHAIRMAN: Okay. Can I ask you this, is there a
7 Tribunal number on them?
8 WITNESS: Not on the one I have.
9 CHAIRMAN: Not on the one have you. Thanks very much,
10 okay. At least identify the document. So they are 10:46
11 Sergeant McDonnell, is that right?
12 WITNESS: Sergeant McDonnell.
13 CHAIRMAN: In Kilbeggan?
14 WITNESS: And then a trail of correspondence after
15 that. 10:46
16 CHAIRMAN: And a subsequent trail of correspondence
17 from there. Now, Mr. Murrinan, can you help us with
18 the trail that begins with sergeant McDonnell in
19 Kilbeggan.
20 MR. MARRINAN: Page 8785 of the materials, volume 31. 10:46
21 CHAIRMAN: 8785.
22 MR. MARRINAN: Yes.
23 CHAIRMAN: Okay. Let's just do that for the moment.
24 MR. MARRINAN: It's is a letter to Superintendent
25 Murray dated 15th June 2015. 10:46
26 CHAIRMAN: And may I take it then that the next --
27 chief superintendent, when you're referring to a
28 document, would you be good enough to let us know what
29 it is, what date it is, so that we can identify the

1 specific number it is so we all know where we are
2 going, do you understand?
3 WITNESS: I do.
4 CHAIRMAN: That it will certainly help me in looking at
5 it afterwards. Anyway, so we have the account. If I 10:47
6 understand it, where we stand at the moment, the
7 sergeant identified this as an issue, a similar issue,
8 it would seem, taxed as a goods, whereas in fact should
9 be taxed as private. That's the understanding of where
10 we are. The garda in question, before the thing came 10:47
11 to a head or could be processed further, got injured on
12 duty and was now on sick leave. Okay. The sergeant
13 changed. So a new sergeant, that was Sergeant Moylan,
14 came into the picture instead of Sergeant McDonnell.
15 A. Yes. 10:47
16 20 Q. CHAIRMAN: who had been previously dealing with it?
17 A. Correct, Chairman.
18 21 Q. CHAIRMAN: Okay. You directed, suggested that Sergeant
19 Moylan, notwithstanding the fact that the garda was on
20 sick leave, that he should go out and speak to him and 10:48
21 get this sorted out?
22 A. Yes.
23 22 Q. CHAIRMAN: It was sorted out, if I understand, in the
24 sense that the garda corrected the tax on his car?
25 A. That's correct, Chairman. 10:48
26 23 Q. CHAIRMAN: And if I understand where the evidence is at
27 the moment, it is that, was it a matter then for the
28 sergeant to deal with it under your general authority
29 or what was the situation?

1 A. That was the nature and tone of the way the whole idea
2 of the check was drafted, that the sergeant would deal
3 with any issue and if they weren't in a position to
4 deal with it, to bring it to my attention.

5 24 Q. CHAIRMAN: Okay. So was it a matter for him to say, 10:48
6 make sure you don't do this again or to issue a notice
7 or to proceed under regulation 10? Was that within the
8 sergeant's authority?

9 A. Yes, I was leaving that to the sergeant.

10 25 Q. CHAIRMAN: Okay. And was that something that could be 10:49
11 left to a sergeant's authority?

12 A. Well, yes, Chairman. I am satisfied that that is
13 something that was within the sergeant's remit.

14 26 Q. CHAIRMAN: Okay.

15 A. And that the discipline regulations allow for that. 10:49

16 CHAIRMAN: Okay. Now, I'm sorry for interrupting and
17 just summarising, but that's my understanding of where
18 we stand at the moment. And we have the document 8785,
19 Mr. Marrinan, and we are going to proceed from there,
20 is that right? 10:49

21 MR. MARRINAN: Well, I'm not going to go back that far.

22 WITNESS: Just before Mr. Marrinan goes on, just to
23 make it very clear in relation to the member in
24 question.

25 CHAIRMAN: Yes. 10:49

26 WITNESS: I think he offered some excuse, in that he
27 was a farmer and he a herd number and this was a second
28 vehicle he had. You know, he felt that because of the
29 occupation or part-time occupation he was involved in

1 with the farming, that it entitled him to have the
2 vehicle taxed in a goods class, which slightly differed
3 from Garda Keogh's situation. And I am sure the
4 sergeant took that into account.

5 27 Q. MR. MARRINAN: But, chief superintendent, I think there 10:50
6 was also a substantial difference between he and Garda
7 Keogh, because he was in breach after the 1st June,
8 after the period of grace, he continued to tax his
9 vehicle as a goods vehicle, isn't that right?

10 A. I don't know that. He back taxed it, corrected it. I 10:50
11 don't know to what date. I don't have that in front of
12 me. He that too.

13 28 Q. Perhaps if we have page 8792 up on the screen please
14 because this is the report from Sergeant Moylan in
15 relation to the matter. He sets out the background 10:50
16 there, that he took over responsibility for Kilbeggan
17 Garda station on the 20th July. This is clearly after
18 the 1st June, and the period of grace, if you can call
19 it that, has expired. Then in November 2015 he
20 received correspondence in relation to a query of a 10:51
21 privately owned vehicle. Then he refers to
22 correspondence, in the second paragraph, that he
23 received from you, his district officer, in January
24 2016 to visit the guard, to certify that his vehicle
25 was taxed correctly. He arranged to meet him. He 10:51
26 informed him that he was involved in farming.

27
28 "He told me that he would tax it privately and call
29 into the station to show me his tax disk when he had it

1 done. "

2

3 So, therefore, the offences continued on into January
4 2016, some six months after the direction that you had
5 issued. He then goes on to say:

10:52

6

7 "I informed him that it was my belief that he had an
8 obligation to tax his vehicle privately if it was being
9 used other than in the course of his business. He
10 accepted my explanation and told me he would tax it
11 privately and call in to the station to show me his tax
12 disk when he had it done.

10:52

13

14 I understood this advice which I gave to the guard as
15 negating the need for any further disciplinary action,
16 as I subsequently inspected the disk at Kilbeggan Garda
17 station in February 2016, took a copy of it and
18 reported the fact to the district officer that was all
19 now in order."

10:52

20

10:53

21 So, I think the point here is, chief superintendent,
22 that when you were questioned about this by the
23 Tribunal investigators you held this case up as a case
24 that was dealt with in a similar fashion by way of
25 regulation 10, as that of Garda Keogh's?

10:53

26 A. That was my understanding.

27 29 Q. Yes.

28 A. That the sergeant dealing with it had given advice.

29 30 Q. But do you accept that it wasn't dealt with in a

1 similar fashion?

2 A. In that there was no notice given?

3 31 Q. Yes.

4 A. The actual notice?

5 32 Q. Yes. 10:53

6 A. But that was a matter for the sergeant to make that

7 decision. He the same unfettered --

8 33 Q. But do you accept that it wasn't dealt with in the same

9 way and in the same manner in which you dealt with it?

10 A. Well, I mean, I accept there was no notice given to the 10:53

11 particular guard in question.

12 34 Q. Do you accept you didn't deal with it in the same

13 manner?

14 A. Well I wasn't dealing with it.

15 35 Q. Or wasn't dealt with in the same manner? 10:53

16 A. I accept it was dealt with -- you know, there was no

17 notice given, that's what I accept. I accept that the

18 difference is that there was no notice given, that the

19 actual regulation 10 notice wasn't given to this guard.

20 36 Q. Well, we will move on from that then in relation to 10:54

21 that. We have a statement from Garda Madden, it's at

22 page 15236. He says:

23

24 "In November 2015, I was contacted by Sergeant Cormac

25 Moylan of Kilbeggan Garda station regarding the taxing 10:54

26 of my privately owned jeep. I informed Sergeant Moylan

27 that I was recovering from a serious operation, having

28 been injured on duty and that I would contact him in

29 early January 2016, where it was anticipated that I

1 would be returning on duty. I was again contacted by
2 Sergeant Moylan in January 2016 and I took his informed
3 advice and changed my tax on my jeep to private."

4
5 It doesn't say anything there about being disciplined. 10:55

6
7 "I got a new tax disk for my jeep and produced it to
8 Sergeant Moylan in Kilbeggan in February 2016."

9
10 Then he goes on to say that he taxed it commercially 10:55
11 because he was an owner of a farm and had a herd number
12 and that his jeep was used primarily for farming. Is
13 there anything else you want to say in relation to
14 that?

15 A. No. No two cases are the same. The standard is what's 10:55
16 important and I left it to the sergeant to deal with
17 any issues that arose on their unit in relation to any
18 issue that they might find and this was the only one
19 brought -- that came to my attention. I think Garda
20 Keogh's may have been certified again to have been all 10:56
21 correct in this process, the same as everyone else.

22 37 Q. Just before we move on to issue 7, if I just refer you
23 to contact that you had with Detective Superintendent
24 Mulcahy. If we could have volume 13, 3910 up on the
25 screen, please. This is a statement from Detective 10:57
26 Superintendent Mulcahy. If we can just scroll down.
27 Sorry, if we stop there.

28
29 "On 27th April 2015, I rang the reporter to update him

1 on the investigation and enquiring regarding his
2 welfare. He confirmed to me that he a planned meeting
3 with Mick Quinn, the welfare officer, on the 1st May.
4 I also rang Superintendent Pat Murray and advised him
5 regarding the action taken and the reporter had asked 10:58
6 me to ring him and explain to him that he was not bad."
7

8 Do you recall that, that telephone conversation?

9 A. I do. That telephone conversation came about as a
10 result of Detective Superintendent Mulcahy and I 10:58
11 interacting around Garda Keogh's welfare and to have a,
12 I suppose, a welfare officer assigned to him.

13 38 Q. At that stage you had two meetings with Garda Keogh, is
14 that right?

15 A. Yes. 10:58

16 39 Q. I understood you to say that in relation to the first
17 meeting that the two of you shook hands and that the
18 second meeting ended amicably

19 A. Both meetings ended amicably, yes.

20 40 Q. Did this surprise you, that Detective Superintendent 10:59
21 Mulcahy was conveying a message to you from Garda Keogh
22 that he wasn't a bad person?

23 A. Yeah, well I didn't know what was meant by it and
24 neither did Detective Superintendent Mulcahy.

25 41 Q. It may suggest that relations weren't particularly good 10:59
26 at that stage and that Garda Keogh was being somewhat
27 defensive in relation to what he might have been
28 perceived to have been a close examination of him by
29 you?

1 A. I don't know what his perception was. He has told us
2 here that he had some preconceived idea, that I was
3 sent to Athlone on day one to get him. I'm afraid I
4 knew nothing about that until very late, when all these
5 things started to manifest against me. 11:00

6 42 Q. Okay, if we can move on then to issue 7, and it
7 concerns events between the 11th July and the 14th
8 July. I think that you were contacted by Sergeant
9 Cormac Moylan on the 14th July at 9:05am. If we could
10 have page 2218 up on the screen, please. This is an 11:00
11 e-mail that was sent to you from Sergeant Moylan and it
12 reads:

13
14 "I am not sure if you are aware that Nick Keogh has not
15 been in work all weekend. He went sick last Thursday 11:01
16 and Friday and reported fit for duty on Friday night
17 but has not attended yet. I was on leave on Saturday
18 and it appears he did not appear into work on that
19 night. He was not on leave on Sunday or Monday night
20 either and did not turn up for work. I have tried 11:01
21 calling him but he has not or returned my calls.

22
23 Just said I'd let you know, meant to say it to you
24 earlier as wasn't sure if you knew. It appears from
25 others that he has 'broken out' and is drinking in 11:01
26 Tullamore. "

27
28 If we just go to the statement of Sergeant Moylan in
29 that regard, it's at page 607, paragraph 4.2, if we

1 scroll down.

2

3 "I was Garda Keogh's unit sergeant at the time of his
4 sick report on 9th July 2015 and subsequent call to
5 report off sick on 10th July 2015. However, I was on 11:02
6 annual leave on the 10th and 11th July 2015 and resting
7 on the 12th July. I returned to work on Monday, the
8 13th July, when I became aware that Garda Keogh had not
9 shown up for duty on the previous two days. I tried to
10 call him, to no avail. I subsequently reported his 11:02
11 absence to the district officer, Athlone,
12 Superintendent Murray by e-mail.

13

14 The e-mail was sent to the district inbox at 3:15am on
15 the 14th July. " 11:02

16

17 And then he details the e-mail that I have just opened.
18 At 4.4 on the following page, 608, he says:

19

20 "At 00:29 I received the following Facebook message 11:03
21 from Garda Keogh: 'Sorry about this week, Cormac. I
22 missed your call and haven't credit to call you back.'"

23

24 Then he said he didn't acknowledge that message. As a
25 result of receiving the e-mail, did you then make 11:03
26 contact with Garda Keogh?

27 A. I did, on the 15th of July.

28 43 Q. Will you just tell us the conversation that you had in
29 that regard?

1 A. I phoned Garda Keogh at about twelve midday to find out
2 what had happened, that he hadn't turned up to work.
3 44 Q. Your note in relation to this, and it might help you,
4 the first note to be found is at page 2219 and it's
5 dated, it says: 11:04
6
7 "Wednesday, 15th July 2015. Phoned Garda Nick Keogh re
8 absent without leave. See notes."
9 A. Yes.
10 45 Q. If we go over the notes to page 2220, wednesday, 15th 11:04
11 July is now Tuesday, the 14th July?
12 A. Yes.
13 46 Q. Can you say how that happened?
14 A. It's a mistake on my part. I conflated the date on the
15 e-mail when I was writing the note. 11:04
16 47 Q. And also the day of the week?
17 A. Yes, which was the same day, the 14th.
18 48 Q. But I think your position now is that you accept that
19 in fact it was wednesday, the 15th July, is that right?
20 A. That's always been my position. 11:05
21 49 Q. Well, I wonder whether that is correct, but we will
22 come to that now in a minute. But anyway, the note
23 reads:
24
25 "Tuesday, 14th July 2015. 11:05
26
27 Report to me by Sergeant Moylan that Garda Keogh was
28 AWOL for four days, Saturday the 11th July to Tuesday
29 the 14th July. Phoned member at twelve noon. Spoke to

1 him for 15 minutes."

2 A. Yes.

3 50 Q. Will you just tell us now, with the aid of your note
4 there, what you recall being said?

5 A. It was a very open and frank conversation that Garda 11:05
6 Keogh was very open with me in dealing with it. And he
7 admitted that he was absent without leave and he went
8 on to explain that, that he had signed off sick on the
9 10th July, after drinking for a few days, and he had
10 forgotten that he had reported off sick and then didn't 11:06
11 go to work and he continued drinking. And he admitted
12 that he had a drink problem and that he had stopped
13 going to AA. He went on to describe to me then his
14 drinking habit and how he would drink.

15 51 Q. Yes. Is there anything else there that you think might 11:06
16 be important?

17 A. Yes. Well, he brought up the whistleblower case and he
18 explained that he was worried about Garda A and another
19 member and that they might get him. And then I put the
20 alternative to him and I explained or challenged him 11:06
21 that they had done nothing since it came to light and
22 nothing had happened since Garda A was informed or
23 questioned about the allegation. So I was trying to
24 allay his fears in that regard. I challenged him about
25 not answering the sergeant's call during the weekend 11:07
26 and he said he no credit. I put the point that credit
27 wasn't required to answer a call. And he indicated at
28 that stage that he had to continue going sick as well.
29 I said to him then that I had to request a case

1 conference and I would have to consider discipline and
2 I would seek an explanation from him in writing.

3 52 Q. Do you recall whether or not he mentioned the fact that
4 he had phoned Sergeant Moylan or had contacted him via
5 his Facebook? 11:07

6 A. He did mention Facebook to me, yes. Yeah.

7 53 Q. In what context did he mention it?

8 A. That he had used Facebook to contact the sergeant. And
9 I said that wasn't -- I didn't feel that was an
10 acceptable way to make contact about a matter as 11:08
11 important as being absent from work for four days.

12 54 Q. So how did you leave him on that phone call?

13 A. He wanted me to ignore it, if I could. And I said to
14 him that I felt it was poor behaviour, he had let his
15 colleagues down and there were resource issues 11:08
16 obviously over the weekend in relation to what had
17 happened. And there was a concern for him as well, no
18 one knew where he was for four days. And I felt, you
19 know, drinking, while it might be an explanation, that
20 it wasn't or couldn't be an excuse in my view. 11:08

21 55 Q. Then if we could have volume 11, page 225. 2225, I beg
22 your pardon. This is a letter you sent to the sergeant
23 in charge on the 16th July. It's headed:
24
25 "Absent without leave - Garda Keogh. 11:09
26
27 Garda Nick Keogh, unit C, reported fit for duty on
28 Friday, 10th July 2015. However, he failed to
29 report..."

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29

Then you set out the days.

"An explanation by return is now required from the member."

11:09

A. Yes.

56 Q. Well, he had given you an explanation on the phone, isn't that right?

A. Yes.

57 Q. Why were you writing then looking for an explanation?

11:09

A. I explained to him that I was considering discipline and that I would seek an explanation from him. I was open and upfront with him about that, and this was the follow up for what I said I would do.

58 Q. And then his response is at page 2227 of the material, dated 21st July 2015?

11:10

"Sergeant Monaghan, with reference overleaf, I made a mistake regarding the reporting unfit for duty. I thought I was still on sick those days. I apologise for same. Sick cert is attached. Forwarded for your information."

11:10

And then at page 2228 of the material, we have the sick cert dated 16th July 2015.

11:10

"This is to certify that the above patient was medically unfit for work from 9th July to 15th July due to work related stress. He was certified medically fit

1 to work on the 16th July onwards."

2

3 were you happy with the medical certificate that had

4 been sent in?

5 A. Well, it appeared clear to me from the certificate that 11:11

6 perhaps Garda Keogh may not have been to the doctor

7 until the 16th July.

8 59 Q. Was that the only issue that you had with it?

9 A. It appeared to be a retrospective medical cert to cover

10 the period that he was absent without leave. 11:11

11 60 Q. And did you see something wrong with that?

12 A. No, but I thought it was unusual, you know. I felt

13 that he tried to report off sick again as if he hadn't

14 reported off sick on the 10th as well, on that same

15 day, the 15th. I thought both those things were 11:11

16 unusual, in that he was trying to explain this in some

17 way without dealing with the underlying issue that had

18 caused the problem, when he felt it was going to recur.

19 61 Q. Did you think the contents of the medical certificate

20 were false? 11:12

21 A. I couldn't question the contents of a medical

22 certificate from a doctor. I have no business doing

23 that.

24 62 Q. Did you confront Garda Keogh in relation to your

25 concerns about the medical certificate? 11:12

26 A. No. I had asked him for an explanation. He had sent

27 in an explanation, and I had, what I had.

28 63 Q. But you had a problem in relation to the medical

29 certificate, is that right?

1 A. I had a problem, two things: The retrospective aspect
2 of it and the fact that he had tried that day or did
3 that day try and report off sick again, as if he had
4 never reported off sick on the 10th. Those two things
5 together.

11:12

6 64 Q. So anyway, you report to the chief superintendent in
7 relation to the matter. If we could have page 8800 on
8 the screen, please. This is a letter dated the 19th
9 July from you to Chief Superintendent Lorraine
10 wheatley.

11:13

11

12 "Sick report Garda Keogh.

13

14 I refer to the above named member, who, following my
15 request, was reviewed by the Occupational Health
16 Service on the 19th May. Unfortunately Garda Keogh's
17 absences from work continue on a very frequent basis.
18 At present, a pattern has developed where he reports
19 unfit for duty on early and late tours, works on night
20 tours and reports fit for duty to avail of rest days."

11:13

11:13

21

22 was that your belief in relation to the matter?

23 A. That is what was happening, yes.

24 65 Q. "On Friday, 10th July 2015, the member reported off
25 sick leave and fit for duty but was then absent without
26 leave for four days between Saturday, 11th July 2015
27 and Tuesday, 14th July inclusive. After availing of
28 four rest days, the member has appeared to work today,
29 Sunday the 19th July. As I am sure you will agree,

11:14

1 this type of attitude towards work commitments is
2 unacceptable and must be addressed immediately so that
3 the district force can have confidence in that the work
4 demands placed on them apply fairly and objectively to
5 every member. "

11:14

6
7 was that a view that you shared?

8 A. That's my view.

9 66 Q. That you shared with the chief superintendent at that
10 time?

11:14

11 A. That's my view.

12 67 Q. How strongly did you hold that view?

13 A. I hold that view in relation to behaviours of this
14 nature, where alcohol is involved, where it impacts on
15 the workplace.

11:15

16 68 Q. "As a result of the member's absence without leave, I
17 phoned him on Tuesday, the 14th July."

18
19 so your position hasn't always been that it was
20 wednesday, the 15th July?

11:15

21 A. Well, it's a mistake by me, you know. I conflated, as
22 I said, the e-mail sergeant Moylan sent on Tuesday the
23 14th with the date I made the phone call.

24 69 Q. "As a reason for being absent without leave, he
25 indicated that when he reported off sick on Friday, the
26 10th July, he was very drunk, had been drinking for a
27 few days and had forgotten he had reported off sick.
28 The member admitted having an alcohol problem. The
29 member's unit sergeant had tried to contact the member

11:15

1 while he was absent without leave. The member
2 acknowledged he had not returned calls to his sergeant,
3 indicating he no phone credit. Credit is not required
4 to answer an incoming call."

11:16

6 You don't indicate there to the chief superintendent
7 that Garda Keogh had contacted Sergeant Moylan on
8 Facebook?

9 A. I indicated that I didn't feel that was an acceptable
10 form of communication for Garda Keogh, you know. When
11 he realised that people had been wondering where he
12 was, I felt he should have contacted the sergeant or
13 the station to explain where he was and how he was.

11:16

14 70 Q. "The member indicated that he intended continuing with
15 the present pattern of reporting sick and unfit for
16 duty at will.

11:16

18 Under separate cover, I intend recommending
19 disciplinary proceedings under regulation 14 commence
20 against the member for being absent without leave. In
21 addition, I wish to request that a case conference be
22 held as soon as possible with Garda Occupational Health
23 Service and Human Resource Management to discuss the
24 member with a view to deciding on a course of action to
25 assist a full return to work or a sanction based
26 alternative should the member continue to ignore his
27 responsibilities and work commitments."

11:16

11:17

28
29 what did you mean by that; "a sanction based

1 alternative"?

2 A. That that was going to be for the occupational health
3 department to decide on what was the best way to go
4 forward with this. It was clear that Garda Keogh
5 needed treatment, in my view, of some kind or another. 11:17
6 I'm not a medical expert. And I wanted to ensure that
7 this behaviour wouldn't re-occur. I felt that the
8 explanation given by Garda Keogh later on to me -- you
9 know, I wasn't happy that it wouldn't recur.

10 71 Q. What was in your mind in relation to what would 11:17
11 constitute a sanctioned based alternative?

12 A. That would be for the organisation and the occupational
13 health section to decide then, I had dealt with --

14 72 Q. What does that mean, what does a sanctioned based
15 alternative mean? 11:18

16 A. A sanctioned based alternative would depend on how the
17 occupational health and the CMO would view the member's
18 ability to return to work and if he were, I suppose,
19 certified as fit to work and then wasn't returning or
20 continuing to behave in a fashion that wouldn't allow 11:18
21 him attend work, well then there would have to be a
22 sanction.

23 73 Q. What sort of sanction?

24 A. Well, the only sanction available in the Garda
25 organisation is disciplinary regulations. 11:18

26 74 Q. You thought it had come to a head at that stage, did
27 you?

28 A. Well, I mean, for anybody in any workplace to stay out
29 in that fashion for four days, it's just not

1 acceptable. No organisation could governance its
2 functions if employees are to behave in that fashion.

3 75 Q. So as far as you were concerned it had come to a head
4 at that stage?

5 A. I felt that Garda Keogh needed treatment at that stage. 11:19
6 And the purpose of that report to the chief was to have
7 a case conference as soon as possible to try and, I
8 suppose, see what could be done from an organisational
9 perspective. I couldn't do any more, I felt.

10 76 Q. what you're clearly indicating there is that there 11:19
11 should be a course of action which would assist Garda
12 Keogh's full return to work.

13 A. Yes.

14 77 Q. Or, in the alternative, some form of disciplinary
15 sanction? 11:19

16 A. If Garda Keogh wasn't facing up to his responsibilities
17 in that regard, yeah.

18 78 Q. So in your mind this is how it should be dealt with?

19 A. Yes. I suppose the onus to manage his health is
20 primarily Garda Keogh's. The organisation has 11:20
21 fantastic supports available to allow that to happen.
22 But it's his responsibility to manage his health.

23 79 Q. In the meantime you were going to recommend
24 disciplinary proceedings against Garda Keogh for
25 reporting in fit for duty when he was clearly drunk, is 11:20
26 that right?

27 A. Yes. I was going to report under separate cover on
28 that.

29 80 Q. The letter that you write is on page 2221 of the

1 material. It's dated 4th August 2015. It says:

2

3 "I refer to the above and wish to report the fact that
4 Garda Nicholas Keogh was absent without leave for four
5 days between the 11th July and the 14th July
6 inclusive."

11:21

7

8 Then you summarise the sequence of events. At 3 there
9 you say:

10

11 "Garda Keogh was absent without leave. Sergeant
12 Moylan, his unit sergeant, tried personally and through
13 other members of the unit to contact the member over
14 the period of absence by phone. The calls went
15 unanswered and the member did not call back."

11:21

16

17 Once again you hadn't referred to his attempt to
18 contact Sergeant Moylan on Facebook.

19 A. That's not an acceptable form of communication in my
20 view.

11:21

21 81 Q. In your view?

22 A. In my view.

23 82 Q. I mean, it does indicate that he wasn't simply ignoring
24 Sergeant Moylan?

25 A. No, I accept fully, and he explained that to me, that
26 he contacted with the sergeant by Facebook.

11:21

27 83 Q. Yes. But you haven't alerted the chief superintendent
28 to that?

29 A. Well, I mean, that's not the issue here. The issue is

1 the absence without leave. That's the issue that I am
2 reporting.

3 84 Q. And then:
4
5 "On Tuesday, the 14th July I contacted the member by 11:22
6 phone."
7
8 But that is in fact incorrect?
9 A. Yes, and I have explained that.

10 85 Q. "He agreed he was absent without leave and indicated he 11:22
11 had reported off sick while he was drunk but had
12 forgotten he done so. He had no excuse for not
13 returning Sergeant Moylan's calls."
14
15 well, he did offer an excuse, but it was an excuse that 11:22
16 you didn't accept.
17 A. I didn't find it acceptable, yes.

18 86 Q. But he had offered you an excuse, isn't that right?
19 A. Yes, he had.

20 87 Q. And he said that he had no credit? 11:22
21 A. Yes.

22 88 Q. "On the 16th July I sought a formal explanation from
23 the member and he replied in a vague and unacceptable
24 explanation."
25 11:22
26 was that the view that you had of --
27 A. That's my view; that he didn't seem to understand the
28 import of what had happened, to miss work in that
29 fashion.

1 89 Q. And then at 6:
2
3 "In order to create a defence to any possible breach of
4 discipline, the member submitted a retrospective
5 medical certificate dated the 16th July. The 11:23
6 certificate indicates that he was most likely not
7 examined by a doctor until the 16th July. In addition,
8 he attempted to report off sick on leave 15th July for
9 a second time."
10 11:23
11 why were you expressing the view that the medical
12 certificates indicated that he most likely had not been
13 examined by a doctor until the 16th July?
14 A. Because it was dated the 16th July.
15 90 Q. But you don't know whether he was examined by the 11:23
16 doctor on the 11th July, the 12th July, the 13th July,
17 the 14th July, the 15th July and merely got a
18 certificate that was dated the 16th July, covering the
19 period of time; you didn't know that, did you?
20 A. It appeared to me from the date on the cert and his 11:23
21 attempt to report off duty or off sick leave for a
22 second time, that he hadn't visited a doctor until the
23 16th. That's a view I took from what was in front of
24 me.
25 91 Q. If you turn over to page 2222, please: 11:24
26
27 "Having considered the member's history of absence and
28 his blatant disregard --"
29

1 I think that is:

2

3 " -- for his responsibilities to the organisation,
4 which appears to stem from over indulgence in alcohol,
5 I respectfully recommend that the member be dealt with 11:24
6 under regulation 14 of the discipline regulations for
7 his absence without leave amounting to four days."

8

9 There is no mention there of the certificate and work
10 related stress. This is being put down purely to the 11:24
11 abuse of alcohol, isn't that right?

12 A. That's what Garda Keogh said to me, that he had been
13 drunk --

14 92 Q. But you're putting Garda Keogh's absence from work down
15 to purely an issue of alcohol dependency, isn't that 11:25
16 right?

17 A. That's what he told me, that's the excuse that he gave
18 me; that he was drunk and he couldn't come to work.

19 93 Q. Insofar as he has a certificate saying that he is
20 suffering and had, you knew, certificates over a long 11:25
21 period of time, that he was suffering work related
22 stress, nevertheless you don't make any reference to
23 that in your report to the chief superintendent?

24 A. Garda Keogh explained to me that alcohol was an issue.
25 He never mentioned work related stress as an excuse to 11:25
26 me when I spoke with him.

27 94 Q. Well, I wonder whether that's right. I mean, you had
28 your initial discussion with him on the 26th March?

29 A. Yes.

1 95 Q. work related stress, you accepted, was an issue for
2 Garda Keogh?

3 A. Absolutely, and I put that on a file going to the CMO.

4 96 Q. You know, I asked you yesterday as to whether or not
5 your notes perhaps showed and displayed that you were 11:26
6 sceptical that he was suffering from work related
7 stress and that perhaps you were putting everything
8 down to alcohol dependency. Was that your mindset
9 throughout this?

10 A. No, alcohol is a major factor in Garda Keogh's life for 11:26
11 quite some time. You know, it caused his absence from
12 work on this occasion. I felt that the, I suppose,
13 behaviour should be marked, that it was important that
14 it be marked and that someone independent would look at
15 it under the discipline regulations and make whatever 11:26
16 decision they chose.

17 97 Q. Were you of the view at that stage that Garda Keogh was
18 a malingerer?

19 A. Had alcohol problem was, I suppose, a major basis of
20 him not coming to work on a frequent basis, I felt. 11:27

21 98 Q. Were you of the view that he was malingering?

22 A. No. I felt he had issues, he had a sickness, an
23 illness, an addiction that he needed to deal with, but
24 he wasn't prepared to deal with it.

25 99 Q. What sickness do you say he had? 11:27

26 A. Well, I said, you know, his alcohol addiction problem.

27 100 Q. What about stress?

28 A. I'm not a medical expert. He said he had stress. His
29 doctor certified he had stress. He obviously had

1 stress. And one fed into the other. And the other fed
2 into the other.

3 101 Q. But that's not really reflected in any of the reports
4 that you sent to the chief superintendent?

5 A. Well, the medical certificate is there from the doctor. 11:27

6 102 Q. But you make no reference to the contents of the
7 medical certificate?

8 A. But it's there, it's plain, in plain view to see, it's
9 attached as an attachment.

10 103 Q. I wonder, chief superintendent, I mean, if it is the 11:27
11 situation that you believe perhaps Garda Keogh was
12 hiding behind medical certificates indicating that he
13 was suffering from work related stress, when in fact
14 the real problem was that he was an alcoholic. If that
15 is so and that was your view, just say it was your 11:28
16 view?

17 A. I didn't have any view in that regard. It's quite
18 clear that Garda Keogh had stress because of the
19 situation he was in, in relation to the whistleblower
20 allegations and obviously that would cause stress 11:28
21 anybody. What part alcohol had in that and how they
22 mixed together and what the combination was, I simply
23 don't know. On this occasion, I dealt with what I saw
24 in front of me.

25 104 Q. Did you make any enquiries from the inspectors or the 11:28
26 sergeants in relation to what might be causing Garda
27 Keogh's stress at work?

28 A. He explained to me himself what was causing it.

29 105 Q. Did you make any enquiries of anybody else?

1 A. No.

2 106 Q. Did you go at that time back to Sergeant Yvonne Martin
3 and ask her for a report in relation to any
4 interactions that she may have had with Garda Keogh?

5 A. No. At this point in time Garda Keogh, in an 11:29
6 arrangement with Detective Superintendent Mulcahy and
7 I, had a full-time welfare officer assigned to him.

8 107 Q. Did you go back to Sergeant Martin?

9 A. No.

10 108 Q. Did you ask her for a report? 11:29

11 A. No.

12 109 Q. Did you go to Sergeant Moylan, who was his supervising
13 sergeant at the time?

14 A. No, Sergeant Moylan had reported the issue to me,
15 escalated it to me. 11:29

16 110 Q. Did you ask him did he observe any issues at work that
17 might be the stress factors for Garda Keogh?

18 A. No.

19 111 Q. Did you go to Sergeant Haran --

20 A. No. 11:29

21 112 Q. -- and ask him how Garda Keogh was and had he confided
22 in him any issues that were causing him stress at work?

23 A. No, I did not, Chairman.

24 113 Q. Why didn't you do that?

25 A. I didn't -- I put Garda Keogh on to the occupational 11:29
26 health department and the CMO. He was seen there on
27 the 19th May. As far as I was concerned, he was under
28 their care in addition to the care of the welfare
29 service, who directly report to human resource section,

1 under whose re commit occupational health sits. And I
2 had left the care of the Garda Keogh in their capable
3 hands.

4 114 Q. If we just move on. I think at page 2232, this is a 11:30
5 letter from the chief superintendent to you dated 10th
6 August 2015. It's dealing with the alleged breach of
7 discipline, internal discipline of Garda Keogh. She
8 says:

9
10 "In accordance with regulation 14 of the Garda Síochána 11:30
11 (Discipline) Regulations, I have appointed
12 Superintendent Alan Murray to investigate the breaches
13 of discipline alleged against Garda Keogh."

14
15 If we could have page 2233 up on the screen. This is a 11:31
16 letter from you to the overpayment department HRM.

17 A. Yes.

18 115 Q. In Navan. And this is before any disciplinary
19 proceedings have taken place. Then you point out:

20
21 "The above named Garda Keogh was absent without leave 11:31
22 from the 11th to the 14th July 2015 inclusive (SAMS
23 updated)."

24
25 Had you caused SAMS to be updated at that time? 11:31

26 A. The district clerk would update SAMS automatically for
27 me. I had no involvement with SAMS.

28 116 Q. "Please recoup any overpayment of wages from this
29 employee for the relevant dates."

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These were medically certified as dates he was out sick, isn't that right?

A. Well, as far as I was concerned he was absent without leave. -

11:32

117 Q. That was going to be the subject-matter of disciplinary proceedings and Superintendent Alan Murray was going to examine the circumstances in which that occurred?

A. Absolutely, from a disciplinary perspective.

118 Q. Yes.

11:32

A. But like that letter to the overpayments section was me complying with a policy on overpayments that doesn't allow me any discretion where public money is concerned. It's a matter for the overpayment section how they deal with that. You know, I mean I am just bringing it to their attention.

11:32

119 Q. You dealt with this in subsequent letters, that I am not going to open and go into?

A. Yes.

120 Q. They're there in the papers.

11:32

A. Yes.

121 Q. You're familiar with them?

A. Yes.

122 Q. And the response from the overpayment section.

A. Yes.

11:32

123 Q. They seemed a little bit surprised that the issue was arising.

A. I don't know how they are surprised when the HQ circular is there, 68/15.

1 124 Q. Was this not a matter that maybe your clerk, your
2 district clerk could have dealt with? You seemed to be
3 dealing with all this issue personally?

4 A. Well, the first letter, I'd imagine by looking at it,
5 was written by the district clerk and the subsequent 11:33
6 correspondence that came back then was directed towards
7 me.

8 125 Q. In any event, I think that the disciplinary proceedings
9 were in respect of two issues; neglect of duty, which
10 related to -- and we will see this at 8836 of the 11:34
11 material, breaches of discipline alleged. Neglect of
12 duty. That deals with the reporting fit for duty. And
13 then discreditable conduct. That concerns the sick
14 certificate, isn't that right?

15 A. I don't know. I had no involvement in the matter after 11:34
16 that.

17 126 Q. You had no involvement. What was supplied to
18 Superintendent Pat Murray -- or to Superintendent Alan
19 Murray, was your report of the 4th August, two SR1
20 forms that were completed by Garda Buckley and Sergeant 11:34
21 Cormack, again a minute from you seeking the
22 explanation from Garda Keogh, and a report from Garda
23 Keogh dated the 21st July, medical certificate of Garda
24 Keogh and then an SR1 form. I suppose the point about
25 this is, I understand Garda Keogh's case to be that the 11:35
26 date, whether it was Tuesday, the 14th July or
27 Wednesday, the 15th July, was important and
28 significant. Do you understand why he is saying that?

29 A. I don't really. But no one ever asked me about the

1 date until these things began to manifest and I never
2 had a problem, I made a mistake on the date and that's
3 my mistake.

4 127 Q. I think that Garda Keogh's position in relation to this 11:35
5 is that the impression given by saying that it was the
6 14th July, indicates that that was a day on which
7 Sergeant Moylan was saying he was trying to contact
8 Garda Keogh and that his calls went unanswered. By you
9 stating that you phoned him on the 14th July and that
10 he answered your call, would indicate that he was 11:36
11 deliberately ignoring Sergeant Moylan's calls. Do you
12 understand?

13 A. Yes, I never saw that, I never took that into account
14 at all.

15 128 Q. You didn't intend -- 11:36
16 A. No, absolutely.

17 129 Q. -- through your error --
18 A. No.

19 130 Q. -- to create that impression?
20 A. Absolutely not. And I accepted the fact that he did 11:36
21 try and make contact through Facebook. But I did not
22 intend to create that impression in any way at all.

23 131 Q. Now, I think on 8th October 2015, if we could have page
24 8822 up on the screen, please. That sets out the
25 findings and you were notified of that, breach number 11:37
26 1, a fine of €300, and breach number 2, not in breach.
27 I think you had met with Garda Keogh on 30th August
28 2015?

29 A. Yes.

1 132 Q. At 9pm. Could we just have this up on the screen,
2 please, it's page 2246 of the materials.

3

4 "Met the member to serve an IA12 for superintendent
5 Mullingar re discipline AWOL. "

11:38

6

7 You say:

8

9 "It was clear that the member was annoyed at events."

10 A. Yes.

11:38

11 133 Q. How did he express that annoyance?

12 A. He protested, I suppose, that this shouldn't be
13 happening and it was only happening to him because of,
14 you know, what he was involved in.

15 134 Q. "It was clear the member -- I explained to him I had
16 indicated this might happen because of his cavalier
17 attitude towards his work obligations."

11:38

18 A. Yes.

19 135 Q. That's how you regarded it at the time, is that right?

20 A. Well, yes, as I explained, you know, that's how I saw
21 the absence and the nature of it.

11:39

22 136 Q. I think he asked you to explain regulation 14?

23 A. He did. He was annoyed and then he calmed down a bit
24 and I went through regulation 14 with him in full,
25 explaining it fully to him, that this was deemed --
26 being investigated by Superintendent Alan Murray and
27 that he would look at it independently and Garda Keogh
28 would have an opportunity to meet with him. I went
29 through the entire gambit of regulation 14 with him to

11:39

1 allay his fears.

2 137 Q. "I also enquired as to his welfare and alcohol
3 addi cti on probl em. "

4 A. Yes.

5 138 Q. You indicate he was reticent to discuss the same? 11:39

6 A. Yes.

7 139 Q. You were aware of at that time from Detective
8 Superintendent Mulcahy that he was engaging with Garda
9 Quinn?

10 A. Yes. 11:40

11 140 Q. Did you discuss that engagement with Garda Quinn with
12 Garda Keogh?

13 A. I never contacted Garda Quinn. Detective
14 Superintendent Mulcahy was the point of contact and I
15 understand Chief Superintendent Wheatley also contacted 11:40
16 Garda Quinn.

17 141 Q. Yes. What I am asking, it's in your notes here, you
18 say:
19

20 "I am aware he engaged with welfare service, Garda 11:40
21 Qui nn. "

22 A. Oh no, that's a note to --

23 142 Q. To yourself?

24 A. I'm aware of that myself, yeah.

25 143 Q. So that wasn't -- 11:40

26 A. No, no.

27 144 Q. Then you say you asked him about his work and you say
28 you noticed poor work standards?

29 A. Yes.

1 145 Q. what was that a reference to?
2 A. It was a reference to two recent crime files that had
3 come to my attention, where the statements were written
4 by the injured parties themselves and a letter from a
5 solicitor regarding a local family, a criminal family. 11:41
6 146 Q. You refer to a matter that we will come to now, the
7 Custume Place crime. You refer to the fact there that
8 the injured parties had written their statements. And
9 you asked him if events were impacting on his work?
10 A. Yes. 11:41
11 147 Q. And then you go on to say:
12
13 "I said if he continued as at present I would have to
14 consider reducing the risk he posed by taking him off
15 outdoor duty." 11:42
16 A. Yes.
17 148 Q. "He asked me to continue to send him my issues in
18 writing and he said he would do what he liked."
19 A. Yes.
20 149 Q. You assured him that he could not and that the meeting 11:42
21 ended on that. That exchange at the end, is that
22 something that you are sure about?
23 A. Yes.
24 150 Q. If we just look at Garda Keogh's note in relation to
25 this, it's at page 13326. Down at the end we see: 11:42
26
27 "9pm, superintendent arrives to the station."
28
29 Did you go in specifically to serve the papers on him?

1 A. I had the papers Superintendent Murray in Mullingar
2 sent to me and I wanted to ensure confidentiality
3 around them. I went to the station to do some work and
4 Garda Keogh was there, so I served them at the same
5 time. 11:43

6 151 Q. He doesn't make any recount of what actually transpired
7 at that meeting in his note. But in terms of his
8 comments in the latter portion of your notes there, did
9 you not feel that you were entitled to actually
10 discipline him there and then? 11:44

11 A. No, I wouldn't see that. This was the reaction of
12 someone who was very annoyed at me for having, I
13 suppose, reported the matter of his absence without
14 leave to the chief superintendent. It was a reaction
15 in that way. 11:44

16 152 Q. I mean, it certainly would on the face of it amount to
17 insubordination?

18 A. I can understand him being annoyed, he a view that this
19 was all being done to target him in some way. I
20 couldn't satisfy him that it wasn't, that it was just a 11:44
21 normal part of business, that the organisation has
22 rules and regulations that have to be abided by. And
23 he had an obligation to comply with those rules and
24 regulations.

25 153 Q. If we could just look at the case that Garda Keogh 11:44
26 makes in relation to this matter. It's at page 136 of
27 the materials. This is in relation to the issue of the
28 date that I referred you to. If we look at four lines
29 down:

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"The actual date of the phone call by Superintendent Pat Murray was material, in that it was clear that Superintendent Pat Murray that telephoned me on the 15th July at 12:08pm only and then said, how could you ring in off sick when you were not on sick. By changing the date of his telephone call from the 15th July to the 14th July, Superintendent Pat Murray was able to imply that I was deliberately not contacting Sergeant Moylan on the 14th July, when Superintendent Pat Murray said he was able to contact me on that same date. I had in fact contacted Sergeant Moylan on Facebook (when my phone went dead) 12 hours before Pat Murray's call on the 15th July."

Now factually what he sets out there is correct, isn't that right?

A. In relation to Facebook?

154 Q. The phone call.

A. The phone call?

155 Q. Yes.

A. Was on the 15th?

156 Q. Yes.

A. Absolutely.

157 Q. But he is attributing a motive to you and you have already dealt with it?

A. Yes. No, I genuinely had no motive in that regard, it was a simple, genuine error on my part.

158 Q. Now, he then goes on to say, which is a matter that has

1 been withdrawn and I think that he has acknowledged his
2 letter. But nevertheless it's there and he said it at
3 one stage. In the last paragraph there before 15, and
4 then he says:

5
6 "Pat Murray then vindictively requested an
7 acknowledgment of his findings to him in circumstances
8 where it was a contest between my version and that of
9 Pat Murray."

11:47

10
11 And then:

11:47

12
13 "He acted as formulator of the charge, judge, witness
14 giving untrue testimony and now enforcer of a cap in
15 hand acknowledgment."

11:47

16
17 Now, I think the position is that he has withdrawn that
18 in relation to the fact that he acknowledges that you
19 had nothing to do in relation to the deciding of the
20 issue, which was a matter for Superintendent Alan
21 Murray.

11:47

22 A. Yes.

23 159 Q. Now, I think having served the notice on him, I think
24 that subsequently he was advised of the result also of
25 the outcome of the disciplinary proceedings and then he
26 lodged an appeal in relation to that. It can be found
27 at page 8854 of the material. Again there, we see, and
28 I'm not going to open all this to you, it is dated 2nd
29 December. Again he is focusing on:

11:48

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"Superintendent Murray's report states that this phone call was made on 14th July 2015. The phone call is relevant, in that I outlined to Superintendent Murray as honestly as I could as to the mistake I had made and how it came about. In the said report it implies that I deliberately did not answer a phone call from Sergeant Cormac Moylan when I had explained this to Superintendent Murray, that I contacted Sergeant Moylan on Facebook, explaining same to him prior to the phone call from Superintendent Pat Murray." 11:49

You had cause to serve papers on him in relation to these matters. Did you know at that stage that that was an issue for Garda Keogh? 11:49

A. I didn't look at the papers. It was -- as I say, I met him on the 22nd October in the same fashion I had on the 30th August, to serve the documents, this time from the chief superintendent. I merely handed him the documents and got him to acknowledge it. 11:50

160 Q. Were you not curious to read it, to see what his case was?

A. No.

161 Q. No?

A. No. 11:50

162 Q. So your evidence is that you were totally unaware that this was an issue that concerned Garda Keogh?

A. Yes. No one brought that to my attention for quite sometime. And I would have readily corrected my

1 mistake then had someone done so.

2 163 Q. Is there anything else that you wish to say in relation
3 to that?

4 A. No.

5 164 Q. That issue generally? 11:50

6 A. No. No. The date situation is a mistake on my part.
7 Garda Keogh made a mistake for a while, albeit
8 influenced by my mistake. So I don't have a monopoly
9 on wisdom, I made a genuine error. I am willing to
10 correct that at any time. 11:51

11 165 Q. Okay. If we could then go on to deal with issue number
12 9, the alleged criticisms of the criminal
13 investigations of Garda Keogh. We'll deal with the
14 first one, which you refer to in your meeting with
15 Garda Keogh that we just dealt with, and that's the 11:51
16 theft at Custume Place on the 4th July. Garda Keogh's
17 case in relation to this is that he believes that you
18 were hypercritical of him in relation to this and other
19 matters and in consequence you were seeking to target
20 him. 11:51

21

22 The relevant crime files are at page 190. If I could
23 first of all have that up on screen. This relates to
24 one of the injured parties. Effectively it's the same
25 incident? 11:52

26 A. Yes.

27 166 Q. But there are two injured parties.

28 A. Yes.

29 167 Q. This crime file came to you on the 30th July, when you

1 were reviewing crime files, is that right?

2 A. Yes.

3 168 Q. The nominated supervisor was Sergeant Moylan and the
4 remarks of the supervisor:
5
6 "The CCTV was viewed but of no evidential value as
7 camera panning quickly past premises."
8
9 Are you familiar with Sergeant Moylan's handwriting?
10 Can you read the next line there? Is that collated? 11:52
11 Or collected, is it? 11:53

12 A. Collated.

13 169 Q. Collated?

14 A. That is:
15
16 "Suspect collated at Custume Place." 11:53

17 170 Q. At the time of the offence, is that right?

18 A. Yes.

19 171 Q. "Possible suspect".

20 A. Yes. 11:53

21 172 Q. And then "statement of injured party enclosed." Thank
22 you, that's of assistance. Then there's additional
23 comments on the next page, page 191, at number 12, if
24 you scroll down, Mr. Kavanagh, please.

25 A. Yes. 11:53

26 173 Q. "CCTV viewed with injured parties and information
27 passed to members on patrol."

28 A. Yes.

29 174 Q. And then: "Investigating members comments", and then

1 it's the name of the suspect:
2
3 "...in area around time of the crime."
4
5 Then he says: 11:54
6
7 "No other evidence."
8 A. Yes.
9 175 Q. Then page 192 you have the statement of the injured
10 party, who doesn't nominate any suspect, isn't that 11:54
11 right?
12 A. Yes.
13 176 Q. Page 193. Then, if we go to 194, which is really
14 almost a duplication of what we saw on 190; isn't that
15 right? 11:54
16 A. Yes.
17 177 Q. At 195:
18
19 "Additional enquiries conducted: Info passed to patrol
20 cars and members on duty in area. 11:54
21
22 Investigating member comments: Suspect in area around
23 the time of crime during the triathlon."
24
25 Then at page 196 we have a statement of the injured 11:55
26 party, isn't that right?
27 A. The second injured party, yes.
28 178 Q. Again, I don't think any suspect is nominated there, is
29 that right?

1 A. Yes.

2 179 Q. Then if we could just have a brief look at the Pulse
3 entry. If we could have that up on the screen, page
4 8891 to 8892. It has that it's a theft on the Pulse
5 incident summary? 11:56

6 CHAIRMAN: Just give us a moment while we go around the
7 houses. Thanks very much.

8 MR. MARRINAN: I beg your pardon.

9 CHAIRMAN: That's all right.

10 MR. MARRINAN: You see Pulse incident. 11:56

11 CHAIRMAN: Now we have it, now we can read it.

12 MR. MARRINAN: Yes. Pulse incident category, it says
13 theft. Then the report of the time, nine o'clock in
14 the evening. The scene type, it was a house. Then it
15 has the address. Then it's the review status. It says 11:56
16 that it was reviewed, on the right-hand side of the
17 page there, on the far right column. And then there is
18 the narrative. Then I think when we are reading a
19 narrative on Pulse. The first entry appears as the
20 last entry, is that right? But in any event: 11:56

21

22 "Injured party's purse left in upstairs room.
23 Triathlon public demo house. Purse was stolen. CCTV
24 moving camera viewed but to no avail."

25 11:57

26 And then:

27

28 "Updated. CVS0 letter. Contacted injured party.
29 Updated crime file submitted on the 28th August, plus

1 report from Garda Keogh. "

2

3 Then further down it has, in the last box under:

4

5 "Review records of incident Pulse. " 11:57

6

7 I think that would be the two names of the two injured

8 parties who would potentially be witnesses. Maybe

9 that's not right. It refers to:

10 11:57

11 "Public had access to the room. "

12

13 would that be further inquiries that were carried out?

14 A. No, that's reviews carried out by civilian inputers at

15 the call centre in Castlebar. 11:58

16 180 Q. Yes, all right, thank you.

17 CHAIRMAN: Sorry, I am not seeing that.

18 181 Q. MR. MARRINAN: "Review records for incident Pulse ID. "

19 CHAIRMAN: Oh yes.

20 MR. MARRINAN: At the end of the page. There's two 11:58

21 entries there. And these were done by --

22 CHAIRMAN: This is the Pulse management.

23 A. Data management review.

24 182 Q. CHAIRMAN: This is the Pulse central management.

25 A. Known as GISE, yes. 11:58

26 183 Q. CHAIRMAN: Exactly. I couldn't remember it. So the

27 GISE officials look at that?

28 A. Yes.

29 CHAIRMAN: Okay, thanks.

1 184 Q. MR. MARRINAN: One of them has noted on the 4th July:
2
3 "Public had access to the room."
4
5 And then over the page, we see: 11:58
6
7 "Catalogue detail overview for incident Pulse."
8
9 And then we have just what was stolen, the items:
10 Handbag, cash, cheque, cards, etcetera. 11:58
11 A. Yes.
12 185 Q. That's in relation to one of the incidents. And we
13 have a similar one, which I don't believe there's any
14 need to open, it's at page 8893 and 8894, but it
15 recites the same details? 11:59
16 A. Yes.
17 186 Q. There is no point in going through it. And that
18 relates to the second victim, as I say. Presumably
19 this matter was dealt with initially at a PAF meeting,
20 is that right? 11:59
21 A. The incident would have been reviewed at the morning
22 PAF meeting, yes, and a request for a crime file.
23 187 Q. And no issues in relation to the investigation were
24 identified, is that right?
25 A. We didn't know anything about the investigation at the 11:59
26 PAF meeting.
27 188 Q. Well, nothing arose in relation to the incident at the
28 PAF meeting?
29 A. Nothing other than the request for progress on the

1 investigation.

2 189 Q. Yes.

3 A. In order that we could monitor.

4 190 Q. Which is the creation of the crime file?

5 A. The crime file. 12:00

6 191 Q. Yes.

7 A. And an investigation process that would have taken

8 place, yes.

9 192 Q. The crime file, in the normal course of events went

10 from, at that time, because it subsequently changed, 12:00

11 but at that time in the normal course of events it

12 would have gone through the supervising sergeant?

13 A. Yes.

14 193 Q. Isn't that right? He doesn't appear to have picked up

15 on any issues? 12:00

16 A. Yes.

17 194 Q. Had he picked up on an issue that was of concern to

18 him, he would have referred it back to the member

19 investigating it, is that right?

20 A. Yes. 12:00

21 195 Q. In the ideal world, that is?

22 A. Yes.

23 196 Q. But in any event, this had been signed off by Sergeant

24 Moylan?

25 A. It had been sent to me, yes, to my office. 12:01

26 197 Q. And sent on to you?

27 A. In the normal course of correspondence that occurred,

28 yes.

29 198 Q. Your response, having read the crime file, is at page

1 197 of the material. It refers to the two crime files.
2 It says:

3
4 "The attached two crime files are returned for further
5 attention as follows: 12:01
6

7 A suspect has been identified in both cases. What
8 efforts have been made to deal with them?

9
10 Why is it that both injured parties who are witnesses 12:01
11 appear to have written out their own statements on form
12 C8 rather than the investigating member taking down the
13 statement?

14
15 Each and every reported crime must be brought to an 12:02
16 investigative conclusion, so the injured parties and
17 public in general can have confidence in the police
18 service we provide. "

19
20 what was your concern in relation to the statements 12:02
21 that had been taken?

22 A. They weren't taken by the investigating member. They
23 were written out. On reading them, it was clear that
24 those witnesses had further information that they could
25 give in relation to what had occurred. And it didn't 12:02
26 seem to, I suppose, have been elicited from them in an
27 investigative way. One of the objective of statements
28 is to gather evidence.

29 199 Q. There is no direction to re-interview the witnesses?

1 A. I mean, I suppose that would be kind of painting by
2 numbers for someone who would be investigating crime.
3 This is a basic, the first, I suppose, you know, action
4 in relation to someone who is reporting crime, who is a
5 witness; is that a statement would be taken from them 12:03
6 in a proper fashion.

7 200 Q. Yes, but was it the fact they had written out their own
8 statements that was the problem rather than the
9 contents of their statements?

10 A. No. It was the facts, the information that they 12:03
11 appeared to have or evidence that they appeared to have
12 wasn't being elicited from them in a proper way.

13 201 Q. What are you referring to?

14 A. I'm referring to the content of the statement,
15 particularly the second page, with the crossed out 12:03
16 writing. It appears they had more information, when I
17 read the statements.

18 202 Q. If we just go back to that?

19 A. That's page 193.

20 203 Q. 193? 12:03

21 A. Yes.

22 204 Q. How do you say that that --

23 A. Well, they appear to have had some interaction with a
24 suspect.

25 205 Q. Where is there -- 12:04

26 A. "Person who was suspected of stealing these has
27 confessed to entering the building and eating food on
28 the stairs."

29 206 Q. Right. So, you thought that that was an issue?

1 A. I felt that the witnesses had more information and I
2 felt that, you know, just merely to, I suppose, allow
3 them write their own statements was contrary to the
4 ethos and training of members of An Garda Síochána.

5 207 Q. Okay. But there's no direction to re-interview and to 12:04
6 elicit this information from the witnesses?

7 A. The whole purpose of carrying out an investigation is
8 to gather evidence. They are the primary source of
9 evidence. That would be, you know, a basic step. I
10 didn't feel the need to, I suppose, be prescriptive in 12:04
11 that nature and to that extent. If I had to do that in
12 every case, it would be absolutely mind boggling to
13 consider that an organisation could run without people
14 understanding their basic roles, having been trained in
15 a very thorough fashion and having a number of years 12:05
16 service and having done investigations previously.

17 208 Q. In terms of a witness writing out their own statement,
18 is there an absolute prohibition on that?

19 A. Well, a witness who has information, that might be
20 evidence, and if's is allowed to go unchallenged and if 12:05
21 An Garda Síochána are using it as a foundation or a
22 basis on which to take action in an investigation, it
23 would be wholly inappropriate and I shutter to think
24 how I would prosecute such case in the District Court.

25 209 Q. Well, are you saying there is an absolute prohibition, 12:06
26 or is it a matter of best practice?

27 A. It's absolutely best practice.

28 210 Q. Yes.

29 A. And I have never, I suppose, seen -- I have seen, I

1 suppose, suspects present statements in answer to
2 allegations in their own hand. But I have never seen
3 anyone just allow a witness who had evidence to just
4 write it out and leave it at that and, I suppose, allow
5 that to conclude matters. I couldn't -- that wasn't a 12:06
6 stand that was acceptable to me. I had come to an
7 Athlone and I had initiated new systems and processes,
8 I had an obligations under the Garda Code to monitor
9 the thoroughness, accuracy of investigations and the
10 direction of them. And I had obligations, you know, to 12:07
11 make sure that each and every incident was brought to
12 an investigative conclusion in as far as possible.

13
14 I suppose my obligation was carried out by the members
15 of An Garda Síochána who were attached to Athlone 12:07
16 district and I had to ensure that they did their job in
17 a correct manner, so as that the organisation could
18 allow, trust, the trust of the public in carrying out
19 its investigative function in dealing with issues that
20 they had complained about in a proper fashion. 12:07

21 211 Q. Garda Keogh gave evidence in relation to this and he
22 takes issue and says that this is something that he had
23 done on other occasions. He was cross-examined by your
24 counsel and it wasn't suggested to him that there was
25 an absolute prohibition on doing this but that it was 12:08
26 best practice that a Garda should take a statement. So
27 I am wondering whether you can point to any of the
28 rules or regulations covering this, that would
29 demonstrate in a clear, unambiguous way that there is

1 an absolute prohibition on a garda inviting a person
2 merely to write out their own statement?

3 A. I would say that the whole training and ethos of An
4 Garda Síochána revolves around best practice, best
5 international practice and best practice benchmarked 12:08
6 against international practice. All of the research
7 included in the Garda Síochána investigating interview
8 model indicates that it's best practice to take a
9 statement from a witness to elicit information in order
10 that evidence can be gathered to bring a case to 12:09
11 conclusion.

12 212 Q. That's not really the answer to my question. My
13 question is: Can you point to any regulation anywhere
14 in the manual or otherwise --

15 A. Well, I think -- 12:09

16 213 Q. Just let me finish. Can you point to any regulation
17 anywhere that demonstrates an absolute prohibition on a
18 member inviting a person to write out their own
19 statement?

20 A. No, I can't, but I think a reading of chapter 3 of the 12:09
21 crime CIT manual, Crime Investigation Techniques
22 Manual, will give an understanding of that. I think a
23 reading of the HQ 29/14, the Garda Síochána
24 Investigative Interviewing Model, will give an
25 indication of what's required. 12:10

26 214 Q. We will look at Garda Keogh's response then, if we
27 might. It's at page 201. He says:
28
29 "Sergeant Monaghan, this was the day of the triathlon.

1 The suspect, along with hundreds of other people, were
2 in the area. There is no evidence to link that suspect
3 to this crime."
4

5 That's very clear, isn't it? 12:11

6 A. Well, the triathlon occurred early in the afternoon,
7 this crime was reported at 9pm.

8 215 Q. No, what he is saying there is that there is no
9 evidence linking the suspect to the crime?

10 A. Well, I don't know how he could say that, because he 12:11
11 hasn't gathered the evidence from the witnesses in a
12 proper fashion.

13 216 Q. "In relation to why both statements were taken the way
14 they were, on C8s, is because I was on my own in the
15 public office during the triathlon. It was very busy 12:11
16 when the two injured parties arrived in, so I did the
17 best I could under the circumstances."

18
19 So that's the reason he is giving for departing from
20 what would have been the best practice. He says in 12:12
21 evidence that he read the statements over to the
22 injured parties, he invited them if they wished to add
23 anything to their statements and they signed off on
24 them. In what he is putting forward as being very
25 exceptional circumstances - being alone in the public 12:12
26 office, dealing with two members of the public - you
27 didn't think that the matter should rest there, is that
28 right?

29 A. No. And that wouldn't be an acceptable standard at

1 all. The triathlon, as I said, occurred much earlier
2 in the day, and this was 9pm at night.

3 217 Q. The town would be busy, presumably people stayed on,
4 drinking and eating?

5 A. It may or may not, yeah, there's normally plenty of 12:12
6 help around on those days and as per Garda Keogh did in
7 other issues in relation to Olivia O'Neill that are
8 here, someone could have been, you know, procured to I
9 suppose deal with this proper if he was busy and didn't
10 feel he could deal with it himself. 12:13

11 218 Q. Did you make enquiries as to whether or not he was the
12 only person on the desk?

13 A. No, it wouldn't be, I suppose, a way of doing things.
14 And when I sent back the file, I would have expected
15 that it would have been corrected and perhaps the case 12:13
16 would have been followed up and that information that
17 the witnesses appeared to have would be elicited from
18 them, which might give an indication as to the
19 culpability of the suspect. I have, I suppose, in my
20 experience, been an operational policeman for all my 12:13
21 service really, with quite an amount of experience in
22 crime investigation.

23 219 Q. Did you write under separate cover to the sergeant,
24 indicating that you were unhappy that he had supervised
25 it in the way that he had? 12:14

26 A. No.

27 220 Q. Why not?

28 A. Because the process at that time, the sergeant missed
29 it, he didn't comment on it. I don't know what his

1 issue was. I wrote back to him asking those questions
2 and the reply came up again, through the sergeant from
3 Garda Keogh.

4 221 Q. We will just look at this, it's page 202. It's dated
5 the 3rd September.

12:14

6
7 "The explanation given in this case for what I see is a
8 laissez faire attitude towards the investigation of two
9 crimes is far from satisfactory. Garda Keogh appears
10 to need advice in relation to the purpose and scope of 12:14
11 interviewing witnesses and in that regard should be
12 advised in relation to the existing instructions at
13 chapter 3 of the Crime Investigations Manual. The
14 manner in which these statements form part of an
15 investigation is contrary to the training and ethos of 12:15
16 members of An Garda Síochána and does not allow for
17 this organisation to assure the victims in this case
18 the best possible effort has been put into
19 investigating the crimes reported."

20 A. Yes.

12:15

21 222 Q. That's your opening paragraph?

22 A. Yes.

23 223 Q. That's quite forceful?

24 A. As I said to you, when I came to Athlone I wanted to, I
25 suppose, set a standard, create efficiencies, have 12:15
26 performance as a paramount and this was, I suppose --
27 in my view I am setting out my position very clearly
28 here, in a direct way.

29 224 Q. You then go on to say:

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"The basis of any investigation is the injured party's statements and in these cases the injured parties nominate a suspect."

A. Yes. 12:16

225 Q. That's actually not right. One of them did, but the other didn't?

A. Well, both of them were together when this happened. So I am sure if information was elicited from them, that would have been the case. 12:16

226 Q. But sure, apparently Garda Keogh sat down and went through the CCTV with them and it was viewed?

A. Again, that wouldn't be best practice. Because again, if I were trying to prosecute that in the District Court and an identification had been made in that matter, I would have a problem bringing my case over the line. 12:16

227 Q. Well, is it the case that Garda Keogh was damned if he did and damned if he didn't?

A. I suppose I wanted the investigation to be carried out in a proper fashion. I felt there was information there from those witnesses that would lead to evidence against the nominated suspect, who was a well known criminal in the area. 12:16

228 Q. You then continue on: 12:16

"The issue must be explored in a proper fashion with them. Indeed, Garda Keogh has also nominated the same suspect on the crime tracking file."

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That seems to be an error.

A. In what regard?

229 Q. Is that the same suspect has been nominated by the injured party?

12:17

A. Yes. In what I saw and the information they obviously had and the suspect Garda Keogh nominated, I concluded that that was the same person.

230 Q. Where did you get that from?

A. From what they were saying here.

12:17

231 Q. Where?

A. In their statements, that they had spoken to a suspect.

232 Q. Where is that?

A. Who confessed to entering the building.

233 Q. Where is there a suspect nominated by name?

12:17

A. Not by name, no, but they had a person who they spoke to.

234 Q. But where is the evidence to suggest that they both nominated the same suspect?

A. What I mean by that is that they had spoken or dealt or had information in relation to a suspect which Garda Keogh had nominated.

12:18

235 Q. You're discerning from a portion that had been crossed out in a statement; in other words, had been excised from the statement, after it had been read over, as being presumably inappropriate to put in. And Garda Keogh has separately nominated a suspect himself. Where are you drawing the conclusion that both suspects had been nominated -- the same suspect is being

12:18

1 nominated by both injured parties and by Garda Keogh?
2 A. Well, knowing the gentleman in question who was
3 suspect, this is the type of crime that he would be
4 involved in. I felt that if information was elicited
5 from the witnesses, you know, it would be very apparent 12:18
6 that he was likely involved.

7 236 Q. "That issue must be explored in a proper fashion with
8 them. Indeed, Garda Keogh has also nominated the named
9 suspect. It is incumbent on us to ensure we explore
10 the various available options to assist in gathering 12:19
11 evidence. The case of DPP v. Reddy indicates the low
12 threshold in relation to reasonable suspicion that
13 exists in order to assist investigations. The tools
14 available to Garda Keogh to assist him with his work
15 are not used in this case." 12:19
16

17 what did you mean by that?

18 A. There are powers available to Garda Keogh.
19 237 Q. Specifically?
20 A. That he had powers of arrest and search and other 12:19
21 powers that would be available to him, to allow him to
22 further this investigation.

23 238 Q. So are you suggesting that he ought to have arrested --
24 A. I am suggesting that they are options. I consider that
25 guidance, advice and direction. And it also, I 12:19
26 suppose, allowed the sergeant and, indeed, Garda Keogh
27 to understand where I was coming from. I felt I was
28 very open and honest in expressing my feelings there in
29 the standard I wanted applied in relation to this and

1 all other investigations of volume crime, to, I
2 suppose, go hand in hand with the new procedures that I
3 had introduced.

4 239 Q. You go on to say "In order to bring these matters --"
5 it should be "-- to an acceptable conclusion for the 12:20
6 victims, please address the following: Garda Keogh
7 should be given formal advice regarding the
8 investigation of crime and the importance of
9 interviewing witnesses. Chapter 3 of the crime
10 investigation manual is a source of reference; what 12:20
11 efforts have been made to include/exclude the suspect
12 identified, as two months have passed. This matter
13 needs urgent attention; Sergeant Monaghan should ensure
14 that Garda Keogh is supervised in bringing this matter
15 to the conclusion so that the victims office can advise 12:21
16 the injured parties of the efforts An Garda Síochána
17 put into solving their crimes."
18

19 "Sergeant Monaghan should ensure that Garda Keogh is
20 supervised in bringing this matter to a conclusion so 12:21
21 that the victims office can advised injured parties of
22 the efforts An Garda Síochána put into solving their
23 crimes.
24

25 Report without fail by the 20th September." 12:21
26

27 Garda Keogh has made the case that this was a long
28 letter, you've set out your concerns and they are
29 extensive. And he feels that it would have taken you a

1 considerable period of time to sit down and write that
2 letter, expressing your concerns in relation to this
3 investigation. Did it take you a considerable period
4 of time?

5 A. No. Writing letters is something I would do every day 12:22
6 of the week when I was a superintendent. It was second
7 nature to me.

8 240 Q. Now, in relation to how you were dealing with other
9 members of An Garda Síochána at the time, and the
10 number of files and crime files that were passing 12:22
11 through your desk, can you just give us an indication
12 in relation to how many and how many you might have
13 sent back?

14 A. Yes. The process began in or around the 1st July. I
15 was on annual leave until the 13th and when I came back 12:22
16 both inspectors went on leave and I was dealing with
17 most of the correspondence at that stage. But in 2015,
18 after the process came in, I returned 44, I suppose,
19 crime files to different members. These ones to Garda
20 Keogh and the rest to other members, out of 184 that 12:23
21 were submitted that year. And in '16 again that
22 continued, 68 returned out of 536 that came in. In '17
23 53 returned out 502 that came in. That's a monitoring
24 and control and an audit process that we were going
25 through. I would give the benefit of my experience, as 12:23
26 would the inspectors, in pointing out other avenues of
27 inquiry, to allow fruition to develop an investigation,
28 with the primary objective of providing as good a
29 service as possible to the public and ensuring that

1 criminals are brought to justice and the people would
2 be kept safe.

3 241 Q. what you described as laissez faire attitude, did you
4 see evidence of that in other members in Athlone at the
5 time? 12:24

6 A. If I saw evidence, I would be quick it point it out. I
7 am quite candid like that. I did call people to
8 account on various occasions.

9 242 Q. In a similar passion, using that expression?
10 A. I could have used -- I'm not sure if I used that 12:24
11 express before, I could have. If I saw something that
12 needed attention, I would call it out.

13 243 Q. If we could have page 208 up on the screen, please,
14 Mr. Kavanagh. This is Garda Keogh's response. He
15 says: 12:24
16

17 "With reference to the above, I have already written on
18 this and explained verbally to Superintendent Pat
19 Murray regarding the statements, which are legally
20 binding and valid, made by the injured parties on C8 12:24
21 forms. "
22

23 I think that is a reference to his meeting with you,
24 that we have already gone through, on the 30th August,
25 is that right? 12:25

26 A. Yes.

27 244 Q. "Which were read over to both witnesses, who signed
28 same. When I got a chance, I brought --"
29

1 And then "one of the witnesses" or "the witnesses"
2 " -- into the CCTV room to view the footage with her
3 but it did not show the suspect enter or leave the
4 building. I also wish to point out that neither of the
5 witnesses named a person in their statements. I 12:25
6 nominated a suspect who was in the area at the time,
7 along with hundreds of other people for the triathlon
8 event. There is no evidence to link him with this
9 crime. "

10
11 If we just --

12 CHAIRMAN: Just give me the date of that again,
13 Mr. Murrinan.

14 MR. MARRINAN: It hasn't a date on it.

15 CHAIRMAN: But the 22nd September, it's stamped. 12:26

16 MR. MARRINAN: It is stamped the 22nd September.

17 CHAIRMAN: Thanks very much. Sorry.

18 245 Q. MR. MARRINAN: It's attached to a letter sent by
19 Sergeant Monaghan to you on 5th October 2015. And he
20 says: 12:26

21
22 "With reference to the above, please find attached
23 report from Garda Keogh. Chapter 3 of the Crime
24 Investigation Manual has been brought to the attention
25 of Garda Keogh. Garda Keogh nominated the suspect for 12:26
26 these thefts but since then he has been unable to link
27 him with the crimes. All CCTV was viewed and this gave
28 no leads in the investigation. This case cannot be
29 progressed at this time and any developments will be

1 reported to your office as they arise."

2

3 And then you note, and it's stamped 6th October, and if
4 you just read your own handwriting there, please?

5 A. Yes "I note your views. The crime files have been sent 12:27
6 to the victims office, who will inform the injured
7 parties of the efforts made and the result. I do not
8 expect to see a repeat of this situation by the member
9 involved."

10

12:27

11 246 Q. It's something I will come to later on, but did you
12 form a suspicion in your mind in relation to why the
13 injured parties had written out their statements?

14 A. No. I didn't know, but like, in what I had sent down,
15 I had hoped that Garda Keogh would correct that and 12:27
16 would go out and, I suppose, put an effort into
17 investigating this crime and bring it to as good a
18 conclusion as possible. As time passed by, that became
19 irrelevant, because of the chances of success lessened
20 considerably. 12:28

21 247 Q. CHAIRMAN: Were you satisfied that it was concluded
22 when he viewed the CCTV with the suspect?

23 A. No.

24 248 Q. CHAIRMAN: Tell me why, chief superintendent, why that
25 wasn't satisfactory? 12:28

26 A. I don't know what occurred, you know, in viewing the
27 CCTV. That wasn't apparent, it's just something that's
28 written down. So to allow someone come in and view
29 CCTV in that fashion, wouldn't be evidentially correct

1 in my view and would cause serious problems.

2 249 Q. CHAIRMAN: You're looking at downstream problems that
3 might arise?

4 A. I am, yeah.

5 250 Q. CHAIRMAN: But from the point of view, if you like - 12:28
6 sorry to interrupt, Mr. Marrinan, but from the point of
7 view there is a suspect. Now, let's look at the thing
8 to see, well we see him but we can't see him going into
9 the building.

10 A. Yes. 12:29

11 251 Q. CHAIRMAN: And we can't see him coming out. That in
12 itself would seem to be a reasonable investigative
13 process, would it? I mean, I am not saying it is or it
14 isn't, but on the face of it. Should he have done that
15 on his own or not with the -- 12:29

16 A. Yeah.

17 252 Q. CHAIRMAN: Involving the injured party in it might
18 compromise something?

19 A. Yes.

20 253 Q. CHAIRMAN: Is that what you were worried about? 12:29

21 A. That's where I saw a problem. I suppose the injured
22 party seemed to have conversed with the person who
23 committed this crime.

24 254 Q. CHAIRMAN: If the crossed out bit --

25 A. Yes. 12:29

26 255 Q. CHAIRMAN: If we ignore the crossing out bit, somebody
27 confessed to something?

28 A. Yes.

29 256 Q. CHAIRMAN: But apparently it didn't show up on the

1 CCTV. That's what ultimately appears to be the
2 situation?

3 A. Yeah.

4 257 Q. CHAIRMAN: Okay. But you're unhappy. You say, okay,
5 that may seem like a practical way of doing it, to an 12:29
6 outsider, but because of possible downstream
7 consequences, if there were to be a trial, you wouldn't
8 think that was an appropriate way of doing it?

9 A. No, I wouldn't say for a trained member of An Garda
10 Síochána it would be something... 12:30

11 CHAIRMAN: Thanks very much.

12 258 Q. MR. MARRINAN: was this the first crime file that had
13 passed your desk from Garda Keogh?

14 A. Yes. In the new process, yes.

15 259 Q. Was that something you were looking for? 12:30

16 A. No. As I said to you, I came back from holidays and
17 the inspectors I think went on holidays and I was
18 dealing with everything.

19 260 Q. So you don't recall having observed another crime file
20 having crossed your desk by Garda Keogh? 12:31

21 A. Before this?

22 261 Q. Yes.

23 A. No.

24 262 Q. You're very certain of that?

25 A. Well, a new process had begun, I don't recall having 12:31
26 dealt with a crime file before this one.

27 263 Q. Bearing in mind your interactions with Garda Keogh and
28 what you had been advised of his difficulties, your
29 conversations with Sergeant Haran, to a lesser extent

1 Superintendent McBrien, but also your conversations
2 with Detective Superintendent Mulcahy, and the attempts
3 to put in place welfare and personnel to deal with him?
4 A. Yes.
5 264 Q. Did you think that the tone of the letter that you 12:31
6 sent, talking about the ethos in An Garda Síochána,
7 mightn't just be appropriate to somebody in his
8 position and that maybe it could have been dealt with
9 by a more gentle reprimand?
10 A. No, I was setting out my position very clearly. 12:32
11 265 Q. Yes.
12 A. The standard I wanted applied and how it was to be
13 applied and I would hope that the effort would be put
14 in to achieve that standard.
15 266 Q. You didn't think of dealing with it perhaps by calling 12:32
16 Sergeant Moylan in and saying, look, this isn't really
17 satisfactory, it's not how I want things done, will you
18 have a word with Garda Keogh and make sure that he is
19 applying himself to his work? You didn't think of
20 dealing with it in that rather informal way? 12:32
21 A. No, I dealt with it in a formal way. Yeah, that's the
22 way I normally like to work.
23 267 Q. Pardon?
24 A. I normally like to work in a formal fashion.
25 268 Q. Yes. 12:32
26 A. This was formally part of a crime file, which was going
27 to be there for everyone to see.
28 269 Q. Now, we know later, and we will come to this in due
29 course, but later on, one of the reasons that Garda

1 at Dublin Road, the 17th August. Again, if we could
2 just perhaps in the first instance look at the Pulse
3 entry in relation to this. I will just get the
4 reference number now, I'm sorry. Yes, it's at 8921 of
5 the materials. Again, we see there the occurrence
6 date, the time it was reported, the time it occurred,
7 4:30am. where? In a driveway. The scene. And then
8 there's a narrative. If we go down to the bottom
9 there:

12:35

10
11 "Injured party reports trailer stolen from driveway of
12 house."

12:36

13
14 And then it's updated on 11th August 2015, when the
15 crime file was submitted, it says:

12:36

16
17 "No suspects."

18
19 And then it's updated on the 28th August, a vehicle is
20 added, isn't that right? And then it's updated on the
21 11th September, the time of occurrence is updated. And
22 then eventually it's updated by reference to CCTV
23 footage of two possible suspects forwarded and uploaded
24 to GTube, isn't that right?

12:36

25 A. Yes.

12:36

26 276 Q. If we then can look at the crime file in relation to
27 it, which came to be reviewed by you. If we go to page
28 2300, please. This is the file that was reviewed by
29 you:

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"Crime category: Theft."

It has the injured party, the date. And then the remarks of the supervisor:

12:37

"CCTV viewed to no avail as it is of poor quality. No ID for suspects."

And then it has the signature of the supervisor. That is Sergeant Monaghan I think, is that his signature?

12:37

A. Yes.

277 Q. Then on the next page, at 2301, this was filled out by Garda Keogh:

"Garda CCTV viewed. Crime occurred 4:31-4:34am."

12:38

Then there is a date. I can't see what is written in the corner.

"8th August 2015. Poor quality footage of car moving with stolen trailer hitched."

12:38

And then:

"Investigating member's comments: Unable to make out registration number, colour or type of car."

12:38

So those were the matters that were contained in the

1 report. You then raise a query in relation to this
2 based on what's contained in the crime file, is that
3 right?

4 A. Yes.

5 278 Q. This is at page 2299. This is on the 14th August. It 12:39
6 refers to the theft at Dublin Road and then also to
7 criminal damage, which I will come to in due course?

8 A. Yes.

9 279 Q. At Mulligan's filling station?

10 A. Two crime files came to me together. 12:40

11 280 Q. "Who wrote the statements of attached C8s?"
12
13 Now, I think there's been assumption made, I think it
14 might be incorrect, that this refers to what we have
15 just been discussing in relation to -- 12:40

16 A. No.

17 281 Q. It doesn't?

18 A. It refers to the statements that were attached to both
19 these files that came to me together.

20 282 Q. Yes. Why did you ask that question? 12:40

21 A. I thought I noted that the writing was different to
22 Garda Keogh's and I just wanted to be sure the same
23 thing hadn't happened again.

24 283 Q. All right. You say:
25
26 "In relation to the stolen trailer, who supplied the
27 CCTV?"
28
29 It's apparent from the report that you received that it

1 was Garda CCTV, isn't that right?

2 A. I didn't note that at the time. Garda is written in
3 there now, but at the time I didn't note that. It said
4 CCTV.

5 284 Q. All right. If we can have it back up on the screen, 12:41
6 2301, please.

7 A. Yes.

8 285 Q. "Garda CCTV viewed, crime occurred..."
9

10 Are you suggesting that the word "Garda" was written in 12:41
11 afterwards?

12 A. I'm not suggesting anything, but it wasn't apparent to
13 me that it was Garda CCTV at the time.

14 286 Q. But it would appear that it was your error in relation
15 to it? 12:41

16 A. It may well have been, it may well have been.

17 287 Q. Well, are you accepting the document on its face as
18 being a genuine document?

19 A. I have no choice but to accept that the document is a
20 genuine document. 12:42

21 288 Q. So it would appear that it was your error in relation
22 to --

23 A. It may well be my error, yes.

24 289 Q. "Who supplied the CCTV?"
25 12:42

26 "There is no statement from that person on the file."
27

28 There wouldn't be if there was Garda CCTV?

29 A. Yeah. Well, if someone downloaded it, there still

1 would be a statement, because it would be essential
2 proof.

3 290 Q. "Has any effort been made to enhance the CCTV?"
4

5 A. Yes. 12:42

6 291 Q. "Should it be circulated in any way?"
7

8 A. Yes.

9 292 Q. "Where is the CCTV now?"
10 12:42

11 A. Yes.

12 293 Q. Which again, if it was Garda CCTV, that wouldn't arise?
13 A. It would be very relevant, because at that point in
14 time when I got the file, the CCTV is the only thing I
15 had. 12:42

16 294 Q. Well, those questions would appear to be inappropriate
17 if you had realised that it was Garda CCTV; isn't that
18 right?

19 A. No. I suppose I didn't realise it was Garda CCTV at
20 the time and those questions are there, you know, with 12:43
21 me not realising it was Garda CCTV.

22 295 Q. But the questions wouldn't be appropriate if it had
23 been Garda CCTV?

24 A. I wouldn't say it would be totally inappropriate.
25 Because the CCTV, irrespective of whether it was Garda 12:43
26 or not, was there, it would have to be downloaded by
27 somebody and it would have to be held as evidence in
28 that regard. Because at that stage that was the only,
29 I suppose, tangible explanation that we may be on to

1 some lead that needed to be followed.

2 296 Q. Your letter is addressed to Sergeant Monaghan and he
3 sent it on to Garda Keogh on the 18th August. That is
4 at page 2297. Nothing arises in relation to that. And
5 then at 2298, Garda Keogh responds. 12:44

6

7 "1. Garda Nicholas Keogh wrote both statements."

8

9 All right?

10 A. Yes. 12:44

11 297 Q. Did that put your mind at rest?

12 A. Yes, absolutely.

13 298 Q. And then:

14

15 "3. It is Garda CCTV, which is stored on computer." 12:44

16 A. Okay.

17 299 Q. "The incident happened at night and the quality is
18 poor."

19 A. Yes.

20 300 Q. If we look at page 2296, this is the letter that was 12:44
21 sent by Sergeant Monaghan and it's dated the 28th
22 August.

23

24 "With reference to the above, please find attached
25 report from Garda Keogh. He states that he wrote out 12:45
26 the statement from the injured party on the form C8."

27

28 It appears that there was just simply one statement
29 that had been taken?

1 A. There was statements from both the crimes.

2 301 Q. He then goes on to say:

3

4 "The only CCTV footage available to cover the location
5 of the theft is Garda CCTV and on viewing it, the 12:45
6 quality is poor and it was nighttime and this CCTV is
7 stored on the hard drive in the station."

8 A. Yes.

9 302 Q. That's right, isn't it?

10 A. Yes. So it seems apparent that I hadn't understood 12:45
11 that it was Garda CCTV.

12 303 Q. Now this relates to entirely different CCTV footage
13 that had been obtained from Kilmartin's.

14

15 "Garda Keogh has since obtained CCTV footage from 12:46
16 Kilmartin's N6 centre and this shows two possible
17 suspect vehicles, which he has updated the incident
18 with. Enquiries are ongoing in this case and progress
19 will be reported."

20 12:46

21 So did that allay your fears in relation to the issues
22 that you raised?

23 A. I was glad to see that additional CCTV, which gave a
24 definite lead to follow, had now been identified.

25 304 Q. Well, it had already been identified by Garda Keogh? 12:46
26 A. But I didn't know that.

27 305 Q. You didn't know that. Then you raise a further query,
28 this is page 2295, it's dated 3rd September 2015.

29 A. Yes.

1 306 Q. "The incident regarding the theft of the trailer
2 requires further explanation in relation to the CCTV.
3 It appears the crime file was submitted prematurely,
4 indicating no evidence was available, and now evidence 12:47
5 has come to light following a request for further
6 information."
7
8 A. Yes.

9 307 Q. That seems to be a misunderstanding on your part?
10 A. That was my understanding at the time. 12:47

11 308 Q. Yes. But it seems to be wrong, isn't that right?
12 A. Well, after hearing the evidence here, it appears that
13 Garda Keogh had gone to Kilmartin's and I wasn't aware
14 of that.

15 309 Q. "The following issues have not been dealt with: My 12:47
16 question in relation to the CCTV in correspondence
17 dated 14th August has not been answered."
18 A. Yes.

19 310 Q. Well, I suppose it was answered, because Sergeant
20 Monaghan had answered it and advised you that it was 12:48
21 Garda CCTV and was stored in the station?
22 A. Yes.

23 311 Q. All right. Isn't that right?
24 A. Well, I was looking for, I suppose, the evidential
25 proofs that may be necessary to be included in the file 12:48
26 in relation to it, because it was something that may
27 become apparent at prosecution stage if that were to
28 happen, and I was thinking a couple of steps ahead.

29 312 Q. Well, the questions were: who has it? where is it?

1 A. Yes.

2 313 Q. Sergeant Monaghan tells you it is Garda CCTV?

3 A. Yes.

4 314 Q. Garda Keogh told you it was Garda CCTV?

5 A. Yes. And I also asked -- 12:48

6 315 Q. The crime report form has that it is Garda CCTV. And

7 here you are still pursuing it?

8 A. I also asked: was there a statement from a person who

9 downloaded it? Did it need to be enhanced? And should

10 it be circulated in any way? 12:49

11 316 Q. And then:

12

13 "2. The car identified was involved in a

14 burglary in Ballinasloe on 9th August 2015. What

15 liaison has occurred with the investigating member of 12:49

16 that incident?

17

18 How is it proposed to allow the CCTV harvested to

19 assist the investigation?

20 12:49

21 Where is the CCTV now from an evidential exhibit point

22 of view?"

23

24 That's relating to a different CCTV

25 A. This is the new CCTV. 12:49

26 317 Q. That's the CCTV that has come to light, isn't that

27 right?

28 A. Yes.

29 318 Q. "Sergeant Monaghan should supervise the proper

1 investigation of this crime so that we can show to the
2 victim that we were thorough and professional in our
3 approach to solving the crime."
4

5 And then, if we go on, Sergeant Monaghan receives that 12:49
6 from Sergeant Baker. That's at page 2294. If we could
7 go forward then to 2293 of the material. There we have
8 the handwritten response. If we can scroll down,
9 Mr. Kavanagh, the handwritten response from Garda
10 Keogh. Again he says: 12:50

11
12 "Garda CCTV is of poor quality."
13

14 Then he says separately:
15

16 "Saved Kilmartin's CCTV, downloaded. Statement 12:50
17 regarding same is attached to the file."
18

19 That statement was attached to the file, isn't that
20 right? 12:51

21 A. Yes, yeah.

22 319 Q. "Garda Keogh has spoken with Garda Eoin Fox and
23 supplied Garda Fox with a copy of Kilmartin's CCTV of
24 car and suspects. Both incidents connected on Pulse
25 and warning attached to --" 12:51

26
27 There is a name there.

28
29 " -- which is registered to a false address."

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That's a motor car.

A. Yes.

320 Q. "CCTV forwarded with request to be put on GTube on the 10th September."

12:51

A. Yes.

321 Q. "Garda Keogh has original CCTV. Copy of same forwarded to Garda Eoin Fox."

He sets out the date there. That is sent on, again on the 19th September, if we can go to page 2292 of the material. This is from Sergeant Monaghan to you:

12:52

"With reference to the above, please find attached report from Garda Keogh in relation to this case. Garda Keogh has addressed points 1-4 raised in your report."

12:52

All the CCTV is saved and the originals are in possession of Garda Keogh. A copy of this CCTV has been forwarded to Garda Eoin Fox in Ballinasloe and Garda Keogh has been in contact with this member in relation to possible suspects for both cases and another copy has been forwarded to collator in Mullingar to be uploaded to GTube. Garda Keogh has put a warning on Pulse in relation to the suspected offending vehicle and has made contact with gardaí in Kildare, where the car is registered to. This is a false address.

12:52

12:52

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This crime is still under investigation and any further progress will be reported as it arises."

Then you noted there:

12:53

"Noted: I appreciate the additional enquiries carried out, which ensure the organisation is achieving its goal in relation to the investigation..."

12:53

CHAIRMAN: "Of crime".

A. "Of crime".

322 Q. MR. MARRINAN: Yes "of crime". Then what does it say that?

A. "Report on the efforts of identification by 1/11/15."

12:53

That's the identification of the suspects.

323 Q. We know that Sergeant Minnock sent an e-mail on the 31st August to Garda Keogh, praising him for the work that he had done in relation to this. It's at page 218.

12:54

"Garda Keogh, good work in advancing this investigation."

12:54

There does seem to be some confusion that arose during the course of this. If I can summarise it in this way, and correct me if I am wrong in relation to this, if I can short-circuit matters it would be helpful: It

1 would appear that Garda Keogh investigated the original
2 complaint and that he did so properly, isn't that
3 right?

4 A. Yes, Garda Keogh used his initiative and he went to
5 Kilmartin's and found -- 12:54

6 324 Q. No, I haven't come to that.

7 A. Sorry.

8 325 Q. He investigated the original complaint in the first
9 instance properly, isn't that right?

10 A. I don't understand what you mean. 12:55

11 326 Q. He took a statement from the injured party?

12 A. Yes.

13 327 Q. He viewed CCTV footage?

14 A. Yes.

15 328 Q. Which was Garda CCTV footage? 12:55

16 A. Yes.

17 329 Q. It was in the safe custody of the Gardaí in Athlone,
18 isn't that right?

19 A. Yes.

20 330 Q. You then raised queries in relation to it because you 12:55
21 were acting under the misapprehension that the CCTV
22 footage related to non-Garda CCTV footage?

23 A. That's what I thought.

24 331 Q. It was an innocent mistake that you made in the
25 circumstances. You raised those queries with Garda 12:55
26 Keogh.

27 A. Yes.

28 332 Q. Unbeknown to you, Garda Keogh in actual fact had gone
29 further in relation to the investigation and acting on

1 341 Q. And then secondly in relation to the second CCTV
2 footage from Kilmartin's?
3 A. Yes.

4 342 Q. And Garda Keogh in actual fact had got a statement and
5 the CCTV footage had been supplied to him? 12:57
6 A. Yes. Well, he got a statement on the 9th September.

7 343 Q. Yes.
8 A. Yes.

9 344 Q. And the CCTV footage had been supplied to him?
10 A. Yes. Sometime in late August, I understand. And I had 12:57
11 been keeping in touch with Sergeant Monaghan in
12 relation to the progress and I knew he was assisting
13 Garda Keogh.

14 345 Q. In your statement, and I will summarise this as broadly
15 as I can, but in your statement to the Tribunal 12:57
16 investigators and to the Tribunal, you seem to think it
17 was as a result of your intervention and the queries
18 that you raised in the first instance that led to a
19 successful prosecution?

20 A. Yes. I suppose, in the first instance and continuing 12:57
21 to follow the investigation, both myself, Sergeant
22 Monaghan and Inspector Curley, you know, ensured that
23 this wasn't going to go being detected and we supported
24 Garda Keogh in doing that, you know, even though he was
25 in a difficult place at the time. 12:58

26 346 Q. Yes, but it would appear that Garda Keogh had
27 investigated the matter thoroughly?
28 A. Yes, indeed, with the assistance of Sergeant Monaghan
29 and his unit colleagues.

1 347 Q. It would appear that Garda Keogh had investigated the
2 matter thoroughly?
3 A. Absolutely.
4 348 Q. And as a result of good police work, it led to the
5 solving of this crime, isn't that right? 12:58
6 A. Absolutely, and I acknowledged that in the
7 correspondence, when I said I appreciated the
8 additional enquiries made and the efforts that were
9 made to deal with this.
10 349 Q. Did you think that that was adequate in the 12:58
11 circumstance, in the light of all the queries that you
12 had initially raised mistakenly in relation to the
13 Garda CCTV footage?
14 A. Well, I was mistaken in relation to the Garda CCTV
15 footage, but I would say the other queries I generated 12:59
16 were legitimate queries, in me doing my -- performing
17 my role as a superintendent, monitoring and being
18 responsible for the thoroughness and accuracy of all
19 investigations in the district.
20 MR. MARRINAN: Thank you very much chief 12:59
21 superintendent. We are now going to move on briefly in
22 relation to the criminal damage of Mulligan's and
23 perhaps we will leave it there.
24 CHAIRMAN: Perhaps we will leave it until after lunch,
25 Mr. Marrinan, before we move on to that the matter. 12:59
26 Thank you very much.
27
28
29

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

3
4 350 Q. MR. MARRINAN: was there anything else that occurred to
5 you over lunch that you might wish to expand on in 14:00
6 relation to what we dealt with before lunch?

7 A. Just in relation to the last crime file we discussed, I
8 did put supports in place to lead Garda Keogh through
9 the arrest phase and involved in every stage of that,
10 right up until the 18th November, when the arrests were 14:01
11 made.

12 351 Q. Yes, yes. I think we see that in the papers.

13 A. Yes.

14 352 Q. It's good that you highlight that.

15 CHAIRMAN: Sorry, say that again, Mr. Marrinan? 14:01

16 MR. McGUINESS: He put supports in place for Garda
17 Keogh.

18 CHAIRMAN: No, it was just your last comment. I heard
19 what the chief said. You said, we see that --

20 MR. McGUINESS: we have that in the papers. 14:01

21 CHAIRMAN: Sorry, thank you. No, no, I just didn't
22 quite hear, thanks very much.

23 353 Q. MR. MARRINAN: If we could then go on and deal with the
24 criminal damage at Mulligan's Petrol Station on the 3rd
25 August. Perhaps we can just look at the Pulse entry in 14:01
26 the first instance in relation to this. It's at page
27 8940, Mr. Kavanagh. This is the Pulse entry. It says
28 the incident category. Up at the top there we see it's
29 criminal damage?

1 A. Yes.

2 354 Q. 3rd August 2015. It's a petrol service station and
3 then there's the narrative.
4

5 "Two males wearing track suits and hoodies threw rocks 14:02
6 at a petrol station, cracking a pane of glass. CCTV to
7 be viewed, to be downloaded. No suspects. Faces not
8 visible."
9

10 Then we see it's updated subsequently, but that's the 14:03
11 initial entry. Then we see that Garda Keogh, assisted
12 by Garda Glennon, is investigating and Sergeant
13 Monaghan is the supervising garda in relation to it.
14 Over the next page, we can see the damage that was
15 caused. I think it doesn't assist us any further in 14:03
16 relation to that. Then if we look at the crime form,
17 which is page 8942 of the materials. We see there,
18 it's a very poor photocopy, unfortunately, but we can
19 just about make it out. Again:
20 14:04

21 "Crime category: Criminal damage.
22
23 Mulligan's filling station, Roscommon road."
24

25 Then the date and then investigating member. And then 14:04
26 the remarks of the supervisor. Again, this was
27 supervised.
28
29 "No suspects to date."

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And that's signed by Sergeant Monaghan. And then if we turn over the page to page 3943, we will see at 7, if we scroll down there -- I beg your pardon, it's 8943, Mr. Barnes. Yes. If we scroll down there we will see on under 7, CCTV, it's ticked. Then: 14:05

"8. House to house enquiries."

were apparently carried out. Then number 9: 14:05

"Crime prevention notices."

Apparently they were also handed out. Then under suspects, under 10 there, there is nobody indicated. And then under 12: 14:05

"Additional enquiries: Area was searched for culprits."

So then if we just look at the statement that was attached to the crime file, I think at 8945, is the statement of, I think it's the owner of a premises at Mulligan's filling station. And at the second part of the statement, he said: 14:06

"I viewed the CCTV with the Gardaí, which showed at 3:37am, on the 3rd August, two males track suits and hoodies covering their faces, also wearing gloves, ran

1 up to the shop door and each threw an object at the
2 window, causing it to smash. I did not give anybody
3 permission --"

4
5 And if we go over the page, Mr. Barnes, to 8946: 14:06

6
7 " -- to damage or interfere with my property. The CCTV
8 will be downloaded in due course."

9
10 That statement had been read over and I think that was 14:07
11 taken by Garda Keogh, as we can see from the
12 introduction on the previous page. So that's where
13 matters stood. Then we go back to a document that we
14 opened earlier on, I just didn't open this paragraph,
15 at page 215, please. You raise an issue in relation to 14:07
16 this.

17 A. Yes.

18 355 Q. And you say:

19
20 "In relation to Mulligan's, it appears --" 14:07

21
22 And then you have a named person or a family, is it?

23 A. Yes.

24 356 Q. " -- may be suspect."

25 A. Yes. 14:07

26 357 Q. "Was this put to them in any way?"

27 A. Yes.

28 358 Q. Where did that come from?

29 A. So, the particular family in question were very active

1 at that time. I note from my diary at that time that I
2 have entries in about them on the 2nd, 3rd, 4th and
3 14th August. At the morning meeting, at the PAF
4 meeting all, I suppose, activities or criminal activity
5 would be discussed. I think it's quite likely that 14:08
6 their nomination arose as a result of something that
7 occurred at one of those meetings.

8 359 Q. Are there any notes of those PAF meetings that would
9 support that?

10 A. No, I don't, other than I have notes about the 14:08
11 particular family in my diary on the 2nd, 3rd 4th and
12 14th August.

13 360 Q. So this was you nominating?

14 A. This was me, yes. I suppose to guide them, guide Garda
15 Keogh towards possible suspects and, you know, 14:08
16 considering that CCTV was available, perhaps their
17 stature, their build or some element of them would be,
18 I suppose, identified by somebody perhaps in the Garda
19 station or even the --

20 361 Q. You might appreciate, I don't know, but in your letter 14:09
21 it doesn't come across that way. It says:
22
23 "In relation to Mulligan's, it appears that [certain
24 family] may be suspect."
25 A. Yes. 14:09

26 362 Q. And then:
27
28 "Was it put to them in way?"
29

1 So it's taking quite a jump there, isn't it?

2 A. Yeah, well I suppose just the level of activity I think
3 that were involved with the family at that time. They
4 also had access to a house that was close by to that
5 filling station as well I think, and it may possibly 14:09
6 have been them. I just wanted that avenue explored.
7 If there was nothing in it, there was nothing in it.
8 But I was, I suppose, guiding the direction of the
9 investigation, to ensure there was no stone was left
10 unturned and I felt always that the public would demand 14:10
11 that kind of a service from us.

12 363 Q. Yes, chief superintendent, but this comes in the
13 context of a letter which has raised three queries.
14 One in relation to who wrote statements in relation to
15 the Dublin Road incident. And it appears there was one 14:10
16 statement. But then second of all, a query in relation
17 to Mulligan's, saying that people were a suspect who
18 hadn't been nominated as a suspect. And then querying
19 whether or not this was put to them. And then in
20 relation to the CCTV, which we discussed earlier on, 14:10
21 and I am not going to go back onto that. But these
22 were all directed at Garda Keogh, isn't that right?

23 A. They were directed to the sergeant in charge of Athlone
24 as far as I was concerned. They were cases Garda Keogh
25 was involved in but I do indicate that they may be 14:11
26 suspect. I was giving some guidance as I saw it and I
27 saw that as a my role in not merely rubber stamping a
28 crime file that came up, but I felt my role was to add
29 value in the service to the public in terms of how

1 volume crime was investigated, so as that the victim
2 would be at the centre of what we did in a holistic
3 type way. And I think the structures I set up, you
4 know, ensured that that was the case and it was a
5 matter for me then to ensure that everyone understood 14:11
6 the standard that I had set and that that would be
7 applied then fairly across the board, with a view to
8 improving the service, creating efficiency and
9 effectiveness in the service we're delivering.

10 364 Q. Perhaps a line along this line would be: Has the 14:11
11 investigating member considered that a member of such
12 and such a family might have been involved? If so,
13 then in those circumstances investigate further. But
14 this is a statement that these people are suspect?

15 A. I said they may be suspect. 14:12

16 365 Q. All right.

17 A. You know, my use of language is open to interpretation
18 but my intentions were honourable. I have no doubt
19 about that. And, indeed, that's the way I approach
20 things with all of the other crime files I sent to 14:12
21 every other member as well.

22 366 Q. Then if we go over to page 21 --

23 367 Q. CHAIRMAN: Just before we leave that, chief
24 superintendent, can I ask you: what did you envisage
25 when you say "may be suspect, was this put to them in 14:12
26 amy way", what did you have in mind?

27 A. Could we establish --

28 368 Q. CHAIRMAN: That somebody would go and say, where were
29 you on the blank day or blank? It was the suspect

1 people?

2 A. Yeah, could we establish where they might be or --

3 yeah.

4 369 Q. CHAIRMAN: The suspects were the people whom had you in

5 mind, that somebody would go and say? 14:13

6 A. Yeah.

7 370 Q. CHAIRMAN: Okay.

8 A. Additionally then, you know, if their stature or some

9 element of clothing might become apparent in the CCTV.

10 CHAIRMAN: I understand that point about the CCTV. 14:13

11 Okay, thanks very much.

12 371 Q. MR. MARRINAN: If we go on then to page 217. This is

13 again a response from Sergeant Monaghan, we have opened

14 it in relation to the other issues. He says:

15 14:13

16 "In relation to PID...."

17

18 And that's the number that we are concerned with here.

19

20 "... Garda Keogh indicates that there is no evidence to 14:13

21 suspect the persons nominated of this damage and on

22 speaking to the owner, he is happy that it was no that

23 particular family as they do not frequent this area.

24 Any developments will be reported."

25 14:13

26 Attached to that was 216, which we have already opened

27 but we didn't open this paragraph. It's from Garda

28 Keogh and it's dated, is that the 23rd August, I think.

29 No, I think it's the 28th August.

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"In relation to --"

And he refers to the family

" -- being suspects, there is no evidence to suggest this. When I spoke to the owner, he did not feel it could be them as they do not frequent the area."

14:14

So there you have it, I mean Garda Keogh is responding and saying these people weren't nominated as suspects.

14:14

A. Yes.

372 Q. They're not considered as suspects, he has spoken to the owner of the petrol station.

14:14

A. Yes.

373 Q. And he is not nominating as suspects or perhaps people who had a grievance or otherwise against the petrol station. So, this family are off the pitch, as it were, all right, as far as Garda Keogh is concerned?

14:15

A. Yes.

374 Q. Then if we go to 219, which we have opened earlier on today, and your response in relation to it is, you say:

"The crime file in relation to Mulligan's --"

14:15

This is the last paragraph.

" -- has been sent to the victims office so they can

1 inform the injured party of our lack of progress due to
2 the unavailability of avenues of enquiry to progress
3 the case."

4 A. Yes.

5 375 Q. If we just deal with what Garda Keogh has to say in 14:15
6 relation to this. If we could have page 62 of his
7 interview with the Tribunal investigators, and if we
8 look at line 887 there. This is a quote but it covers
9 in general what he is alleging in relation to these
10 matters that I am questioning you on now. 14:16

11

12 "My police work was again irrationally scrutinised and
13 minutely criticised by Pat Murray."

14

15 Then if we go down to 892: 14:16

16

17 "It was very simple, Superintendent Murray has set out
18 in a report dated 14th August 2015 the following: 'In
19 relation to Mulligan's, it appears [family] may be
20 suspect. Was this put to them in any way?' In my view 14:16
21 this was irrational because the families live on the
22 other side of Athlone, the Westmeath side of Athlone,
23 and have no transport. Mulligan's garage is on the
24 Roscommon side of Athlone, well away from where they
25 live. I am still baffled as to how he suggested them 14:17
26 as being suspects in the crime and there is absolutely
27 no evidence to suggest it was that family. Separately,
28 in my view it is oppressive in the manner that
29 Superintendent Murray is pie out of the sky nominating

1 these suspects and criticising me for not nominating
2 the family that live two miles away and have no
3 transport."

4
5 So, what do you say in relation to that? 14:17

6 A. I didn't criticise Garda Keogh in any way for not
7 nominating suspects. I merely included them so as that
8 avenue of enquiry might be conducted in order to, I
9 suppose, ensure that there was no stone left unturned.
10 Like, Garda Keogh would well know that the absence of 14:17
11 transport wouldn't prevent a family who were as active
12 as the [blank] --

13 CHAIRMAN: I think you better try to avoid referring to
14 anybody's name, for fear --

15 A. That family, from moving around in order to commit 14:18
16 crime. That was the type of people they were, and they
17 were very active at that time.

18 376 Q. MR. MARRINAN: This was the third crime file that you
19 had raised issues in relation to, to Garda Keogh. Were
20 there any crime files at that time that you didn't 14:18
21 raise an issue in relation to?

22 A. I think there was one in the 44 in that year that I
23 didn't raise an issue in.

24 377 Q. In relation to Garda Keogh?

25 A. Yes. 14:18

26 378 Q. One in 44 that you didn't?

27 A. Well, I mean, I returned 44 to various members, there
28 were four that I dealt with that Garda Keogh submitted.

29 379 Q. Yes.

1 A. But there was another one, a fifth one, that I didn't
2 return to him.

3 380 Q. In relation to Garda Keogh?

4 A. Yes.

5 381 Q. Have you got the date for that? 14:18

6 A. I think it was in November of '15.

7 382 Q. November of '15?

8 A. Yes.

9 383 Q. At a time when he was on indoor duties, is that right?

10 A. It was a file that was, I suppose, one of the issues 14:19
11 that he had dealt with before he went on indoor duties.

12 384 Q. This is the third file and they have all been returned
13 to him, comments have made in relation to them. The
14 first of those comments primarily relates to the fact
15 that the injured parties made their own statements. 14:19
16 You're also now unhappy with the fact that he asked
17 them to view CCTV footage, even though you didn't raise
18 that issue at the time, isn't that right?

19 A. Sorry, I didn't get that question fully.

20 385 Q. You're unhappy now, you expressed in evidence this 14:19
21 morning, that Garda Keogh arranged with the injured
22 parties to view CCTV with him?

23 A. Well, it wouldn't be something that would be
24 evidentially best practice.

25 386 Q. Yes, but you didn't raise that concern at the time? 14:20

26 A. No.

27 387 Q. Yes. And then we have a situation where the second
28 incident, being the theft of a trailer, and there were
29 a series of misunderstandings there in relation to

1 Garda CCTV, but I think that you acknowledge that Garda
2 Keogh did in fact do good work in relation to that
3 which led to the solving of the crime?
4 A. Yes, and we tried to support him being involved in it
5 right to the very end. 14:20
6 388 Q. Then we have this incident in relation to Mulligan's,
7 where you have nominated suspects and both he and his
8 sergeants have returned to say that these suspects
9 weren't nominated by anybody at the time, that it has
10 been put to the injured party and they're not 14:20
11 considered suspects and you seem to have accepted that.
12 A. Yes.
13 389 Q. So then we move on to robbery from the person on the
14 13th September?
15 A. I would just like to say, you know, I suppose my 14:21
16 dealing with the crime files was the same for Garda
17 Keogh as every other member in the station. If I felt
18 a query needed to be generated, if I felt guidance or a
19 direction needed to be given, I did that irrespective
20 of who the member was. 14:21
21 390 Q. Now, we come to deal with the robbery from the person.
22 In the first instance, if we could look at the report
23 that had been sent in by Garda Keogh, it's at page 229
24 of the material. It's a handwritten report, robbery
25 from the person. He gives the Pulse ID number at the 14:22
26 top. Have you got that?
27 A. Yes.
28 391 Q. Is that right?
29

1 "With reference to above, a robbery from the person who
2 reported at 4am on the 13th September, [the injured
3 party at a certain location, date of birth and
4 telephone number], was intoxicated and after pointing
5 out the scene was brought home by Gardaí. Garda Keogh 14:22
6 is going on rest days and has two days annual leave
7 booked and is not due to work until 19th September
8 2015. This was a serious incident and the injured
9 party may have injuries. Could this be forwarded to
10 D/Branch for favour of immediate investigation." 14:23
11

12 Is there anything wrong with a member referring a
13 matter to the detective branch for investigation?

14 A. Well, the system that was in place at the time meant
15 that would come to our morning meeting, so we could 14:23
16 decide on the best course of action. Ideally in a
17 situation like a robbery, things would need to happen
18 very quickly. You know, robbery is quite a serious
19 offence and things need to happen very quickly. We had
20 a system in place that would allow, I suppose, 14:23
21 immediate action by the next available group of people
22 coming on to, I suppose, immediately commence the
23 investigation, and that was important in a situation
24 like this.

25 392 Q. Do you believe that this comes under your direction 14:23
26 that you issued on 18th August 2015, in relation to
27 reporting of critical or serious incidents?

28 A. I'd say there isn't enough information in it, there
29 isn't enough information in it to allow, I suppose,

1 people who might be dealing with it in the absence of
2 Garda Keogh to have a full and comprehensive knowledge
3 of what might be happening.

4 393 Q. Do you believe on the basis of the material that was
5 available that this would be regarded as a critical or 14:24
6 of a serious nature?

7 A. The incident is serious?

8 394 Q. Yes.

9 A. Yes, absolutely.

10 395 Q. You did? 14:24

11 A. Yes, the incident.

12 396 Q. We discussed this yesterday and your direction, which
13 is at page 2121. In the first instance, the obligation
14 was on the sergeant on duty to report this matter, is
15 that right? 14:24

16 A. Yes.

17 397 Q. In the absence of the sergeant on duty, then the
18 station orderly?

19 A. Yes.

20 398 Q. So when this came before your daily PAF meeting, what 14:25
21 you had then available to you was the short report from
22 Garda Keogh and no report from the sergeant or from the
23 station orderly, is that right?

24 A. It wasn't envisaged ever that there would be three
25 reports, just one, and whichever one of those people 14:25
26 who were there to do it, that would be the person that
27 should, I suppose, provide the details, so as that we
28 would have as much information as possible.

29 399 Q. If we look at the Pulse entry would you viewed the

1 following day at the PAF meeting, it's page 225 of the
2 materials, please. It's reclassified there and we will
3 come to that in a due course, insofar as the category.

4 A. Yes.

5 400 Q. But it has the date on which it occurred, at 2:30am to 14:26
6 3:30am. The date on which it was reported, which we
7 see at 4am, I think it is, I can just about make it
8 out. We have where it occurred on the far right there,
9 under latitude and longitude?

10 A. Yes. 14:26

11 401 Q. It gives the precise location. And then the narrative
12 can be seen further down there in the box on the
13 left-hand side.

14

15 "Injured party walking home through St. Mell's to 14:26
16 Sarsfield Square and under the train bridge, was mugged
17 by two males. Had €20 stolen. Patrol of the area with
18 injured party, who pointed out the scene, with negative
19 results. Suspects were Irish, in their 20s wearing,
20 white Air Max top and black tracksuit..." 14:27

21

22 Then if we go over to the next page, because we see a
23 continuation of it at page 226

24

25 "...black tracksuit bottoms. Number two wearing a blue 14:27
26 McKenzie windsheet or top. Both fled towards waste
27 ground behind Sarsfield Square."

28

29 There is a note there saying that there is no CCTV

1 footage. So that sets out the details in relation to
2 it, isn't that right?

3 A. It's a very brief outline, yes.

4 402 Q. There is a further incident summary report, which
5 duplicates what we just read there from the Pulse? 14:28

6 A. Yes, and it's the incident summary report that we will
7 be working from at the PAF meeting.

8 403 Q. You would be working from that?

9 A. Yes.

10 404 Q. Then we just better have a quick look at it. 496. 14:28
11 This is printed off instead of the Pulse entry itself;
12 is that right?

13 A. Yeah. This is the way it comes off with the 003
14 report, that the sergeant in charge would bring to the
15 meeting. 14:28

16 405 Q. But it has all the details?

17 A. Yes.

18 406 Q. We have it there. Under the narrative?

19 A. Yes.

20 407 Q. That is the same as set out -- 14:29

21 A. Absolutely.

22 408 Q. -- in the Pulse report. Now, I think at the PAF
23 meeting, I think that Sergeant Baker, Inspector Minnock
24 and Sergeant Curley were there, is that right?

25 A. Yes. 14:29

26 409 Q. Who was it that raised an issue in relation to this
27 Pulse entry?

28 A. Inspector Baker, who was then the sergeant in charge,
29 brought the matter to attention. It had happened in

1 the early hours of Sunday morning and it seemed to be
2 coming to attention for the first time. So we had
3 missed an opportunity, I suppose, all throughout Sunday
4 to make some effort to deal with it.

5 410 Q. So what was the concern at that stage? 14:30

6 A. The concern was that we had missed an opportunity on
7 Sunday to deal with it and the passing on the
8 information, I suppose, hadn't occurred in the fashion
9 that we would have liked.

10 411 Q. Well, in the first instance Garda Keogh had given a 14:30
11 short report in relation to the matter to the sergeant
12 in charge of Athlone Garda Station, isn't that right?

13 A. I'm not sure how the transfer of the report took place.

14 412 Q. If we look at 229?

15 A. Yes. 14:30

16 413 Q. It's addressed to the sergeant in charge?

17 A. It is, yeah.

18 414 Q. And it's indicating that he is going on leave and that
19 it would be better if a member of the detective branch
20 dealt with it? 14:30

21 A. Yes.

22 415 Q. So that was then a matter for the sergeant in charge to
23 deal with?

24 A. Yes.

25 416 Q. As he or she saw fit? 14:30

26 A. I suppose Inspector Baker is best placed to explain the
27 workings of her office there, but for whatever reason
28 it didn't appear to get the attention it deserved
29 immediately when it happened by way of passing on to

1 someone who would immediately roll into place and begin
2 the enquiries on Sunday morning.

3 417 Q. Quite clearly this report doesn't comply with the
4 direction that you issued on the 18th August?

5 A. Well, I would have liked to have seen more information. 14:31

6 418 Q. Well it doesn't even purport to be a report as such. I
7 am just wondering whether or not this was a matter for
8 the sergeant in charge, once they received this, as to
9 what they did with it?

10 A. Well, under normal circumstances, like as I said, you 14:31
11 know, some investigative process would immediately
12 begin to roll out.

13 419 Q. That would be the obligation of the sergeant in charge,
14 having received this from Garda Keogh?

15 A. Yes. And I suppose the e-mail that we had envisaged in 14:31
16 the document you mentioned there, allows that early
17 alert process, so as that none of this happens and
18 things don't get lost. Detective Sergeant Curley and
19 Sergeant Baker have access to emails on their phone and
20 would be able to -- as do I, and would be able to sort 14:32
21 of ensure that some element of investigative process
22 would begin immediately. Robbery wasn't a hugely
23 common offence in Athlone and I think for 2015 there
24 were six robberies. Two of them we will probably be
25 speaking about later. 14:32

26 420 Q. Now, you write a letter arising out of this, it's at
27 page 505. This letter is written to the sergeant in
28 charge but it's not written to Garda Keogh's
29 supervising sergeant. Is there some reason why it was

1 written to the sergeant in charge?

2 A. That letter comes sometime after a whole series of
3 things happened looking into that robbery.

4 421 Q. Yes.

5 A. It's not immediately after. There's a series of events 14:33
6 between the report arriving and that letter that took
7 place.

8 CHAIRMAN: what is the date of that letter,
9 Mr. Marrinan?

10 MR. MARRINAN: This letter is 23rd September 2015. 14:33

11 CHAIRMAN: Thank you very much.

12 422 Q. MR. MARRINAN: Have you a preference that we would deal
13 with it in the chronological order, in terms of you're
14 referring to the reclassification of the crime?

15 A. No, I am referring to the enquiries that were carried 14:33
16 out on the 14th of September and later on into that
17 week by two different members and I suppose
18 conversations I would have had with Inspector Curley
19 before it arrived to the PAF meeting on the 23/9, so as
20 we could make a decision. 14:34

21 423 Q. CHAIRMAN: But at this point, if I am understanding, at
22 this point you're referring back to the original report
23 and you're saying that's not satisfactory?

24 A. Yes, Chairman.

25 424 Q. CHAIRMAN: I know things happen in the middle. 14:34

26 A. Yes.

27 425 Q. CHAIRMAN: But that is essentially what the -- is that
28 right?

29 A. Yes. And I suppose, the things in the middle, and I

1 can explain them briefly.

2 426 Q. CHAIRMAN: Yes.

3 A. Garda A was detailed to take a statement by Inspector
4 Curley from the injured party. He did that. Inspector
5 Curley approached me again that evening. We decided 14:34
6 we'd have another member go back to the injured party
7 again.

8 427 Q. CHAIRMAN: Yes.

9 A. We were anxious to bottom this out. We were anxious to
10 find out what was going on and why a change of heart 14:34
11 had occurred. I suppose in doing that, different
12 pieces of information came in that in some degree it
13 was new information and the injuries didn't seem to
14 tally with --

15 428 Q. CHAIRMAN: Now, let me interrupt you for a second, 14:35
16 chief superintendent. I understand because it's
17 another area that is to be looked at.

18 A. Yes.

19 429 Q. CHAIRMAN: which is the circumstances in which it came
20 to be reclassified. 14:35

21 A. Yes.

22 430 Q. CHAIRMAN: I understand all that.

23 A. Yes.

24 431 Q. CHAIRMAN: But specifically at this point, we have a
25 report. Mr. Marrinan has been asking you about the 14:35
26 function of the sergeant in charge.

27 A. Yes.

28 432 Q. CHAIRMAN: But whoever had the obligation of recording
29 it, you say in your letter, separate from anything

1 else.

2 A. Yes.

3 433 Q. CHAIRMAN: This report isn't satisfactory.

4 A. Yes. Yes, that's what I say, yeah.

5 434 Q. CHAIRMAN: Okay. Now my question is: would you have 14:36
6 considered the information on Pulse to be reasonably
7 satisfactory as a description of what happened and who
8 did what and what efforts were made?

9 A. I suppose in the circumstances, the way it turned out,
10 it's scant what's on Pulse, it's a very brief 14:36
11 description.

12 435 Q. CHAIRMAN: Okay.

13 A. I suppose it was kind of -- the new information that
14 came to light, a different version sort of, interfered
15 with what was on Pulse in a way. At that meeting on 14:36
16 the 23rd September we decided to deal with it in three
17 different -- or three actions.

18 436 Q. CHAIRMAN: Okay. So if I am understanding, and I'm
19 sorry, Mr. Marrinan, for interrupting. If I am
20 understanding, you say we have to look at what happened 14:36
21 in the meantime in order to understand the nature of
22 the complaints --

23 A. Yes.

24 437 Q. CHAIRMAN: -- about the deficiency --

25 A. Yes. 14:37

26 438 Q. CHAIRMAN: -- or alleged deficiency, suggested
27 deficiency of the report, is that right?

28 A. Yes. I think the middle --

29 CHAIRMAN: Then maybe that's the best way to proceed,

1 Mr. Marrinan. I understand exactly, that would have
2 been my question, but maybe just to proceed --

3 439 Q. MR. MARRINAN: we will proceed on that basis. But I
4 think that the first thing that happened was that, in
5 actual fact, it was Garda A who went out and took a 14:37
6 statement from the injured party?

7 A. Inspector Curley asked Garda A to take a statement from
8 the injured party.

9 440 Q. But nothing else had occurred other than that?

10 A. I don't know. Inspector Curley asked Garda A to carry 14:37
11 out enquiries and he came out with a statement. I
12 don't know --

13 441 Q. Can we look at the statement, it's at page 504 of the
14 materials. It's a brief statement, so I will go
15 through it quickly. 14:37
16

17 "I remember last Saturday night I was walking home at
18 2am or 3pm. I was walking near the bridge at [a
19 certain location]. I saw two lads approach me and
20 asked me for a cigarette. I said I had none and one of 14:38
21 them shouted at me and hit me across the forehead with
22 a copper bar and fell to the ground and one held me
23 down and searched my pockets, and the other fella was
24 kicking me in the chest. I started to fight back and
25 he then hit me with a bar again a few times. They took 14:38
26 a €20 note and about..."

27

28 something.

29 CHAIRMAN: "Three or four euro in change out of my

1 449 Q. Was a letter sent out to Garda A in relation to the
2 quality of the statement he had taking?

3 A. Not by me.

4 450 Q. No. So then if we move on then, I think that the next
5 we have is a letter of 14th September 2015, from
6 Inspector Curley to you and it's at page 500 of the
7 materials.

14:40

8
9 "Please find attached statement from the injured party
10 in this case. On the 14th September, I tasked Garda A
11 to interview the victim and he recorded the attached
12 statement. Garda A reported that the victim was
13 reluctant to meet with him, stating he didn't wish to
14 pursue the matter. I encouraged Garda A to record a
15 statement from him, which is attached.

14:40

14:41

16
17 In summary, the victim states that he was robbed by two
18 males who initially asked him for a cigarette. He
19 stated that they had hit and kicked him and stole €20
20 and some change from his pocket. The victim states he
21 does not wish to pursue the complaint.

14:41

22
23 The witness statement as recorded is lacking in detail
24 regarding description of offenders. However, as the
25 victim is reluctant to cooperate it is difficult to
26 envisage how a prosecution could be successful, even if
27 a suspect could be identified.

14:41

28
29 I recommend consideration be given to recategorise the

1 incident due to the attitude of the victim."

2

3 Of course, that isn't a basis to recategorise, sure
4 it's not?

5 A. No.

14:42

6 451 Q. No. So, you say then that you had a discussion with
7 that evening with Sergeant Curley; is that right?

8 A. Yes.

9 452 Q. What was discussed?

10 A. Broadly the outline of his report there and the
11 statement Garda A had. He decided that he would detail
12 another member to go back then to the injured party.

14:42

13 453 Q. I think that that was done and we have a report that
14 was sent in, it's at page 498, from Garda John Divilly?

15 A. Yes.

14:42

16 454 Q. "With reference to the above, I was requested to speak
17 to the injured party to answer four questions namely:

18

19 1. The reason why he does not wish for this incident
20 to be investigated.

14:42

21 2. A better description of the offenders.

22 3. What injuries he received.

23 4. Had he any alcohol consumed."

24

25 Now, of course, those were all dealt with by Garda
26 Keogh, who has a description of the assailants and he
27 refers to the fact that the injured party was
28 intoxicated. Then replies to the questions:

14:43

29

1 "Has informed Garda Divilly that he just wants to
2 forget about this incident. He was not seriously
3 injured and does not want the matter investigated. He
4 says he has not been intimidated and is not pursuing
5 this matter."

14:43

6
7 Then there is a description of the two assailants.
8 Then he describes having received a bruise to his head
9 and cuts to his knuckles, which was caused when he
10 attempted to fight off his assailants. His mother is a
11 nurse and treated his injuries at home. He didn't
12 attend a doctor or hospital. He said he was drunk at
13 the time of the incident.

14:43

14
15 "Garda Divilly informed the injured party that it was
16 his choice if he did not want the matter to be
17 investigated but if he changed his mind, to contact
18 Gardaí. Garda Divilly informed him that it would be
19 better for the investigation to start sooner. However,
20 he is adamant that he does not wish for the matter to
21 be investigated."

14:44

14:44

22
23 But it was still open to him if he wished to come
24 forward --

25 A. Yes.

14:44

26 455 Q. -- to make a statement, that the matter would be
27 investigated?

28 A. Yes.

29 456 Q. But it appears that the matter was in fact

1 reclassified, isn't that right?

2 A. Well, the report from Garda Divilly adds further new
3 information in relation to the description and it also,
4 I suppose, gives a different view of a bruise to his
5 head and cuts to his knuckles. There's no mention of 14:44
6 an injury to his leg in any shape or form. It just
7 brings new information into the situation again. We
8 met then on the 23rd September in relation to the
9 incident and discussed it, as to what we would do with
10 it, and we decided on three actions. 14:45

11 457 Q. Which were?

12 A. Which were to reclassify it to attention and
13 complaints; to write and ask why, I suppose, or how,
14 I'd try and find out how the incident hadn't been
15 passed on in the way that might allow it to be dealt 14:45
16 with. In addition to that, then see what other
17 information Garda Keogh might that might help us in our
18 final decisions on it. And the third one was to leave
19 it on the PAF review system, and that's what happened,
20 so that it could be reviewed again. 14:45

21 458 Q. If we just have page 7982. This is chapter 33 of the
22 Garda Code, in relation to crimes and offences
23 reporting and recording. If we look at paragraph 3
24 there, it states:
25
26 "If the criteria to record are satisfied..."
27
28 That's record on Pulse.
29

1 "... reasonable probability and no credible evidence to
2 the contrary and the victim does not want the matter
3 taken any further, a criminal offence should
4 nonetheless be recorded. "

5 A. Yes. 14:46

6 459 Q. That's very clear, isn't it?

7 A. Well, HQ circular 139/03 is the crime counting rules.
8 It's much the same as that really, but number 1 on that
9 gives me, I suppose, the delegated authority to make
10 decisions around reclassification of crimes, taking 14:46
11 into account that quality and the other regulations
12 that are there about that. There are in the pages in
13 the disclosures as well. That creates a situation
14 where I and my team are allowed to make that decision
15 in the best interests -- 14:47

16 460 Q. So you determined this wasn't a credible complaint; is
17 that right?

18 A. Well, on the balance of probability, I found the new
19 information, as explained to me, and that was the view
20 of the people in the room around me as well, and I made 14:47
21 the decision as I am the one that has the delegated
22 authority to do that.

23 461 Q. Was this regarded as a significant and important
24 decision and if so, why?

25 A. We had spent some time that week trying to make sure 14:47
26 that, you know, we could take it as far as we could, if
27 it had occurred, that it was serious. We wanted to
28 know who was doing it, you know, who might do it. Who
29 could it possibly be and could we, I suppose, even have

1 an idea who they were in order that we would prevent
2 anything further happening.

3 462 Q. If the injured party arrived in the following week and
4 said, I've just been walking down the road and saw my
5 attacker in the chip chop? 14:48

6 A. Yes.

7 463 Q. what would happen then?

8 A. That would be new information that came in and we would
9 take that at face value and review the station again.
10 That's why it was left on the PAF system. 14:48

11 464 Q. How would you feel prosecuting that in the District
12 Court, if you had already determined that it wasn't
13 credibility, the allegation?

14 A. what happens on Pulse is a data quality issue. That
15 has no relevance to the crime. Pulse won't investigate 14:48
16 a crime. That requires human endeavour. Pulse is just
17 a means of storing information in relation to crime.

18 465 Q. CHAIRMAN: I can understand, chief superintendent, I
19 can understand that the local superintendent would be a
20 fit frustrated, when it looks like an outstanding 14:48
21 crime, an unsolved crime, and there's no way he can
22 solve it. I can understand that that that would be a
23 frustrating experience. But the rule seems very clear.
24 Even if I say, look, I want to do nothing about it, if
25 it's a crime then it has to be recorded, even if, as I 14:49
26 say, rather frustratingly, it comes up as a number
27 that -- do you understand me? As I say, I can
28 understand a degree of frustration, but it does seem
29 pretty clear.

1 A. Chairman, the fact that it's on Pulse as a robbery
2 wouldn't have any bearing in terms of my frustration,
3 because if the injured party didn't want to do anything
4 about it, that would be captured on the narrative and
5 that would explain its lack of detection or efforts. 14:49

6 466 Q. CHAIRMAN: Yes.

7 A. But with the crime counting rules, if there's, I
8 suppose, an issue as to whether it happened or not and
9 on the balance of probabilities that's a decision I and
10 my team made, we made it in the best interests of 14:49
11 capturing what we thought was data quality, there were
12 some issues and new information that was coming each
13 teach the injured party had spoken to, I suppose added
14 to that, and we made that in the best -- with the best
15 intentions possible. And not to, I suppose, frustrate 14:50
16 or hide anything. I was in the business of looking for
17 resources, so I wasn't in the business of hiding
18 anything.

19 467 Q. CHAIRMAN: Yes.

20 A. All of my interactions had been opened, transparent and 14:50
21 honest in --

22 468 Q. CHAIRMAN: I'm sorry, don't think I am suggesting
23 propriety or impropriety, I am trying to be as neutral
24 as I can. As I say, I can somewhat understand somebody
25 saying, here's a case, I can't investigate it as 14:50
26 matters stand?

27 A. Yes.

28 469 Q. CHAIRMAN: which I could understand as being a -- I
29 mean have you explained your answer to that?

1 A. Yes.

2 470 Q. CHAIRMAN: And when I said frustrated, I didn't imply
3 any criticism or anything like that?

4 A. No. I am just trying to give the best answer I can for
5 myself, Chairman. 14:50

6 CHAIRMAN: I understand. Okay.

7 471 Q. MR. MARRINAN: Before the decision was made, did
8 anybody go back to Garda Keogh, who perhaps was best
9 placed to give a description of the demeanour of the
10 injured party? 14:51

11 A. No. No, to the best of my knowledge no one went back
12 to Garda Keogh.

13 472 Q. Why not?

14 A. I don't know.

15 473 Q. Do you think it is something that should have been
16 done? 14:51

17 A. Well, I wrote to him then on the 23rd September in
18 relation to it.

19 474 Q. I know, but this is after reclassification. Prior to
20 reclassification, do you think it's something that
21 should have been done? 14:51

22 A. No, because Garda Keogh had no real involvement in the
23 investigation outside of meeting the man on the first
24 night. He was in possession of information from that.

25 475 Q. But he took him on a tour of the area? 14:51

26 A. Yes.

27 476 Q. He looked for CCTV, if there was any, that could help?

28 A. Yes. But he didn't outline where he had looked or, you
29 know, matters to that effect that might help.

1 477 Q. He interacted with the injured party?
2 A. He interacted and brought him home, yes.

3 478 Q. He told us in evidence that he had additional evidence
4 to give insofar as meeting the injured party who was
5 coming in a taxi to the Garda station? 14:52
6 A. Well, that information didn't come until much later.

7 479 Q. But that's because nobody made any enquiry of him?
8 A. But, I mean, he furnished a report on the first night
9 which didn't contain that information. There was a
10 potential witness perhaps lost. And that was the type 14:52
11 of situation I was trying to indicate that had occurred
12 here, that I suppose wouldn't meet the standard that I
13 wished to apply and in turn wouldn't demonstrate that
14 we were providing the best possible service. I too was
15 accountable to the chief superintendent and I had to, I 14:52
16 suppose, account for myself every fortnight to her.

17 480 Q. You see, chief superintendent, the letter that was
18 written by Garda Keogh on the morning of the offence
19 was addressed to the sergeant in charge?
20 A. Yes. 14:52

21 481 Q. It's not entirely clear that that was intended to be
22 the report that was envisaged by you in your direction
23 of the 18th August. But the sergeant in charge had
24 that obligation, to prepare an adequate report for your
25 purposes. Do you understand? 14:53
26 A. I understand what you are saying. That didn't happen,
27 yeah.

28 482 Q. So therefore, if the sergeant in charge on receiving
29 that report considered it didn't measure up to what you

1 were requesting, the obligation was on him or her to
2 compile the report and they then should have compiled a
3 report and sent it to the PAF meeting, is that not
4 correct?

5 A. The sergeant in charge brought that information, but 14:53
6 the person with the information was off duty.

7 483 Q. The sergeant in charge had the obligation to prepare an
8 adequate report under your direction of the 18th
9 August, is that right?

10 A. The sergeant on duty on the night, if there was one. 14:53

11 484 Q. The sergeant on duty.

12 A. On the night --

13 485 Q. Yes.

14 A. -- that the incident occurred, should be full owe au
15 fait with what the information would be. 14:54

16 486 Q. He or she had the obligation --

17 A. Yes.

18 487 Q. -- to bring a report to the PAF meeting that was
19 adequate?

20 A. Well, it wouldn't be to the PAF meeting because they 14:54
21 too could be off duty, but to leave a report with
22 adequate information there.

23 488 Q. For the PAF meeting?

24 A. Yes. Well even before the PAF meeting, because this
25 happened over a weekend, the PAF meeting happened on 14:54
26 Monday morning, so there was time lost on Sunday there
27 where enquiries could have commenced.

28 489 Q. I am not entirely sure that I understand, chief
29 superintendent, how you can say time was lost. Garda

1 Keogh presumably was going off duty that very morning?

2 A. Yes.

3 490 Q. He has indicated to the sergeant in charge the Pulse
4 entry, there's a brief report there indicating that he
5 is going off duty and he is not going to be on duty and 14:54
6 somebody in the detective branch should take over the
7 investigation?

8 A. Yes. That doesn't appear to have been passed on to me.

9 491 Q. But that's not Garda Keogh's fault?

10 A. Oh I never blamed Garda Keogh for that. 14:55

11 492 Q. We come to your report at page 505, the queries that
12 you raised in relation to this investigation. It's
13 addressed to the sergeant in charge, as I say.

14

15 "I refer to the above matter and my correspondence 14:55
16 attached regarding reporting incidents."

17

18 Okay, this is your report, it's set out on page 2121,
19 on the 18th August, is that right?

20 A. Yes. 14:55

21 493 Q. "In this case the incident on the face of it was
22 serious."

23

24 This is the first correspondence that you have written
25 in relation to this case, is that right? 14:55

26 A. Yes, I was sending it to the sergeant in charge of
27 Athlone.

28 494 Q. It's after it's been reclassified, is that right?

29 A. Yes.

1 495 Q. And it's headed "robbery from the person"?
2 A. Yes.
3 496 Q. why is that?
4 A. I suppose there's no real reason for that. There's
5 no -- there's nothing intended by that. It merely was, 14:56
6 I suppose, what I felt I was dealing with that morning
7 at the PAF, even though the decision to reclassify it
8 was made at that morning meeting and probably
9 reclassified at some point later on in that day.
10 497 Q. "The scant report submitted does not give any 14:56
11 indication of what investigative steps were taken at
12 the initial reporting stage regarding the scene --"
13
14 Now, the Pulse entry does give these details, isn't
15 that right? 14:56
16 A. Well, it doesn't, I suppose, outline -- it outlines in
17 the GPS coordinates where the scene is but it doesn't
18 outline exactly what was searched.
19 498 Q. It says that he took the injured party on a search of
20 the area? 14:57
21 A. Drove him around to see could he identify them, yeah.
22 499 Q. He tells with the next line in your letter, CCTV
23 issues, he says there's none?
24 A. Again, it doesn't say where was checked for that, how
25 far was the check carried out? 14:57
26 500 Q. I understood what was envisaged in the report was a
27 short, concise report?
28 A. Yes. I suppose I hoped that vital information would be
29 included and I didn't expect to have to be exactly

1 prescriptive to every experienced member of the Garda
2 in the district.

3 501 Q. You see, if we go back to your direction of the 18th
4 August, it's a short, concise report in addition to any
5 entry made on Pulse? 14:57

6 A. Yes.

7 502 Q. But in any event, injured parties, I think that's
8 identify in the Pulse?

9 A. Yes.

10 503 Q. And, indeed, in his report. An account of events, this 14:57
11 is dealt with in Pulse in a brief form?

12 A. In brief form, yeah.

13 504 Q. Descriptions of assailants, that's dealt with?
14 A. Description of clothing is dealt with, yeah. Like, I
15 suppose new information came from Garda Divilly's visit 14:58
16 then which describes something.

17 505 Q. There is a description of the assailants in the Pulse
18 entry, isn't that right?

19 A. Males in their 20s and their clothing is described.

20 506 Q. Yes. 14:58

21 A. But Garda Divilly intervention added another dimension,
22 there's some features described.

23 507 Q. What was taken? We know from the Pulse entry how much
24 was taken?

25 A. Well, yes, €20, then the coins or the additional money. 14:58

26 508 Q. What violence was used?

27 A. That was, I suppose -- there was new information coming
28 all the time about that. It was initially a leg
29 injury, then it was bad beating with an iron bar or a

1 copper bar and when Garda Divilly it was just a bruise
2 to the forehead and cuts to the knuckles.

3 509 Q. What injuries were received? whether photographs were
4 taken, etcetera?

5 A. Yes. 14:59

6 510 Q. "These issues are the basic steps required at the
7 commencement of any investigation."

8 A. Yes.

9 511 Q. But in actual fact almost all those matters are dealt
10 with by Garda Keogh on Pulse, is that not right? 14:59

11 A. Yeah, and they're all matter that you would record in
12 your notebook and the duty of the first member at the
13 scene are set out in the CIT manual.

14 512 Q. Did he have all those details in his notebook?

15 A. I don't know. I don't know. 14:59

16 513 Q. "The duties of the first member at the scene are also
17 set out clearly in the CIT manual but are not recorded
18 in this report."

19 A. Yes.

20 514 Q. "I require an explanation, please, as to why this
21 matter was dealt with in the fashion chosen." 14:59

22 A. Yes.

23 515 Q. So it's is addressed to the sergeant in charge?

24 A. Yes.

25 516 Q. It's his or her obligation to provide that report? 14:59

26 A. Absolutely. And I expected him to do that, yeah.

27 517 Q. Yes. And did you get a reply from the sergeant in
28 charge?

29 A. I got a reply Garda Keogh through his unit sergeant.

1 518 Q. But it's the sergeant's obligation to deal with the
2 report and why these matters weren't contained in the
3 report?
4 A. The sergeant, yes.
5 519 Q. Yes. 15:00
6 A. Yeah. I would have liked the sergeant to have taken a
7 more comprehensive approach.
8 520 Q. This is then forwarded on to Garda Keogh. If we look
9 at page 235 of the materials, this is his response. It
10 seems to be dated the 29th September. 15:00
11 A. There may be one before that, page 232.
12 521 Q. I beg your pardon, yes, this one, it's upside down, but
13 it's dated the 20th September. He says:
14
15 "With reference to the attached report, this incident 15:01
16 was reported to Gardaí at 4am on 13th September 2015.
17 The injured party was brought to the scene, where it
18 was searched. The injured party was driven around the
19 area in an effort to identify the suspects."
20
21 All of this, of course, is in the Pulse entry. 15:01
22
23 "There is no CCTV in the area the incident occurred.
24 The injured party was then brought home and placed in
25 the care of his mother. When I returned to work on the 15:01
26 19th September, having already written a report on the
27 incident and put it on Pulse, I rang the injured party,
28 who informed me that he had made a statement to a
29 detective to the effect that he did not want the matter

1 pursued by Gardaí. The attached report from
2 Superintendent Murray is nothing short of a form of
3 harassment towards myself."

4
5 That was sent with an accompanying letter from Sergeant 15:02
6 Monaghan and it's at 233 of the material. And he says:

7
8 "With reference to the above, please find attached
9 report from Garda Keogh in relation to your report of
10 the 23rd September. He reports that the injured party 15:02
11 was brought to the scene and that the area was
12 searched. The injured party was driven in the patrol
13 car around the town in an attempt to identify any
14 suspects. There is no CCTV in the area where the
15 incident took place. He was then brought home and 15:03
16 placed in the custody of his mother. On returning to
17 work on the 19th September, he made contact with the
18 injured party to obtain a statement and the injured
19 party informed him that he had already made statement
20 to a detective garda in Athlone, withdrawing his 15:03
21 complaint."

22
23 That's signed by Garda Monaghan. Should that not
24 really have been the end of the matter?

25 A. Well, the tone of the report indicated that Garda Keogh 15:03
26 wasn't happy with me or didn't feel that I could make
27 enquiries of him. My intentions were honourable. I
28 was trying to bring some conclusion to this if
29 possible. I kept it on the review system. And I was

1 hoping that we could, I suppose, get more information
2 as to what happened on the night, so as we could, I
3 suppose, analyse that with what we had already. I
4 didn't want to merely close the matter out and leave it
5 like that, if I could possibly come to some conclusion 15:04
6 on it.

7 522 Q. Then you respond at page 234 of the material?

8 A. Yes.

9 523 Q. "I note Garda Keogh's response to date."

10
11 Sorry, Chairman, it's the 13th October. 15:04

12
13 "I note Garda Keogh's response to date, which is far
14 from satisfactory. In order that I can be assured the
15 organisation's objectives regarding the investigation 15:04
16 of crime are met in this case, Garda Keogh would be
17 well advised to take careful note of his statutory
18 obligation to account as set out at section 39 of the
19 Garda Síochána Act 2005, which applies to every member
20 of An Garda Síochána equally, and its inextricable link 15:05
21 to the Garda Síochána discipline regulations 2007. If
22 the member feels he is somehow removed from his
23 statutory obligations, then there may be a remedy open
24 to him under the policy document Working Together to
25 Create a Positive Working Environment." 15:05
26

27 we discussed earlier on the meeting on the 30th, that
28 things may have come to a head at that stage, it seems
29 that they have gone a little bit further here.

1 A. Yeah. Like, I suppose, Garda Keogh may have or had a
2 view of me, I don't know when he formed that view or
3 why, but I had only the objectives of ensuring the
4 organisation's investigative service was met in
5 relation to the case. I only wanted to get the 15:06
6 information that he possibly had. I made it clear to
7 him that, despite the fact that he was making a
8 complaint that I was harassing him, that didn't remove
9 him from the obligation to account. He had a remedy
10 open to him, if he felt that I was harassing him or if 15:06
11 he felt I was being unfair to him. And I invited him
12 to take that remedy and I feel that, you know, if my
13 intentions weren't honourable, I wouldn't have sent
14 that letter or adopted that approach.

15 524 Q. Again, I mentioned insubordination in relation to your 15:06
16 meeting on the 30th August and why you could have dealt
17 with it --

18 A. I shudder to think if I had gone down that road, what
19 position I'd be in now.

20 525 Q. But I suppose you had tolerated what was clearly 15:06
21 insubordination at that time?

22 A. I knew the position Garda Keogh was in, I knew it was
23 difficult for him. But he continued to come to work
24 and his doctor was certifying him fit for work on a
25 certain day and he was going to incidents and calls and 15:07
26 meeting the public. My system insisted on follow up.
27 I was very anxious that that follow up would happen.
28 And I understood, you know, Garda Keogh wasn't able at
29 times, I suppose, to follow up because of the issues he

1 had with alcohol and the impact that was having on his
2 absences. And then he seemed detached from his roles
3 and responsibilities in the Garda station and to the
4 public as a member of An Garda Síochána, in relation to
5 the every day duties that had to be carried out when he 15:07
6 presented for work. And that was where I found myself.

7 526 Q. You conclude:

8
9 "In the meantime, I await a proper response as to the
10 actions taken on the night that this matter was 15:08
11 reported."

12
13 Are you questioning there his investigation of it?

14 A. No, I amn't, I'm looking for information.

15 527 Q. But it's all on Pulse, you have it. 15:08

16 A. No, but like I suppose we'll come to it in a minute,
17 the answer introduced new information again.

18 528 Q. "I also expect to see some written record as to what
19 the injured party alleged, to include a description of
20 his assailants and an answer as to why my instructions 15:08
21 of the 18th August were not complied with."

22
23 This matter had been reclassified.

24 A. I explained how that came about and how I felt I made
25 that with honourable intention was my team, in a 15:09
26 measured way, assessing all the information that we had
27 at the time, lending the combined experience, the
28 policing experience that the four of us had to that
29 decision.

1 529 Q. There was nothing further to be gained in terms of any
2 investigation, because the matter had effectively been
3 closed as far as the investigation was concerned, isn't
4 that right?

5 A. I didn't see it like that. I left it open on the PAF 15:09
6 incident review list until December, in the hope that
7 new information would come to light that might allow
8 some --

9 530 Q. What new information did you anticipate?

10 A. I didn't know what Garda Keogh had. I didn't know. I 15:09
11 simply would liked to have had the full set of
12 circumstances and information that he may have had.

13 531 Q. CHAIRMAN: The victim would have to change his mind for
14 a start?

15 A. Absolutely. 15:09

16 532 Q. CHAIRMAN: Or the injured party. Something else might
17 come up?

18 A. Yes. Something, some other witness might emerge that
19 might add something to it or take something from it.

20 533 Q. CHAIRMAN: Chief superintendent, from Garda Keogh's 15:10
21 point of view, I am just recalling his position on
22 this.

23 A. Yes.

24 534 Q. CHAIRMAN: He says, look, I investigate it, the next
25 thing I come back to work and I find the victim, the 15:10
26 injured party has suddenly mysteriously dropped his
27 complaint, despite the fact that he looked serious to
28 me and I said it and I wanted it there. That's number
29 one. And he comes back and then he gets queries about

1 it. And it transpires that at the time he gets the
2 queries the matter has actually been reclassified as,
3 so to speak, a non-crime. So, it looks a bit
4 frustrating from his point of view?

5 A. I see that. I see that, Chairman. 15:10

6 535 Q. CHAIRMAN: I mean that he's getting it in the neck, so
7 to speak, for something that is a non-crime. Can you
8 understand?

9 A. I see his position exactly. In fairness to him, when
10 he came back he contacted the injured party, who told 15:11
11 him that somebody had visited. I see how he might form
12 a view in his mind that I was in some way against him,
13 you know, but that wasn't the case. Maybe I added to
14 that, Chairman, in the way I handled it but...

15 536 Q. CHAIRMAN: But your evidence, if I am understanding, 15:11
16 your evidence is that although it had in fact been
17 reclassified as a non-crime, your mind was still open
18 to some extent?

19 A. Yes.

20 537 Q. CHAIRMAN: In the event that something else happened, 15:11
21 one of which we agree has to be that the injured party
22 changed his mind and said after all, I am going to
23 pursue it. Is that right?

24 A. Yeah, or indeed, you know, some new witness will come
25 forward that might have an idea of who we might be 15:11
26 dealing with, if it happened, if this crime happened.

27 538 Q. CHAIRMAN: So that stayed the situation until December.

28 A. Yes.

29 539 Q. CHAIRMAN: When nothing further having happened

1 relevant to this, you said, we'll close off?

2 A. Inspector Farrell actually made the final decision on
3 it at one of the meetings.

4 CHAIRMAN: Very good. Thank you.

5 540 Q. MR. MARRINAN: If I could just deal with one issue 15:12
6 concerning your interview with the Tribunal
7 investigators, it's at page 3048. We obviously have
8 all this material and it's all available to the
9 Tribunal and we can't go over every word of it when
10 you're in the witness box, but there is a comment that 15:13
11 you made here in relation to incident, and I just ask
12 you to explain what you meant in relation to it. If we
13 can scroll down, Mr. Barnes, to line 593. This is in
14 relation to Detective Sergeant Curley.

15 15:13

16 "On Monday 14th September 2015, a detective sergeant
17 allocated one of his team to bottom this out and as it
18 turned out, the member did not I believe see fit to
19 contact Garda Keogh at all, which I believe would be
20 unusual and speaks for itself." 15:13

21 A. Yes.

22 541 Q. What did you mean by that?

23 A. I meant that Garda Keogh's drinking at that stage was
24 having a big impact on him. He was going off for a
25 number of days and he used to go drinking while he was 15:14
26 off duty, and that was commonly known. So the person
27 at the source of the information may not have been
28 available to help, nothing more than that.

29 542 Q. Then if we can go to 235 of the material, this is Garda

1 Keogh's response. It's dated the 29th September. No,
2 sorry, it's the 29th October.

3
4 "Sergeant Monaghan, with reference to the overleaf, I
5 have complied in full with section 39 of the Garda 15:15
6 Síochána Act I note with the exception of how it was
7 reported and injuries."

8
9 So there he is setting out his stall, he says that
10 everything is there on Pulse effectively. Then he goes 15:15
11 on to deal with:

12
13 "Garda McMeeting and I were in a patrol car at Church
14 Street at 4am when a taxi parked beside us, which had
15 come from the direction of St. Mell's. The injured got 15:15
16 out of this taxi and reported the incident to me. The
17 injured party did not want medical treatment and stated
18 that he would go to the doctor in the morning. Injured
19 party --"

20 CHAIRMAN: "If his leg was still at him." 15:16

21 543 Q. MR. MARRINAN: Yes. "...was still at him. Pointed out
22 the scene, requested to be brought home, which we duly
23 obliged. I also wish to point out that this incident
24 was recategorised by Superintendent Murray from robbery
25 from the person to attention and complaints on the 23rd 15:16
26 September."

27
28 That's where matters rested, is that right?

29 A. Well, that's the new information, yeah, the taxi person

1 was new to the whole thing at this stage and an
2 opportunity was perhaps lost to try and find that
3 person.

4 544 Q. Presumably it was still available?
5 A. Well... 15:16

6 545 Q. Were any enquiries made in relation to taxi companies
7 in Athlone?
8 A. Like this was in October. This was, I suppose, nearly
9 two months later, definitely six or seven weeks later.
10 It was a fruitless exercise at that point in time, I 15:17
11 felt. I needed to get more information from Garda
12 Keogh. He wasn't willing to give it. I didn't see any
13 point in pressing the issue. I knew how he felt about
14 me and I felt I was on a hiding to nothing in trying
15 to, I suppose, elicit any more information. 15:17

16 546 Q. Just before we move on, in relation to this, ultimately
17 what's your criticism of Garda Keogh in relation to the
18 investigation of this robbery that he conducted in the
19 early hours of the morning, before he went off duty?
20 A. I haven't criticised him hugely in any way up to now. 15:17
21 I'm trying to get information from him. I felt there
22 may be more information. I felt, I suppose, more
23 information could have been provided on the night.
24 There's no issue, we had a system in place for
25 incidents like that to be handled over immediately, so 15:18
26 as the machine, as it were, the investigative machine
27 would crank up and things would happen and to give
28 ourselves the best opportunity.

29 547 Q. At the time when the matter was being reviewed, when

1 could you have sought additional information from him,
2 nobody went to him, isn't that right?

3 A. Well, he had indicated to me in August that he wanted
4 everything in writing and it was just very difficult.
5 I found it very challenging, dealing with Garda Keogh, 15:18
6 in terms of him being available for work, going to
7 incidents, my responsibility to, I suppose, ensure that
8 they are closed out and his view of me, I suppose, you
9 know, the view that he had adopted of me being in some
10 way against him, when I wasn't and I only tried to help 15:19
11 him in any way I could in relation to his welfare. But
12 I had to bottom out the stuff. I had to have a
13 standard and it had to apply equally to everybody.

14 548 Q. Okay.

15 A. It may not be against -- it may be against my 15:19
16 interests. In trying to press Garda Keogh, I felt I
17 had to do the right thing for the right reason. I knew
18 that might be against my interests, and so that's the
19 way it turned out.

20 549 Q. We know at this time, and we will come to it in a 15:19
21 minute, that he was, in late September, involved in an
22 incident at the River Shannon, where he pulled a
23 drowning lady from it?

24 A. Yes.

25 550 Q. Did you ever go to him directly and commend him for 15:19
26 what he had done at that time?

27 A. No. But I did ensure that he was commended, yeah.

28 551 Q. We will come to that in due course?

29 A. Yes.

1 552 Q. But did you ever think of maybe writing to him even and
2 saying, I understand that you performed this and I
3 compliment you in relation to it and, you know, that's
4 good police work?

5 A. Not directly, but my system was that at the PAF meeting 15:20
6 when an incident summary report of that nature would
7 come up, I would write down to the sergeant, good work,
8 consider PW1 or consider commendation.

9 553 Q. But it was good work?

10 A. Yeah, absolutely. All of the team performed very well 15:20
11 that night.

12 554 Q. We have a description from him and he seems to have
13 been in the front line, and I don't think he was
14 actually looking for any great credit for it. But he
15 seemed to be in the front line and he was the person 15:20
16 who pulled the lady from the river.

17 A. Yes, absolutely. Sergeant Monaghan was there and I am
18 sure he will be giving evidence on that.

19 555 Q. He described his colleague behind him holding onto him
20 and he was therefore also in danger? 15:21

21 A. Yes.

22 556 Q. You know, all this is unfolding, you're being critical
23 of his work. We have those incidents, there's four of
24 them, where you have sent back the files, quite clearly
25 he is responding in a very negative way and believes 15:21
26 that in some way he is being harassed. I am just
27 asking you, when this arose at a PAF meeting, you saw
28 that he was involved in saving a drowning lady, did you
29 think that this might, as it were, break the ice

1 between the two of you and it might be a good idea to
2 go to him and congratulate him on the work that he had
3 undertaken?

4 A. I would have no difficulty doing that. I had no
5 animosity towards Garda Keogh in any way. I am 15:21
6 professional and, you know, I am officer now for a
7 number of years and I adopt a professional approach in
8 all my dealings with staff. I have always done that.
9 Garda Keogh wasn't around during the daytime when I'd
10 be there. He worked mostly at nighttime. It was 15:21
11 difficult to meet him. I didn't see him around the
12 station. If I had have, I would certainly have said
13 hello to him at any time that I could. But I don't
14 recall meeting him very much during the day.

15 557 Q. Okay. we will move on swiftly to issue number 10 then. 15:22
16 This is denial, cancellation of annual leave. If we
17 could have 131 up on the screen, please. This is Garda
18 Keogh's position in relation to this. If we scroll
19 down to paragraph 10. He says:

20 15:22
21 "I applied to cancel an annual leave day, namely 31st
22 August 2014, for the purpose of attend ago GSOC
23 appointment on that date under the Protected Disclosure
24 Act. My line manager, Sergeant Monaghan, approved my
25 request. Superintendent Pat Murray, who was aware of 15:22
26 the confidentiality of GSOC communications with
27 members, countermanded this approval, citing 'absence
28 or proper explanation' (my emphasis) in circumstances
29 where I could not provide any more specific explanation

1 given the confidential nature of the GSOC disclosures."

2
3 Then at page 58 of the material, at line 835, if we can
4 scroll down to that. This is what he said to the
5 Tribunal investigators:

15:23

6
7 "They knew I was going to meet GSOC. But
8 Superintendent Murray was looking for a comprehensive
9 report of what I was going to meet GSOC about. The
10 protected disclosures process is supposed to be
11 protected and confidential. The Garda Commissioner
12 O'Sullivan was saying publicly she supported
13 whistleblowers but I feel Superintendent Murray was
14 looking to ascertain confidential information about my
15 meeting with GSOC. I felt that I had given an
16 explanation and I did not feel I needed to give further
17 explanation than I had already set out, namely that I
18 had to meet GSOC. The superintendent would have been
19 aware that there were no papers served on me GSOC in
20 relation to any other work related investigation and
21 that I was not a witness to any investigation being
22 conducted by GSOC, as this paperwork always is dealt
23 with through the ranks. As I have said, I believe
24 Superintendent Murray was aware that this meeting with
25 GSOC related to my protected disclosure and given the
26 protections in that legislation, I felt that I outlined
27 as much as I could in my initial explanation in
28 writing."

15:23

15:24

15:24

15:24

1 If we just briefly look at that before we look at the
2 allegations contained in that. This is a letter
3 written by Sergeant Keogh dated the 1st September.
4 Garda Keogh, sorry, dated 1st September, at 9209 of the
5 material. It's addressed to Sergeant Monaghan re 15:25
6 annual leave 31st August 2015. Garda Keogh Nick Keogh:

7
8 "With reference to above, I took annual leave on the
9 31st August, however I was required to meet GSOC on
10 that day in Portlaoise and I requested to have the 15:25
11 annual leave cancelled for that day, Monday 31st August
12 2015. Forwarded for your consideration, please."

13
14 You will note there that there's a note at the bottom,
15 under Garda Keogh's signature: 15:26

16
17 "Application approved."

18
19 On the 2nd September by Detective Sergeant Monaghan,
20 isn't that right? 15:26

21 A. Sergeant Monaghan, yes.

22 558 Q. Yes. Or Sergeant Monaghan, I beg your pardon. If we
23 look at chapter 11 of the Garda Code. If we turn to
24 page 7943, please. If we scroll down to 11.3, at the
25 bottom of the page. This is: 15:26

26
27 "Granting of annual leave."

28
29 Then if we scroll over to 7944, at the top of the page:

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"2. Applications for annual leave submitted by members of garda rank may be granted by the sergeant in charge of the stations, units and sections."

A. Yes. 15:27

559 Q. Now, I think it's silent in relation to the withdrawal of annual leave or the cancellation of annual leave. Presumably it covers that situation, is that right?

A. That instruction was superseded by the Westmanstown Agreement, it's in Volume 48, at page 13488. 15:27

560 Q. Can we have that up on the screen?

A. 13488. I think it's at 4.3 and 4.5. Basically it changed to that. It said all annual leave and anything to do with annual leave became the obligation of the superintendent. 15:28

561 Q. So that's been amended then?

A. I think since the roster has changed in 2012, all applications for annual leave or anything to do with annual leave came to me when I was the superintendent in every station I was in, including Athlone. 15:28

562 Q. Which section do you say it is?

A. I have it recorded here as 4.3 and 4.4.

563 Q. 4.3, the Westmanstown rosters will endeavour to best manage --

CHAIRMAN: That's not the one. Scroll down the other way, please, sorry, I think we will have a better chance. Keep going. We can have a look at that. 15:29

A. Yes, I'm sorry now.

564 Q. CHAIRMAN: No, no, no. As far as you're concerned, you

1 say you believe that this scheme superseded the
2 existing one.

3 A. Yes.

4 565 Q. CHAIRMAN: So that all decisions concerning leave were
5 a matter for the superintendent? 15:29

6 A. Yes, and that's how it ended up with me.

7 566 Q. CHAIRMAN: I follow.

8 A. Okay.

9 CHAIRMAN: So you think it was a matter for the
10 superintendent. Okay. 15:29

11 MR. MÍCHEÁL O' HIGGINS: Sorry, Chairperson, if I may be
12 of assistance.

13 CHAIRMAN: Thanks very much, Mr. O'Higgins, yes.

14 MR. MÍCHEÁL O' HIGGINS: It may be of assistance,
15 paragraph 8.3. 15:29

16 CHAIRMAN: 8.3. Thank you very much. 8.3. That's
17 very good. We will try not get dizzy when we go there.
18 Very good.

19 A. There is a mention at 8.5 as well.

20 CHAIRMAN: 8.3 and 8.5. All right, thank you very
21 much. Okay, Mr. Marrinan, off we go. 15:30

22 567 Q. MR. MARRINAN: Yes. Sergeant Monaghan mustn't have
23 been aware of that in approving it, had no power to
24 approve it?

25 A. All annual leave applications came to me on forms and I
26 had to countersign them. The sergeant would make a
27 recommendation rather than approve it. I'd say he
28 simply made a mistake. 15:30

29 568 Q. CHAIRMAN: So Garda Keogh had annual leave for this

1 particular day?

2 A. Yeah, he been granted annual leave.

3 569 Q. CHAIRMAN: Now it turns out that he has an appointment
4 with GSOC?

5 A. Yes. 15:30

6 570 Q. CHAIRMAN: So he wants to undo the leave?

7 A. Yes.

8 571 Q. CHAIRMAN: So as to be still on duty and going to GSOC?

9 A. Yes.

10 572 Q. CHAIRMAN: That's essentially what was involved here, 15:30
11 okay.

12 A. Yes.

13 573 Q. CHAIRMAN: So he wants to undo the annual leave?

14 A. Yes.

15 574 Q. CHAIRMAN: Okay. 15:31

16 A. And take it again, as it were, and allow the day to be
17 duty.

18 575 Q. CHAIRMAN: Save it up for another occasion, exactly,
19 yes.

20 A. Yes. 15:31

21 576 Q. MR. MARRINAN: So we note from that same, 9209, you
22 have written at the top of it "application refused in
23 the absence" can you read that?

24 A. "In the absence of any proper explanation".

25 577 Q. So just tell us, why did you refuse it? 15:31

26 A. I met Garda Keogh on the 30th August, the night before
27 he wanted to cancel annual leave. We had a discussion
28 and I was serving documents on him for Superintendent
29 Alan Murray in Mullingar. He made no mention of that,

1 to have the leave cancelled the next day. when I got
2 the application, it came to me retrospectively, I just
3 couldn't marry that up, that, you know, why he didn't
4 mention it to me. And I felt that the couple of lines
5 wrote were vague in nature anyway. And all I wanted 15:32
6 was to have some sort of process where I could stand
7 over to cancel his annual leave. I suppose go a little
8 bit further than what he has there.

9 578 Q. were you looking for some evidence that he had that
10 particular appointment? 15:32

11 A. No, absolutely not. I had no interest in what his
12 appointment was about.

13 579 Q. No, I am not asking you were you interested in what the
14 appointment was about?

15 A. Sorry. 15:32

16 580 Q. were you doubting that he did have the appointment at
17 all?

18 A. I didn't -- I simply didn't know. Like, this is just a
19 retrospective application. It hadn't been mentioned to
20 me the night before, so I simply was looking for a 15:32
21 little bit more information. He needn't have mentioned
22 GSOC at all. He could have put some other excuse on it
23 and it still wouldn't matter, I'd still have looked for
24 more information, you know.

25 581 Q. what sort of information were you looking for? 15:33

26 A. well, all I wanted was to say what times he was at the
27 meeting at, to allow me to grant him the full day or a
28 half day or how many hours would it be. so I could
29 have a proper account and governance measure auditable

1 in relation to annual leave, the westmanstown roster at
2 8.5 indicating that I had to record annual leave and
3 account for it.

4 582 Q. I understood you to say that part of this was because
5 you had met him on the 30th August? 15:33

6 A. Yes.

7 583 Q. And he hadn't --

8 A. He didn't mention anything to me.

9 584 Q. He didn't mention anything about a meeting?

10 A. No. 15:33

11 585 Q. That to my mind calls into question, was there a
12 meeting at all?

13 A. Well --

14 586 Q. Because he didn't mention it to me. Do you understand?

15 A. No, I've never taken Garda Keogh at anything other than 15:33
16 his word. But I found it strange that he didn't
17 mention it the night before.

18 587 Q. What was strange about that?

19 A. Because he was looking to make a retrospective
20 application then a number of days later to cancel 15:34
21 leave, when he had an opportunity to mention it to me
22 the night before.

23 588 Q. So you weren't questioning that he had the appointment
24 and you weren't looking for proof that he was going to
25 meet with GSOC? 15:34

26 A. No. Like I would take him at his word if he said he
27 was going to meet GSOC, or he said he was going to a
28 doctor's appointment.

29 589 Q. All right. So what were you looking for then?

1 A. Like I was anxious to know -- a full day's annual leave
2 is 10 hours.

3 590 Q. Yes.

4 A. So how much of that did it take, the meeting. Like,
5 would it be a halfway that he would be cancelling or a 15:34
6 full day.

7 591 Q. That would be a simple question for Sergeant Monaghan
8 to go back and say: Is this cancellation in relation
9 to a half day or a full day or what time is the
10 appointment at? 15:35

11 A. Yes. But I felt that Garda Keogh, who was making the
12 application, should put forward his case and I'd have
13 no difficulty granting it. And I left the door open to
14 him to do that.

15 592 Q. His reaction is fairly negative towards this. If we 15:35
16 look at page 9208, this is his sergeant writing to him,
17 this appears to be the 19th September, I think it is?

18 A. Yes.

19 593 Q. Is the date on the left, it's stamped. It's headed:

20 "Application for cancellation of days leave. 15:35
21

22
23 With reference to the above, Superintendent Murray has
24 refused the cancellation of this days leave in the
25 absence of proper explanation. If you still wish to 15:36
26 have this day considered for cancellation, can you
27 forward a comprehensive report as to the reasons and
28 attach same to your D9 and resubmit. "
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work.
596 Q. "Application to cancel leave for Garda Keogh, who explained he was meeting with GSOC in Portlaoise. Returned, refused in absence of proper explanation."

15:38

In any event, he didn't pursue the matter then, isn't that right?

A. Yes.

597 Q. And the matter died a death at that stage. We now move on from that, is there anything else you wish to say in relation to that? Were you in any way attempting, as Garda Keogh suggests, to pry into his dealings with GSOC?

15:38

A. No. I had no information or knowledge about its investigation. It wasn't of concern to me. That was being dealt with somewhere else for him. I had to try and dealt with him in the workplace in terms of him presenting for work fit, as a resource to me, and to be on the team during periods he was fit and then he had intermittent absences then with work related stress. But certificates were indicating that he was fit for work on particular days. And that's the situation, that I had.

15:39

15:39

598 Q. And can we sign off on this on the basis that your only concern at the time was whether it was a half day or a full day?

15:39

A. Yeah, I just wanted to account for it in a proper fashion, in keeping what I felt were my responsibilities. I was subject to audit myself, you

1 know, annually by the assistant commissioner, and
2 biannually by the chief superintendent. I had an audit
3 during my tenure in Athlone. These things are looked
4 at and I needed to keep proper governance in the
5 monitoring and control of annual leave, because again 15:40
6 it's about resourcing issues and it's about public
7 money, it's about providing a service.

8 599 Q. Okay, we will move on then to issue 11, which concerns
9 Garda Keogh's confinement to indoor duties. If we can
10 look at page 153 of the materials, please, Mr. Barnes, 15:40
11 top of the page there, paragraph 13. He says:

12
13 "I was reduced to indoor duty and was confined to desk
14 bound duties in the public office, carrying out
15 therefore the most stressful job in the station, in 15:41
16 circumstances where it was known to management that I
17 was suffering from work related stress. Thus, on 22nd
18 October 2015, Superintendent Pat Murray simply 'with
19 immediate effect' reduced me to indoor duties. There
20 was no analysis or right of representation. He said 15:41
21 that he will review the matter again on 1st November
22 2015."

23
24 He made an entry in his diary, which is at page 1334,
25 CHAIRMAN: Are you sure that is the right number, 15:42
26 Mr. Marrinan? I thought Garda Keogh's diaries were
27 five digits, no?

28 MR. MARRINAN: 13334.

29 CHAIRMAN: 13334. Okay, here we are. Thank you very

1 much. Sorry, my mistake.

2 600 Q. MR. MARRINAN: we see here an entry that he has:

3

4 "Sergeant Monaghan said Superintendent Murray looking

5 to speak with me. Gave me appeals sheet re €300 15:42

6 discipline. Said he was having a case conference re

7 sick and putting me permanent in the public office."

8

9 Then in brackets he has:

10

11 "I never looked at him."

12

13 Then he refers to another member, further down:

14

15 "... has moved back into uniform re his investigation 15:43

16 he is to work off unit C."

17

18 which is the same unit as Garda Keogh. Could you just

19 deal with this aspect of it. At this time Garda A had

20 been suspended, isn't that right? 15:43

21 A. Yes.

22 601 Q. Garda Keogh refers to the fact that the other member

23 that he has mentioned there was somebody who he was

24 concerned about, and you were aware of that?

25 A. Yes. 15:43

26 602 Q. Do you know who he is talking to in that regard?

27 A. I do.

28 603 Q. Yes.

29 A. He mentioned the name to me on the 15th July.

1 604 Q. It's the same person that he mentioned to you on the
2 15th July?
3 A. Yes, I think so, yeah.

4 605 Q. Was there any intention at that time by moving that
5 guard back into uniform and putting him on unit C, to 15:43
6 some way target Garda Keogh?
7 A. No. That guard, it came up yesterday, he was one of
8 the people that I gave a regulation 10 to as a result
9 of an audit I had carried out by the National
10 Immigration Bureau. My responsibility as district 15:44
11 officer meant that I was also immigration officer. The
12 outcome of that audit wasn't favourable. So I
13 restructured the entire workings of the immigration
14 section. I suppose it's at page 2123. I think it
15 would be important to have a look at that. That gives 15:44
16 an indication of -- that that member had always worked
17 on unit C and it gives an indication of the extent I
18 went to restructure the immigration services, to take
19 account of the failings in the audit and to have more
20 governance and accountability in that area. That meant 15:45
21 that this particular member was working more with unit
22 C. There was no intention in any way to get at Garda
23 Keogh by doing that. It was a simple measure that I
24 felt I had to introduce.

25 606 Q. Is there any more you would like to say about that? 15:45
26 A. No. I just think it's important that the document -- I
27 think speaks for itself and it goes into detail as to
28 how the system would work. It's not directed at Garda
29 Keogh in any way. It's simply a response to failings

1 that I had uncovered.

2 607 Q. Now, if we could just deal with two diary entries that
3 you have. Obviously there's the one for the 22nd
4 October but I think we should just briefly refer back
5 to the one of the 30th August, which is at page 2246 of 15:45
6 the material. This is your meeting on the evening at
7 nine o'clock, that we have already opened, but simply
8 to highlight a matter there. On the fifth line from
9 the end, you say:

10 15:46

11 "I asked him if events were impacting on his work and
12 said if he continued as at present I would have to
13 consider reducing the risk he posed by taking him off
14 outdoor duty."

15 15:46

16 Isn't that right?

17 A. Yes.

18 608 Q. So you were of the view when you put him in indoor
19 duties on 22nd October 2015 that you had already
20 advised him that this might happen? 15:46

21 A. I had spoken to him, yes, and I made him aware of, I
22 suppose, the issues as I saw them from where I was
23 sitting. I understand he had a completely different
24 perspective.

25 609 Q. You have a note here: 15:47

26

27 "Met Garda Keogh in my office."

28

29 At your request, you were serving the 1A14 papers from

1 the chief, which we opened earlier on in relation to
2 the result of the disciplinary inquiry.

3 A. Yes.

4 610 Q. He acknowledged that. You have a note saying that you
5 noticed his hands shaking a lot, to say that he 15:47
6 couldn't properly write his signature. would you just
7 describe that to us.

8 A. So, I suppose, I met Garda Keogh for no other purpose
9 other than to serve the documents on him in a
10 confidential way from the chief superintendent. I 15:47
11 think while engaging with him in that process, I
12 noticed that he didn't seem well to me. I felt on
13 having to sign an acknowledgment further, I remember
14 having to hold the page so as he could sign and his
15 hands were, to me, visibly shaking doing that. And he 15:48
16 just didn't seem as if he could focus on what I was
17 saying. And he didn't seem to be able to do that and
18 he just seemed a bit disorientated to me and I just
19 felt that he wasn't well. And I asked him about that.

20 611 Q. Did you think that he was drunk? 15:48

21 A. No, no. No, absolutely not. No. No, there was no
22 suggestion there was alcohol involved.

23 612 Q. You suggest that his signature at the end there, and we
24 can see it at 2259, that his signature in some way
25 would reflect that he had difficulty writing his name? 15:48

26 A. Yeah.

27 613 Q. If we look just at random and other signatures of Garda
28 Keogh. Perhaps we will look at 216. Just scroll down.
29 There's his signature there. And maybe at 8830.

1 Again, his signature is there. There doesn't seem to
2 be any great variation, if we go back to 2259?

3 A. Yes. I am just telling it as I saw it. I had to hold
4 the page and I remember asking him to take your time,
5 you know. I didn't intend dealing with the member in 15:49
6 that way. That wasn't the purpose of the meeting.
7 Just, when I saw what I saw, I felt concern for him. I
8 asked him was he well enough to be in work and he said
9 he was.

10 614 Q. You then explained to him that you felt there was a 15:50
11 risk of having him to go to incidents as he was having
12 around to follow them up; is that right?

13 A. Yes.

14 615 Q. Were there any incidents that arose that that became an
15 issue? 15:50

16 A. Like, I can't recall, but there were some incidents on
17 the PAF lists with Sergeant Monaghan that we had spoken
18 about a couple of days earlier, where there had been an
19 inability to move some of them on, relating to Garda
20 Keogh. 15:50

21 616 Q. There are no notes of that PAF meeting?

22 A. No, absolutely not, no.

23 617 Q. I think the Tribunal wrote asking for them.

24 A. Yes.

25 618 Q. Do you recall what was discussed when this issue arose? 15:50

26 A. I can't now. I made that note at the time on the 22nd,
27 it was fresh in my mind, having only met Sergeant
28 Monaghan for a Monday PAF review on the 19th.

29 619 Q. Then you say:

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"I pointed out the incidents were not dealt with properly, which I had written on."

Those are the four incidents that we have gone through today? 15:51

A. Yes.

620 Q. Then you say other items, which we are not able to identify, on Sergeant Monaghan's PAF list, which weren't progressed. You say he has no reason or excuse for that? 15:51

A. No, he didn't seem to be able to engage with me.

621 Q. Then you explained to him as per your earlier conversation, you reminded him of that conversation, did you? 15:51

A. Yes.

622 Q. And that he was to be put on indoor duty, is that right?

A. Yes.

623 Q. That was because you stated "I felt there was a risk involved to the public and/or our organisation"? 15:52

A. Yes.

624 Q. What risk was posed?

A. I suppose, if I was meeting members of the public in the condition I found him in, I didn't feel it to be good. He seemed completely detached from being able to engage with me. That's what I found. 15:52

625 Q. Would he not be exposed to the public in the public office?

1 A. Absolutely. But I suppose I was hoping that that would
2 encourage him to come to work, I suppose, in a proper
3 way and fit for work. You know, the supports he'd have
4 there would ensure that the risk would be minimised.
5 The options I had to putting him indoors were quite 15:52
6 limited. I didn't have a suite of jobs that I could
7 assign to him indoors. That option wasn't available to
8 me. So I was limited. I tried to do the best I could
9 in the circumstances that I found.

10 626 Q. You see, he alleges this is a form of targeting. But I 15:52
11 mean, the four incidents that we have looked at and we
12 have gone over them and I don't intend to rehash them,
13 but one concerned the manner in which statements were
14 taken. Then the other incidents, Garda Keogh seems to
15 have been involved in reasonable police work? 15:53

16 A. Yes, but I knew that his colleagues were supporting him
17 on the unit and talking -- Sergeant Monaghan was giving
18 him great support at that time, as were his fellow
19 colleagues, in trying to ensure that he wasn't getting
20 into difficulty with things. 15:53

21 627 Q. We will come to it, not today, but tomorrow, when we
22 are dealing with the issue of commendations, it should
23 be a relatively brief matter but just to deal with it
24 now, I mean, we have a transcript of a call to the
25 Pulse centre -- 15:53

26 A. Yes.

27 628 Q. -- in relation to the robbery of the taxi driver?

28 A. Yes.

29 629 Q. Where Garda Keogh is interacting and giving all the

1 details in relation to the offence and sets out -- he
2 seemed to be on top of the case at that stage, at a
3 very early stage. There doesn't appear to be any
4 evidence forthcoming that he wasn't performing his
5 duties on the ground appropriately. Where would you 15:54
6 identify that you thought that -- other than the
7 incident in relation to the taking of the statements
8 and whether or not that was best practice, what other
9 issue have you identified that would suggest that Garda
10 Keogh was unable to perform his tasks? 15:54

11 A. The haphazard nature which he was in and out of work
12 had to have an effect on him.

13 630 Q. Yes.

14 A. And it did have an effect on his ability to carry out
15 his work properly. And I can understand that 15:54
16 completely.

17 631 Q. How did that manifest itself, do you believe?

18 A. In, I suppose, the way incidents were being dealt with
19 in a less timely fashion and that was, I suppose,
20 coming across to me from Sergeant Monaghan as I 15:55
21 monitored the PAF list. I suppose I felt that alcohol
22 was an issue. While I didn't notice any alcohol on
23 this day in question, he just didn't seem with it to
24 me. He didn't seem to be able to engage with me.

25 632 Q. Did you notice alcohol being present on any day in 15:55
26 question?

27 A. No, I never did, no. But I only met him four times.

28 633 Q. Did anybody report to you, did Sergeant Baker express
29 any concerns --

1 A. No.

2 634 Q. -- as the sergeant in charge?

3 A. No. No, there was never any indication that alcohol
4 was an issue.

5 635 Q. Did Detective Sergeant Curley or any of the other 15:55
6 guards express any concern to you that Garda Keogh
7 might be misbehaving on duty or be drunk on duty?

8 A. No.

9 636 Q. Just something I asked you about earlier on, and this
10 is at page 691 of material, which is a statement from 15:55
11 Inspector Minnock. If we scroll down to the bottom
12 line there of that statement:
13

14 "Superintendent Murray consulted with me regarding his
15 decision to detail Garda Keogh to indoor duties." 15:56
16

17 when did that consultation take place?

18 A. After I made the decision. So after I did this, I
19 consulted with him. This was something that occurred,
20 it was unexpected to me, I hadn't expected to find 15:56
21 Garda Keogh in the condition I did, and I felt I had to
22 take action.

23 637 Q. "The decision was reached following recent interactions
24 between Chief Superintendent Murray and Garda Keogh."
25 15:56
26 what's that a reference to?

27 A. I don't know.

28 638 Q. "And also a recent dealing that Garda Keogh had with a
29 member of the public."

1 A. I don't know what that's about.

2 639 Q. "In this instance, Garda Keogh asked the person,
3 injured party or witness to write their own statement."
4 A. Okay.

5 640 Q. "This would not be normal practice and in my view not 15:57
6 best practice."
7
8 Of course this goes back to July.
9
10 "Chief Superintendent Murray outlined to me that he had 15:57
11 noticed a significant shake in Garda Keogh's hand and
12 this was possibly related to his recent absenteeism and
13 could also have been why Garda Keogh had asked the
14 person to write their own statement."
15 15:57
16 Okay? So remember I was asking about that.

17 A. Yes.

18 641 Q. Whether that was something that was in your mind?
19 A. Yes.

20 642 Q. That Garda Keogh may not have written out the 15:57
21 statements at the time because he was intoxicated?
22 A. Yes.

23 643 Q. And unable to do so.
24 A. I don't recall having that conversation with
25 Superintendent Minnock, you know, about that. I know I 15:58
26 did go to him, I haven't a note myself of what we
27 discussed but I went to him immediately after Garda
28 Keogh left, to explain to him what had happened. And I
29 wanted to ensure that Garda Keogh wouldn't be on

1 outdoor duty after that.

2 644 Q. Would you agree with Garda Keogh's contention that
3 indoor duties and working in the public office in
4 particular can be very stressful?

5 A. There are many stresses with being a member of An Garda 15:58
6 Síochána, but I suppose in the hierarchy, being outside
7 on duty and the uncertainty of what one is going to
8 come across, is normally more stressful for most people
9 than being indoors and having the support of someone
10 available to you and dealing with, I suppose, what 15:59
11 might be telephone calls and callers to the counter and
12 referring them on to someone else or perhaps sending a
13 car to the issue they had phoned in about or called
14 about. And as I said, I didn't have a huge amount of
15 options open to me and I felt that that option would be 15:59
16 good for Garda Keogh, he would be in a secure
17 environment, he'd have support there. It would give
18 him time to, I suppose, deal with whatever paperwork
19 had manifested itself in our meeting on 19/10. And,
20 you know, I phoned the sick absence section, the Human 15:59
21 Resources section that day to see if I could expedite
22 the CMO conference in some shape or form. I think they
23 have a record of that in their papers here, page 11722.

24 645 Q. Do you want that brought up?

25 A. No, I am just making just a reference. So like, I took 16:00
26 action after noticing what I noticed. I made a phone
27 call to say, look it, you know, I need this conference
28 to take place. Garda Keogh needs some help and he
29 needs to deal with the problems he's having.

1 646 Q. You then wrote to the chief superintendent advising
2 her. This is at page 2260. In the second paragraph:
3
4 "The member's hands were shaking quite a lot while I
5 spoke to him, to an extent that he could hardly write. 16:00
6 As a result of that and other issues regarding work
7 performance, I informed Garda Keogh he would be
8 employed on indoor duties at present with a review date
9 of 1st November 2015. The member acknowledged
10 acceptance of my decision. I have recently been in 16:01
11 contact with the sickness section regarding a case
12 conference in relation to Garda Keogh."
13
14 That's on the 22nd October, isn't that right?
15 A. Yes. 16:01
16 647 Q. Your direction in relation to this is at page 2261.
17 It's addressed to the sergeant in charge, Athlone, and
18 also the unit sergeant of unit C. That was Sergeant
19 Haran, is that right, at that time?
20 A. Unit C, I would imagine Monaghan. 16:01
21 648 Q. Monaghan?
22 A. Yes.
23 649 Q. But I think that Sergeant Haran may have been standing
24 in, I am not sure. But you didn't consult Sergeant
25 Haran in relation to -- 16:01
26 A. I didn't consult anybody, because I was presented with
27 a situation and I made a decision on the spot, as it
28 were.
29 650 Q. Again, that's up on the screen, it's dated the 22nd

1 October.
2
3 "With immediate effect, Garda Keogh should be detailed
4 for indoor duties with unit C.

16:02

5
6 I have spoken with the member on this issue. I will
7 review the matter again on the 1st November.

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9 Please inform all concerned and arrange accordingly."

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16:02

And Garda Keogh's position in relation to that is that this was another incident he alleges of targeting and it was effectively broadcasting to all the members by placing him in the public office, that people who were in his position of whistleblowers wouldn't be tolerated, that's effectively --

16:02

A. I deny that utterly. That absolutely was not my intention. I have nothing but support for anyone who reports wrongdoing, and my history will show that. Indeed, I've had to arrest a sergeant and two members at garda rank, one twice, in addition to directing the arrest of two other Garda members for wrongdoing. I have a history of supporting the outing of wrongdoing and dealing with it in an effective manner.

16:02

CHAIRMAN: Are you nearly finished on this issue, Mr. Murrinan.

16:03

MR. MARRINAN: Yes, I have just two more questions.

CHAIRMAN: Thank you very much.

651 Q. MR. MARRINAN: I think just for completeness sake,

1 there is another reference to this in your notes, it's
2 at page 2500. I think these were notes before you went
3 to see the chief medical officer on 9th December 2015.
4 And we see there:
5
6 "Si ckness and TRR, car tax."
7
8 That was one of the issues in relation to Garda Keogh.
9 The regulation 10 that arose in relation to that, that
10 he was absent without leave between 11th to 14th. Then 16:03
11 there is a reference to intel and Pulse created, that's
12 before your time, isn't that right?
13 A. Before my time, yeah.
14 652 Q. Then there is a reference to the incident that we
15 talked about today, the theft of the trailer? 16:04
16 A. Yes.
17 653 Q. And then the crime files 14/07?
18 A. Yes.
19 654 Q. Injured party wrote their own statement. Then you deal
20 with a robbery on the 21/9, which we've discussed. And 16:04
21 then, on the 22nd October, shaking hands and indoor
22 duty. Then we will come to deal briefly with an
23 incident on the 28th October, Tullamore, and you have
24 written "paranoia" there?
25 A. Yes. 16:04
26 CHAIRMAN: "Re other members".
27 A. "Re other members" yes.
28 655 Q. MR. MARRINAN: And then "alcohol sickness, shaking,
29 etcetera". And we will come to deal with that meeting

1 in due course.

2 CHAIRMAN: That's unrelated to this issue.

3 MR. MARRINAN: Yes.

4 WITNESS: One final thing, Chairman, if I could. You
5 know, in trying to support Garda Keogh, even though he 16:05
6 was indoors, I tried to accommodate him in taking part
7 of the arrest phase of the trailer case and made
8 arrangements that he would be accompanied by another
9 member to take part in the arrest and unfortunately he,
10 I suppose, didn't attend to that because of a drinking 16:05
11 issue that he had on that particular day. That was on
12 the 18th November.

13 CHAIRMAN: In the trailer case, yes.

14 WITNESS: Just for completeness.

15 CHAIRMAN: I understand. Thanks very much, chief 16:06
16 superintendent. We will call a halt there. I should
17 have mentioned to you that these are long and detailed
18 sessions, so if you find that you need a break at some
19 point or you just want to clear your head or you want
20 to refresh your memory, just mention it to me. I 16:06
21 should have mentioned that earlier.

22 WITNESS: Thank you, Chairman.

23 CHAIRMAN: I am just conscious that I think that for
24 all of us it's quite a heavy session to proceed from
25 10:30 to 4 o'clock. So, please bear that in mind. 16:06
26 WITNESS: Chairman, I appreciate that.

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CHAIRMAN: If you need it, okay. All right. Thank you very much.

THE HEARING THEN ADJOURN UNTIL WEDNESDAY, 4TH DECEMBER 2019, AT 10:30AM

16:06

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