

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

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1921, ON 17 FEBRUARY 2017, AS AMENDED ON 7 DECEMBER 2018

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

HELD IN DUBLIN CASTLE
ON TUESDAY, 21ST JANUARY 2020 - DAY 128

128

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

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1 THE HEARING RESUMED, AS FOLLOWS, ON TUESDAY, 21ST
2 JANUARY 2020:

3
4 CHAIRMAN: Yes, good morning everybody. Good morning,
5 Mr. Murrinan. 10:29

6 MR. MURRINAN: Good morning, Chairman. The first
7 witness today is Sergeant Aidan Lyons, please.

8 CHAIRMAN: Yes. Thank you very much. Where is
9 Sergeant Lyons? Thanks very much.

10 MR. MURRINAN: His statement is to be found in volume 10:29
11 42 at page 11714, and also a supplemental statement in
12 volume 56, page 151708.

13
14 SERGEANT AIDAN LYONS, HAVING BEEN SWORN, WAS
15 DIRECTLY-EXAMINED BY MR. MURRINAN, AS FOLLOWS: 10:30

16
17 CHAIRMAN: Thanks. Good morning, Sergeant Lyons.

18 THE WITNESS: Good morning.

19 1 Q. MR. MURRINAN: Now, Sergeant Lyons, I think that you
20 are attached to Clara Garda station in Co. Offaly at 10:30
21 the present moment in time, is that right?

22 A. That's correct, Chairman.

23 2 Q. Could you just give us a brief history of your time in
24 An Garda Síochána up until now?

25 A. Yeah. I was attested in December 1998. I was 10:30
26 initially assigned to Ashbourne Garda Station until
27 around June 2000, when I was transferred to Dundalk
28 Garda Station. In 2005 I moved to Delvin Garda station
29 in Co. Westmeath. Sorry, 2003 I moved to Delvin Garda

1 Station. In 2005 I transferred to Athlone Garda
2 Station. In 2006 I was assigned to a drugs unit, a
3 district drugs unit. I remained on that unit until
4 2012, when the drugs unit was -- there was a
5 restructure of the drugs unit in D/Branch and I was 10:31
6 assigned to the detective branch until early '16, when
7 I was promoted and I was transferred to Clara Garda
8 Station.

9 3 Q. Now, I think when you were attached to the drugs unit
10 in 2006 was one of your partners Garda A at that time? 10:31
11 A. That's correct.

12 4 Q. And did it include three additional members who were
13 also stationed in Athlone Garda Station, being Garda
14 Tom Judge, Garda Michael Ryan and Garda Sinéad Cuniffe?
15 A. That's correct. Sergeant Judge was stationed in 10:31
16 Mullingar I believe at the time, he was supervising the
17 unit, and Garda Cuniffe and Garda Ryan were gardaí
18 members on the unit.

19 5 Q. I think you first came into contact with Garda Keogh in
20 October of 2009 when he was transferred to Athlone from 10:32
21 Bray Garda Station?
22 A. That's correct.

23 6 Q. Now, did Garda Keogh, along with Garda Turner, replace
24 Garda Ryan and Garda Lucas, who were then on the drugs
25 unit? 10:32
26 A. That's correct.

27 7 Q. I think Garda Lucas had previously replaced a guard,
28 Garda Cuniffe; is that correct?
29 A. That's correct.

1 8 Q. I think your direct partner was Garda Turner, is that
2 so?
3 A. That is correct, yes.

4 9 Q. I think for approximately a six to 12-month period in
5 2010 you were also partnered to work with Garda Keogh 10:32
6 and Garda A; is that right?
7 A. Approximately six months after working with Garda
8 Turner I was partnered to work with Garda Keogh.

9 10 Q. All right, I am sorry, and Garda A was --
10 A. Garda A was partnered to work with Garda Turner. 10:33

11 11 Q. When was the drug unit expanded?
12 A. There was a restructuring of the drugs unit and
13 detective branch in Athlone in 2012, when exactly I am
14 not sure. At that time Garda A and I were assigned to
15 the detective branch. 10:33

16 12 Q. Did you partner with him at that time?
17 A. I did.

18 13 Q. For what period of time?
19 A. From that restructuring in 2005 until my promotion in
20 2016. 10:33

21 14 Q. In May of 2014 you were aware of the fact that a
22 disclosure had been made, a protected disclosure had
23 also been made public by Garda Keogh in relation to
24 alleged wrongdoing in Athlone Garda Station. Did you
25 become aware of that from the off, as it were? 10:34

26 A. I'd imagine that I was aware of it in the early days.

27 15 Q. Were you part of the group who were assembled for Garda
28 Keogh to speak to in his unit?
29 A. No.

1 16 Q. No?

2 A. At that time I was assigned to the detective branch, so

3 I wasn't connected to Garda Keogh's unit.

4 17 Q. Did that meeting filter out to other members by any

5 chance? 10:34

6 A. I wasn't aware of that meeting. I did become aware of

7 the protected disclosures in -- I don't know, days or a

8 week or two weeks after it. Not in any official

9 capacity, I just became aware of it. I think it was

10 generally known. 10:34

11 18 Q. And did you know that the protected disclosure

12 concerned Garda A?

13 A. Yes, I was aware of that.

14 19 Q. Did you discuss it at all with Garda A?

15 A. No, I didn't discuss it with Garda A. No, I don't 10:35

16 think I did.

17 20 Q. He was your partner, is that right?

18 A. He was my partner, yeah.

19 21 Q. And he was, to your knowledge, the subject-matter of a

20 protected disclosure that had been made by a colleague 10:35

21 in Athlone Garda Station. Did you not say anything to

22 him about it?

23 A. I have no recollection of a conversation with Garda A.

24 I suppose there's every chance I did have a

25 conversation with him, but I don't have a recollection 10:35

26 of discussing it with Garda A.

27 22 Q. One might have thought that it might be normal, to see

28 how he was?

29 A. It would be normal, it would be normal.

1 23 Q. But did you avoid having a conversation with him?
2 A. I didn't avoid having a conversation with him. But as
3 I said, I don't recall, I don't recall a specific time
4 or date where I had a conversation with him, but I
5 accept it would be a normal thing to do. 10:36

6 24 Q. Did he mention the matter to you?
7 A. He most likely did but again, I don't recall us having
8 a discussion about it.

9 25 Q. You know we were looking into Olivia O'Neill, who
10 called to Athlone Garda Station. Did you know anything 10:36
11 about that before the Liam McHugh incident that you are
12 here to give evidence in relation to?
13 A. I was aware of it at some stage, but whether I was
14 aware of it before the Liam McHugh incident, I don't
15 know. I can't say to be sure. 10:36

16 26 Q. Well then you had this interaction with Liam McHugh on
17 the 31st May, isn't that right?
18 A. That's correct.

19 27 Q. That was a Saturday evening?
20 A. Saturday, Saturday night. 10:37

21 28 Q. What time approximately?
22 A. It was approximately 9:00pm.

23 29 Q. Where did this meeting take place?
24 A. On Bastion Street, where Bastion Street meets I think
25 it's Connolly Street, not too far from the station. 10:37

26 30 Q. Will you just tell us a little bit about Liam McHugh?
27 A. Yeah, Liam McHugh would be -- I suppose you'd describe
28 him as -- he sells the Big Issue in Athlone, he is
29 someone who would always be on the streets of Athlone

1 selling the Big Issue. I suppose you would describe
2 him as maybe being on the fringes of criminality. He
3 is someone who would speak to the guards, he'd speak
4 to, you know, other persons, other members of maybe the
5 criminals in Athlone, he'd keep everyone close. 10:37

6 31 Q. would it be somebody that you would consider as being
7 reliable?

8 A. Not particularly, no. I wouldn't regard him now as
9 being a pillar of society. No, I wouldn't.

10 32 Q. when you met him, were you on duty at the time? 10:38

11 A. I was on duty.

12 33 Q. were you in uniform or were you in plain clothes?

13 A. I would have been in plain clothes.

14 34 Q. And were you driving a car or were you --

15 A. I was on foot. I believe I left the station to go to a 10:38
16 restaurant to get something to eat and I was returning
17 to the station when I met Mr. McHugh.

18 35 Q. when you say you met Mr. McHugh, you knew him
19 previously, did he know you previously?

20 A. we would have had. He would, yeah. 10:38

21 36 Q. Was that in an official capacity or was it just a
22 social capacity?

23 A. It wasn't a social capacity, but at the same time I
24 wouldn't have had any -- I don't think I had any
25 official dealings with him but everyone in Athlone 10:38
26 Garda Station would know Liam McHugh. If you left the
27 station, if you went out on the beat or went for a
28 walk, Liam McHugh, you would invariably bump into him,
29 you know, he'd want to talk, he'd want to chat.

1 37 Q. Was he sober and correct as far as you could see?
2 A. He seemed to be, yeah.
3 38 Q. Yes.
4 A. Yeah.
5 39 Q. So will you just tell us what conversation you had with 10:39
6 him?
7 A. Yeah, so I was returning to the station, it was around
8 9:00pm, I was crossing over Bastion Street, just to
9 enter onto Connolly Street, and I heard my name being
10 called from my right and it was Liam McHugh. He 10:39
11 crossed over the street to talk to me. He brought up
12 the general topic of whistleblowers. I think there was
13 something in the news at the time.
14 40 Q. Now you say the general topic of whistleblowers, could
15 you be a little bit more specific in relation to what 10:39
16 was discussed?
17 A. Well, I can't really. There was something in the news
18 at the time and he made reference to it. But what
19 exactly that was, I'm not sure. A general reference to
20 whistleblowers and what was going on in the media at 10:39
21 the time.
22 41 Q. Well, I am not entirely sure what that would actually
23 entail; a general reference to whistleblowers. I mean,
24 was he talking about it in the context in Athlone?
25 A. No. 10:40
26 42 Q. So he was talking about it in terms of generally, but
27 was he talking about it in relation to An Garda
28 Síochána?
29 A. He was.

1 43 Q. Yes?
2 A. He was, yeah.
3 44 Q. So it was whistleblowers within An Garda Síochána?
4 A. Yes, yes. He made some general reference to
5 whistleblowers and whatever was going on in the media 10:40
6 at that time.
7 45 Q. Was he saying this was a good thing or a bad thing?
8 A. I think the slant he was putting on it was it was a bad
9 thing, yeah, that's what I took from it. He informed
10 me that he had been recently approached by the bald 10:40
11 guard, who asked him if he could recall the day he had
12 been searched by three guards and that €800 had been
13 taken from him and spent in the bookmakers, casino and
14 the pub, Castle pub. The bald garda informed him that
15 if he wanted to make a complaint about that search that 10:41
16 he would back him up. I asked him if this search had
17 actually taken place, if it had actually taken place.
18 And he said no, not at all, I'm not going bringing
19 trouble on myself.
20 46 Q. What did you take him to mean by that? 10:41
21 A. The comment, no, not at all, I'm not going to bring
22 trouble on myself?
23 47 Q. Yes.
24 A. I took him to mean that -- I asked him -- I had asked
25 -- my question was, had this search taken place, and he 10:41
26 said, no, not at all. I took it to mean that this
27 search had never taken place.
28 48 Q. All right. So there was no doubt in your mind that
29 what was being communicated to you at that time was an

1 assertion by Liam McHugh that this incident had never
2 taken place, is that right?

3 A. That's what I took from it.

4 49 Q. You see, subsequently you were to a report in relation
5 to this? 10:42

6 A. That's correct.

7 50 Q. It may well be that the inclusion of those words, I
8 don't want to be bringing trouble on myself, could be
9 in some way seen as a rider on the previous sentence,
10 do you understand? 10:42

11 A. Yes.

12 51 Q. Insofar as it's saying, well, I'm just not going to
13 make a complaint about this but it's something that may
14 have happened. Do you understand what I mean?

15 A. I took it to mean that the search had never taken place 10:42
16 and he wasn't going bringing trouble on himself by
17 making a false report in relation to something happened
18 -- didn't happen.

19 52 Q. So your understanding of this conversation that you had
20 with him was -- did you take it that he was making some 10:42
21 sort of a complaint to you?

22 A. I took it that he was making me aware of issues that
23 were going on in the background.

24 53 Q. So what he was --

25 A. I got the impression from him, without him actually 10:43
26 saying so, that he was going to have -- he was having
27 this discussion with me, but he didn't intend it to be
28 an official complaint, no. But that's my reading of
29 the situation.

1 54 Q. Well, if you took it at the time that this was an
2 incident that had actually taken place, or you were
3 suspicious that maybe he was trying to communicate to
4 you that it had taken place but he didn't want to bring
5 trouble on himself by making a formal complaint and 10:43
6 involving himself with An Garda Síochána, I suppose you
7 would have gone on and asked him about the other three
8 members that he had referred to, isn't that right?
9 A. If that was my understanding of what he was trying to
10 convey, but it wasn't. 10:43
11 55 Q. But it's something that if you were suspicious that in
12 fact this incident had taken place, you'd have wanted
13 to know when it took place, for example, is that right?
14 A. That's correct.
15 56 Q. You'd have wanted to know whether the three guards were 10:44
16 in uniform or whether they were plain clothes guards?
17 A. Yes, and who they were.
18 57 Q. More than likely Liam McHugh would have known who the
19 guards were, because he was so familiar with the guards
20 in Athlone Garda Station, or he could have given you a 10:44
21 description in relation to them, isn't that right?
22 A. If he was alleging that it happened.
23 58 Q. So can we take it that the reason that you didn't ask
24 him the obvious questions in relation to it was because
25 you had excluded any possibility in your mind that what 10:44
26 Liam McHugh was saying to you was that this was an
27 incident that had never occurred, is that right?
28 A. That was my understanding. That's what I took from the
29 conversation.

1 59 Q. So in terms of what Liam MCHugh was in fact conveying
2 to you at that time, was that Garda Keogh had
3 effectively coached him into making a false complaint
4 against An Garda Síochána, is that right?

5 A. That was my belief.

10:45

6 60 Q. And that he, as a whistleblower, one of these people
7 that apparently Liam MCHugh didn't think highly of,
8 that in actual fact that he as a whistleblower had in
9 fact indicated to him that he would back him up in
10 this. I suppose the obvious question is, if this is
11 what he was telling you: what was in it for Liam
12 MCHugh?

10:45

13 A. I don't know. I got the impression from Liam MCHugh
14 that he wanted me to be aware of what was going on at
15 the time.

10:45

16 61 Q. But did you not ask him, well, why would he do that,
17 what's in it for you?

18 A. I didn't. Liam MCHugh, he told me -- we had the
19 conversation, it wasn't a long conversation, he told me
20 what he wanted to say. He didn't hang around. He
21 said, I'll leave it with you, or something to those --
22 words to those effect and he went on. To ask him any
23 further questions I would have had to, you know, ask
24 him to stay and to be quite honest with you, I would
25 have been happier if Liam MCHugh had approached any
26 other member. This put me in a very awkward situation,
27 in that I was partnered to work with Garda A, I had
28 been partnered with Garda Keogh. I didn't have an
29 issue with either member at the time. I listened to

10:45

10:46

1 what Liam McHugh had to tell me and I reported on that
2 conversation.

3 62 Q. well, I suppose the meaning that you took from what he
4 said to you was that he had been encouraged by Garda
5 Keogh to make a false complaint to An Garda Síochána, 10:46
6 which is in fact a criminal offence under the 1976
7 Criminal Law Act, isn't that right?

8 A. That's correct.

9 63 Q. So it was a serious matter?

10 A. Mm-hmm, a very serious matter. 10:47

11 64 Q. But it also potentially could impact on Garda Keogh and
12 his reputation, as it were, because this might suggest
13 and undermine his credibility as a witness in relation
14 to his protected disclosure, isn't that right?

15 A. Yes. 10:47

16 65 Q. And also it could impact quite substantially on Garda
17 A, because it might suggest that Garda Keogh was
18 putting people up to making a false complaint, isn't
19 that right?

20 A. That's correct. 10:47

21 66 Q. And I am just wondering how you dealt with those three
22 issues. First of all, the issue that gave rise to a
23 criminal offence and second of all, its obvious impact
24 on Garda Keogh's credibility and also the potential
25 lapse in justice that might be caused to Garda A if 10:48
26 this matter wasn't disclosed. Could you just help us
27 in relation to that?

28 A. I don't know if I thought it through in relation to
29 those three points specifically but it was very clear

1 to me that what I needed to do was report the matter,
2 report the facts of the matter and let my superiors
3 decide what action should be taken from there and, you
4 know, investigate the matter as they see fit.

5 67 Q. We will come to the reporting of it in a minute, 10:48
6 because you didn't immediately report it. We will come
7 to your conversation that you say in your supplemental
8 statement that you had with Detective Sergeant Curley.
9 But it wasn't until the Monday that you reported the
10 matter, on the 2nd June; isn't that right? 10:49

11 A. That's correct.

12 68 Q. But I am more concerned to understand, as it were, the
13 significance that you attributed to what had been
14 disclosed to you. I mean, did you think you should
15 attach any sort of credence to what had been said to 10:49
16 you by Liam McHugh?

17 A. I reported on the facts of the matter, which I am
18 trained to do, to gather the facts and report on the
19 facts. Obviously I had an opinion. I drew conclusions
20 from what he told me. But I reported on the facts of 10:49
21 what I had been told.

22 69 Q. And the conclusion that you drew, and you have said it
23 very firmly in your statement, was that what was being
24 suggested was that Garda Keogh had coached Liam McHugh?

25 A. That's what I took from it. That's what I believed. 10:49
26 Having spoken to Liam McHugh, when I walked away that
27 was my belief, from speaking with Liam McHugh. Now my
28 belief is primarily based on the way he presents
29 himself, the way -- his body language, his demeanour

1 when he spoke to me. He was very definite about what
2 he wanted to say. He looked me straight in the eye and
3 he told me what he wanted to tell me. I suppose it's
4 similar to dealing with a witness to a crime or a
5 suspect, they tell you a story, you might have no other 10:50
6 evidence to corroborate what they are saying, but
7 naturally, anyone would, you draw your own conclusions
8 from what you are being told. And from speaking to
9 Liam McHugh and from the way he presented to me when he
10 made his -- when we had this conversation, I believed 10:50
11 that he was telling me, it was the truth. That was my
12 belief.

13 70 Q. You believed that what he was telling you was true?

14 A. Mm-hmm.

15 71 Q. Right. So at that time a man who is on the fringes of 10:50
16 criminality, who is selling the Big Issue, not that
17 there is anything wrong with that, but he is on the
18 fringes, as you put it, of society, well known to An
19 Garda Síochána, and he says to you that a bald guard
20 told him to make up what is a false allegation against 10:51
21 three colleagues, and you were happy to accept that
22 what you were being told by him at that time was true
23 as against what you knew of Garda Keogh as being a
24 hard-working member of the drugs squad and also a
25 hard-working member of Athlone Garda Station; is that 10:51
26 what you are telling us?

27 A. Yes. As I said, when you have a conversation with
28 someone it's a natural thing to do, to draw your own
29 conclusions.

1 72 Q. But you didn't have any conversation with Garda Keogh.
2 A. That's correct.

3 73 Q. And are you telling us that you were happy to make the
4 judgment that what you were being told was true, purely
5 on the basis of the man's demeanour and that he looked 10:52
6 you in the eye? You see, the content of what he told
7 you, I have to suggest to you, on any reading, would be
8 a complete and utter load of nonsense. I mean, I am
9 trying to understand what it is about the story that
10 could possibly fit any given set of circumstances. I 10:52
11 mean, first of all the story involves Garda Keogh being
12 present when this incident took place, isn't that
13 right?

14 A. Garda Keogh having a conversation with Liam McHugh?

15 74 Q. No, Garda Keogh, this story that you accepted as being 10:52
16 true would mean that Garda Keogh -- I am just
17 suggesting to you, it seems like a load of nonsense --
18 A. What I am accepting is that when Liam McHugh told me he
19 had been approached by Garda Keogh and Garda Keogh had
20 put it to him that this search had taken place, that 10:53
21 Liam McHugh was asserting that it had never taken
22 place. I asked him had the search taken place, he said
23 no.

24 75 Q. No, we have gone way beyond that now, and we are at the
25 stage where we accept -- you're accepting that Liam 10:53
26 McHugh has told you the truth in relation to this. So
27 now we're --

28 CHAIRMAN: Sorry, Mr. Marrinan, there is confusion
29 here. He is saying he accepted the conversation with

1 Garda Keogh as reported by Liam McHugh. He is not
2 saying that the incident happened.

3 MR. MARRINAN: No.

4 CHAIRMAN: He is saying that his impression was that
5 McHugh was telling him a true story. 10:54

6 MR. MARRINAN: Yes.

7 CHAIRMAN: In other words, about the conversation with
8 Garda Keogh. There is some confusion in your questions
9 that hasn't made it absolutely clear.

10 MR. MARRINAN: I am sorry. 10:54

11 CHAIRMAN: As I see it.

12 76 Q. MR. MARRINAN: To be absolutely clear in relation to
13 this, I am not talking about the contents of the
14 allegation insofar as this is something that did occur,
15 but what I am talking about is the conversation that 10:54
16 you had with Liam McHugh and your acceptance of his
17 version of events; namely, that Garda Keogh had told
18 him to make a false complaint concerning three
19 guards --

20 A. Mm-hmm. 10:54

21 77 Q. -- in an incident where money was taken from Liam
22 McHugh and that Garda Keogh was present when this took
23 place. All right?

24 A. Mm-hmm.

25 78 Q. That's the position that we are in. 10:55

26 A. Yeah.

27 79 Q. Now, I am suggesting to you is that that on its face
28 seems like a load of nonsense, because, as we later
29 know from an interpretation of this by Chief

1 Superintendent Curran and others, there is a
2 possibility that Garda Keogh was actually involved in
3 the incident himself, is that right?

4 A. Well, I had a conversation with Liam McHugh, so.

5 80 Q. Would you just answer that question that I have asked 10:55
6 you?

7 A. Could you ask that question again, please?~

8 81 Q. It seems on the face of it, and I would like your
9 comment, as a load of nonsense, because on the basis of
10 what you were told Garda Keogh potentially was involved 10:55
11 in the incident himself, is that right?

12 A. Yeah.

13 82 Q. So I am saying that on the face of it what you were
14 being told by Liam McHugh really was nonsense, but at
15 the same time you're saying and telling the Chairman 10:56
16 that you accepted that this information had been
17 conveyed by Garda Keogh to Liam McHugh, is that right?

18 A. That's correct.

19 83 Q. Do you think in some way that that might --

20 A. I don't know, like, if Garda Keogh had convinced Liam 10:56
21 McHugh to come in and make the false report, the
22 details of the report, I don't know would it have been
23 a situation where -- this is all hypothetical of
24 course.

25 84 Q. Hm-hmm? 10:56

26 A. Would have been a situation where at the time Garda
27 Keogh thought it was a legal search and he thought that
28 the money was going to be processed or used as evidence
29 of whatever, money laundering or crime. And it was

1 only later that I found out that it hadn't been, you
2 know, it hadn't properly stored. I don't know. The
3 report was never made. So I don't know what the actual
4 detail of that report would have been if it was made.

5 85 Q. Okay. Now it's not your fault that this story got 10:57
6 legs, as it were, you know, and I think you're aware of
7 the fact that a different interpretation was put on
8 your report than you -- you're the person who made the
9 report. Did anybody ever come back to you in relation
10 to your report? 10:57

11 A. No.

12 86 Q. So in any event, you return to Athlone Garda Station.
13 Do you remember when you had a conversation with
14 Detective Sergeant Curley?

15 A. I can only say between the time of my conversation with 10:57
16 Liam McHugh and -- sometime between that and sending my
17 e-mail. Over those couple of days.

18 87 Q. We will just look at the e-mail that you sent in. It's
19 at page 522, please, up on the screen. You see, it was
20 sent by you to Sergeant Curley on 2nd June 2014 at 10:58
21 20:28. I think you had worked on the Sunday evening is
22 that -- on the Sunday; is that right?

23 A. That's correct.

24 88 Q. Yes. We have the station diary in relation to the
25 Sunday. I think that Garda A had also worked on the 10:59
26 Sunday, is that correct?

27 A. That's correct.

28 89 Q. Were you partnered with him on the Sunday?

29 A. I would have been.

1 90 Q. And did you mention what had happened to Garda A?
2 A. I didn't. I specifically didn't mention it to Garda A.
3 91 Q. All right. So what conversation did you have with
4 Detective Sergeant Curley?
5 A. I informed him of the conversation I'd had with Liam 10:59
6 McHugh. And I think I informed him that I was going to
7 report on the matter. Detective Sergeant Curley agreed
8 that was the correct course of action.
9 92 Q. Were you consulting with him or were you giving him
10 information? Were you consulting with him in relation 10:59
11 to whether or not you should send in a report in
12 relation to this?
13 A. No, I think my mind was made up that I needed to send a
14 report and I think Detective Sergeant Curley agreed. I
15 think there was agreement between both of us. 11:00
16 93 Q. Well then what were you consulting him about?
17 A. I wasn't consulting him, I informed him that I had this
18 conversation and I would send in my report. And he
19 agreed.
20 94 Q. In relation to your conversation with Sergeant Curley, 11:00
21 was it exactly as we have seen laid out in your report
22 or was it more along the lines of your evidence here
23 today, in relation to approaching this on the basis
24 that this was something that had been communicated to
25 Liam McHugh -- to you concerning Garda Keogh 11:00
26 encouraging somebody to make a false statement and that
27 you were inclined to accept what you were being told by
28 Liam McHugh?
29 A. I don't know. I don't know. I recall having the

1 conversation with Detective Sergeant Curley and
2 informing him of my interaction with Liam McHugh and
3 that I was going to send in, submit a report on it, and
4 he agreed.

5 95 Q. Detective Sergeant Curley is your unit sergeant, is 11:01
6 that right?

7 A. That's correct.

8 96 Q. I am sure you discuss a lot of things with him during
9 the course of your work, both formally and informally,
10 is that right? 11:01

11 A. That's correct.

12 97 Q. And here we are in a situation where not long
13 beforehand Garda Keogh had made a protected disclosure
14 and I am sure Athlone Garda Station were talking about
15 Garda Keogh and the protected disclosure. This 11:01
16 information that you were bringing to the table was
17 casting serious doubt over Garda Keogh's credibility,
18 wasn't it?

19 A. Yes, it was.

20 98 Q. Did you say that to Detective Sergeant Curley? 11:02

21 A. I don't recall saying it to him. It was a very short
22 conversation, a couple of minutes. I don't recall
23 specifically saying that to him.

24 99 Q. Why was it a short conversation. I mean this was a
25 very topical issue at the time? 11:02

26 A. My conversation with Liam McHugh, it wasn't a long
27 conversation, there wasn't a whole lot of detail in it.
28 I informed Detective Sergeant Curley of what I had been
29 told by Liam McHugh, and considering all that was going

1 on at that time, I knew that under any circumstances
2 there would be an onus for me to report the matter.

3 100 Q. Were you aware at the time, I asked you this before but
4 perhaps your memory has been jogged, were you aware of
5 the Olivia O'Neill incident? 11:03

6 A. I don't know when or how I became aware of that
7 incident.

8 101 Q. When you became aware of the incident, was the incident
9 similar to Liam McHugh in relation to the
10 interpretation that was being placed on it; namely, 11:03
11 that Garda Keogh was coaching a witness what to say?

12 A. Even to this day I wouldn't be overly familiar with the
13 Olivia O'Neill incident. It's not something I have
14 concerned myself with. If I was to speculate I'd say
15 that I learned of the general nature of that incident 11:03
16 or allegation sometime after this, but that's
17 speculation.

18 102 Q. Detective Sergeant Curley didn't say to you, oh, this
19 sounds like something that happened here two days ago?

20 A. No. I don't recall him saying that, I don't think he 11:03
21 did.

22 103 Q. All right. So if we go back to page 522 then, at 20:28
23 we see Liam McHugh and then:
24
25 "PID 105191." 11:04
26
27 That is not an incident number. You didn't put this on
28 Pulse?

29 A. No, I didn't put it on Pulse. I believe that's his own

1 personal identification number on the Pulse system.

2 104 Q. why didn't you put this incident on Pulse?

3 A. I have no particular answer for why I didn't put it on

4 Pulse. I reported on the matter and...

5 105 Q. On your own account, Liam McHugh had reported 11:04

6 potentially a crime to you and you were accepting his

7 credibility, would you not be obliged to put the matter

8 on Pulse on the Saturday evening?

9 A. Yeah, I suppose it's not your usual incident or

10 situation that you would encounter. I only -- I 11:05

11 considered it necessary to report on the matter. I

12 didn't consider Pulse at the time, wrongly or rightly I

13 didn't consider Pulse.

14 106 Q. Okay. Did you perhaps mention to Detective Sergeant

15 Curley that you hadn't put the matter on Pulse. 11:05

16 A. No.

17 107 Q. And seek any directions in relation to it?

18 A. No, I didn't. Pulse didn't come up.

19 108 Q. If we go through it:

20 11:05

21 "With reference to the above, I wish to report that on

22 31st May 2014 at approximately 9:00pm I was approached

23 by Liam McHugh on Bastion Street, Athlone.

24

25 Mr. McHugh brought up the general topic of 11:05

26 whistleblowers and we had a general conversation for a

27 few minutes during which he informed me as follows. "

28

29 Then you quote him. That quotation that you have

1 there, did you take a note of what --

2 A. I didn't take a note.

3 109 Q. -- you had been told by Mr. McHugh on the night of the
4 31st?

5 A. I didn't, no. 11:06

6 110 Q. After you had the conversation with him, did you make a
7 note of your conversation?

8 A. I didn't, no.

9 111 Q. Did you ever make a note of your conversation or is it
10 just what we see in the report? 11:06

11 A. What went into the report.

12 112 Q. "' The bald guard came over to me the other day and
13 asked if I could remember the time I was searched by
14 three guards and €800 was stolen from me and spent
15 drinking in the Castle (pub), the bookies and the 11:06
16 casino. He said if I wanted to make a complaint about
17 it then he would back me up.'

18

19 I asked Liam McHugh if he was alleging that this had
20 actually happened and his answer was 'no, not at all, I 11:06
21 am not bringing trouble on myself'.

22

23 I asked him if he was referring to Garda Nick Keogh and
24 he confirmed he was. He went on to say 'he told me he
25 was there himself when it happened and he would back me 11:07
26 up if I wanted to make a complaint'.

27

28 Forwarded for your information."

29

1 If we could just have page 657 up on the screen. This
2 was sent on to the chief superintendent, and sent on
3 behalf of Inspector Nicholas Farrell after he had
4 received it from Detective Sergeant Curley. We see
5 here:

11:07

6
7 "Attached find report of Garda Aidan Lyons in respect
8 of a conversation he had with Mr. Liam McHugh. The
9 conversation occurred on Bastion Street, Athlone on
10 31st May 2014 and during the course of same Liam McHugh
11 outlined a separate conversation he was alleged to have
12 had with Garda Nicholas Keogh, the content of which is
13 outlined in Garda Lyons's report.

11:07

14
15 Previous reports from this office in respect to
16 intelligence report number on 20th May 2014 and
17 information divulged by Olivia O'Neill to Garda
18 Stephanie Treacy at Athlone Garda Station on the 28th
19 May, forwarded on the 29th May, also appear to refer to
20 similar incidents."

11:08

11:08

21
22 That seems to be putting the category of the Liam
23 McHugh incident -- or the Liam McHugh incident into the
24 same category as the Olivia O'Neill incident, which is
25 a coaching incident effectively.

11:08

26 A. Yeah, I would agree with that.

27 113 Q. Yes.

28 A. That's...

29 114 Q. And that certainly is the interpretation that you

1 attributed to that.

2 A. Well I was -- as I said, I don't know when I became
3 aware of the Olivia O'Neill incident. And I don't
4 think I was aware of it at that time when I made my
5 report. I may have been but I don't think I was. 11:09

6 115 Q. You were never requested to clarify your report, isn't
7 that right?

8 A. That's correct.

9 116 Q. I think it's fair to say that Chief Superintendent
10 Curran certainly wasn't particularly happy that you 11:09
11 made a statement subsequent to the Tribunal, indicating
12 your interpretation of what the report set out. But as
13 far as you're concerned, is it relatively clear as far
14 as you're concerned what your report conveys to your
15 superiors? 11:10

16 A. I thought my report was clear. As I said, at the time
17 I kept it the facts, to the facts of the conversation,
18 without putting any opinion in it. When I made my
19 statement last year, obviously we were at Tribunal
20 stage. 11:10

21 117 Q. Yes.

22 A. And obviously I was going to be asked for my opinion,
23 so I thought it appropriate at that time to put opinion
24 in my statement.

25 118 Q. Yes. And I suppose if there was any ambiguity in 11:10
26 relation to the matter, that you were there to clear up
27 the matter, isn't that right?

28 A. Yes, that's correct.

29 119 Q. Did anybody ask you for an assessment of the

1 information that you had received?

2 A. No.

3 120 Q. Does that surprise you in any way?

4 A. I didn't give it any thought. I was happy to report on
5 it and put it behind me. As I said, this conversation, 11:10
6 this incident, you know, put me in a very awkward
7 position, a position I didn't want to be in. I had the
8 conversation with Liam McHugh, I knew I had to report
9 on it. When I done so, I put it to the back of my
10 mind, I didn't give it any further thought. 11:11

11 121 Q. I suppose you know it has been suggested in some way
12 that you were being put up to making yourself a false
13 report in relation to that, would you like to just
14 simply address that, that allegation that is there?

15 A. I certainly would, yeah. I'm aware that Garda Keogh 11:11
16 has alleged that I was persuaded for cajoled or
17 manipulated into making a false report. I deeply,
18 deeply resent those comments. And I believe that Garda
19 Keogh knows that I am not the sort of person who would
20 allow himself to be manipulated into making a false 11:12
21 report. I believe he said those things to further his
22 own case. But Garda Keogh knows that I would not allow
23 myself to be manipulated into making a false report. I
24 have 22 years service in An Garda Síochána, not once,
25 not once in those 22 years has any person, whether it 11:12
26 be a member of the public, a defence solicitor, anyone,
27 had any reason to question my credibility and honesty,
28 and I deeply regret those comments that Garda Keogh has
29 made.

1 122 Q. I think it is fair to say that part of his case is that
2 he would agree that you're somebody who has an
3 extremely good representation in Athlone Garda Station
4 and is thought very highly of by everybody and that
5 therefore you were it, as it were, the perfect person 11:12
6 to use those circumstances. What do you say to that?
7 A. I think that allegation is absurd. And I think the
8 grounds that he is basing his belief that I was
9 manipulated into making this report also are absurd. I
10 had that conversation with Liam McHugh, as reported on 11:13
11 2nd June '14. I have gone through what I took from
12 that conversation. That's all I can say about it. I
13 reported on it. That conversation did take place, as
14 set out in my e-mail.

15 123 Q. Just for the sake of completeness in relation to your 11:13
16 evidence, if we could just have page 15713 up on the
17 screen. I referred to this earlier on in relation to
18 the station diary. If we go to page 15712, this is the
19 31st May at 5:00pm, at the very bottom if you scroll
20 down. I think that you were on duty on the Saturday 11:14
21 night, isn't that right?
22 A. That's correct.

23 124 Q. Then if we just scroll over to the next page, please,
24 at 15713, halfway down, we see at 7:00am, that's Garda
25 Brady, Hickey and Lyons reported regular off duty, is 11:14
26 that right, so you finished your shift? Sorry, I have
27 misread that. That should be the 1st June.
28 A. At 4am I reported off duty.

29 125 Q. Yes, sorry. I beg your pardon, it's my fault. We have

1 at 1pm on 1st June 2014, you're not recorded actually
2 as going off duty. But if we scroll further up, we
3 will see at 1pm on 1st June 2014. And then, if we
4 scroll down, we see at 4am Garda Brady, Hickey and
5 Lyons reported regular off duty. 11:15

6 A. That's correct, yeah. I would have started at 6pm on
7 Saturday the 31st and finished at 4am on Sunday the 1st
8 June.

9 126 Q. If we scroll further down then we will see, seven lines
10 up from the bottom, and then at 7:00am on the 1st June 11:16
11 the record commences?

12 A. Yeah, I also worked on the Sunday night, I think from
13 6pm, starting on Sunday, the 1st June, working until
14 2am.

15 CHAIRMAN: So you worked on Saturday at 6pm and also on 11:16
16 Sunday at 6pm.

17 A. Yeah. 6:00 to 4:00 on Saturday and 6:00 to 2:00 on
18 Sunday.

19 127 Q. MR. MARRINAN: Then if we scroll down to the bottom
20 there, on the Sunday it says, just at the bottom of the 11:16
21 page, at 3pm on the 1st June you took up duty. But we
22 will see there, over the next page, at 15714, we see at
23 6pm, and then it refers to the fact that Garda Brady,
24 Hickey, Shanley, Garda A and Lyons reported on duty.
25 So you remained on duty until what time? 11:17

26 A. Until 2am on the 2nd.

27 128 Q. Until 2am, all right. Then you reported for duty on
28 the Monday, at what time?

29 A. I was off duty on Monday. I was on a rest day on

1 Monday.

2 129 Q. Did you not do your report?

3 A. I did.

4 130 Q. So you did it?

5 A. On a rest day. 11:17

6 131 Q. On a rest day. Did you come in specifically to do it
7 or did you do it at home?

8 A. I don't know whether I came in specifically to do it
9 after the bank holiday weekend, which would have been
10 busy in Athlone, whether I had a few loose ends to tidy 11:17
11 up, I don't know. But I was on a rest day on Monday
12 the 2nd and the report was sent on that day. But it
13 wouldn't be unusual to be busy on a bank holiday Sunday
14 night and just have a few bits and pieces of paperwork
15 to tidy up and pop in and do it. But I don't know. 11:18

16 132 Q. Okay. Is there anything further you would like to add
17 in relation to your evidence at this point?

18 A. No.

19 133 Q. Would you answer any questions, please?

20 A. Thank you. 11:18

21

22 END OF EXAMINATION

23

24 CHAIRMAN: Thank you very much. Now, who goes next?
25 Mr. Marrinan, who goes next? 11:18

26 MR. MARRINAN: I am not sure. Whoever wants to.

27 CHAIRMAN: The main contradictor is Mr. Kelly, isn't
28 that right. Mr. Kelly, what is your view? Do you
29 think it's appropriate that you should now

1 cross-examine or would you refer to wait until a little
2 later.

3 MR. KELLY: I am fine. If anyone else wants to ask
4 questions of this witness, I am quite happy to follow
5 along after that. 11:18

6 CHAIRMAN: Very good.

7 MR. MURPHY: I have no questions.

8 CHAIRMAN: You have no questions.

9 MS. O'ROURKE: I appear for --

10 CHAIRMAN: Thanks very much, Ms. O'Rourke, have you any 11:19
11 questions.

12 MS. O'ROURKE: If anything arises following Mr. Kelly,
13 I will then deal with them.

14 CHAIRMAN: Yeah. It seems logical that Garda Keogh's
15 side should present their case. If something arises, 11:19
16 Mr. Kelly, we will sort it out in a fair way, if there
17 is any issue that arises as a result then of
18 Ms. O'Rourke's questions.

19

20 SERGEANT AIDAN LYONS WAS CROSS-EXAMINED BY MS. 11:19
21 MULLIGAN, AS FOLLOWS:

22

23 134 Q. MS. MULLIGAN: Good morning, Sergeant Lyons.

24 A. Good morning.

25 135 Q. I wonder could I just ask very briefly, in terms of 11:19
26 Liam McHugh, the Pulse ID number, did you have to look
27 that up in order to complete your statement?

28 A. Yes, I would have had.

29 136 Q. So on the rest day on the 2nd you look up Pulse ID

1 105191; is that right?

2 A. That's correct.

3 137 Q. Can you recall to the best of your ability what was on
4 that Pulse ID?

5 A. It would be a record of all Garda interaction with 11:19
6 Mr. McHugh.

7 138 Q. All Garda interaction?

8 A. All Garda interaction.

9 139 Q. Would that include then any criminal convictions?

10 A. It would. 11:20

11 140 Q. And were there any criminal convictions?

12 A. I can't recall, but if I was to speculate, if you want
13 me to do so, I would imagine that he would have
14 convictions but I wouldn't expect them to be anything
15 of a serious nature. 11:20

16 CHAIRMAN: We should be a little careful, I suppose,
17 about Mr. McHugh. I am a little worried. And
18 Mr. Kelly and Ms. Mulligan may well be wondering why we
19 don't have Mr. McHugh waiting outside the door, and
20 there's a pretty good reason for that. But we just 11:20
21 have to be a little careful about that, Ms. Mulligan.
22 I understand your point.

23 MS. MULLIGAN: I accept the point, Chairman.

24 141 Q. CHAIRMAN: My impression is, if there were, they
25 wouldn't be very serious, they'd be kind of minor 11:20
26 stuff. That's my impression.

27 A. I could be wrong, but if you were to ask me to guess
28 I'd say that he has convictions but I wouldn't
29 expect them to --

1 CHAIRMAN: We will leave it at that. Okay,
2 Ms. Mulligan, to the extent that you need to pursue it
3 further, well and good, you are entitled to.
4 MS. MULLIGAN: I appreciate the difficulty about
5 Mr. McHugh. 11:21
6 CHAIRMAN: I will leave it to your discretion.
7 142 Q. MS. MULLIGAN: The questions more relate to the
8 credibility assessment in relation to Sergeant Lyons.
9 So, in terms of making your assessment about Liam
10 McHugh, before you decide to, I suppose, send up the 11:21
11 chain an allegation about your own colleague, you
12 didn't or can't recall whether you checked the number
13 or level of convictions in relation to Mr. McHugh, is
14 that correct?
15 A. No, I wouldn't have checked his previous convictions, 11:21
16 but I knew Mr. McHugh, I knew of his character, I knew
17 who I was dealing with.
18 143 Q. Okay. Can we just -- and again, I hear what the
19 Chairman is saying, but in relation to that, you knew
20 who you were dealing with, can you just be a little bit 11:21
21 more specific about what had a means?
22 A. Yeah, certainly, yeah. Liam McHugh, as I said, he
23 wouldn't be a pillar of society. He's not someone that
24 if he had a -- you'd accept -- he's not someone from
25 whom you would accept his word on every occasion. 11:22
26 Yeah, his character could be questioned.
27 144 Q. So he's not someone -- you say he's someone who could
28 be questioned, his character could be questioned?
29 A. That's correct.

1 145 Q. Your evidence to the Tribunal is that you didn't
2 question his character in this scenario because he
3 looked you in the eye and because of his demeanour, is
4 that right?

5 A. No, what I said was that on this occasion, from the way 11:22
6 he presented to me, the way he told his story, his
7 general body language, he seemed very sure, assured
8 about what he was saying.

9 146 Q. And if he was very sure, was he also very sure that he
10 wasn't going to make a statement? 11:23

11 A. Well I didn't ask him if he was going to make a
12 statement, Chairman.

13 147 Q. Why didn't you ask him if he was going to make a
14 statement?

15 A. As I have said, I was happy to report on the facts of 11:23
16 the conversation and then leave it up to whoever else
17 was appropriate to go and ask him if he wanted to make
18 a statement. I at the time was a partner of Garda A, a
19 previous partner of Garda Keogh, I had no issue with
20 either member at the time. This had been reported to 11:23
21 me, nothing I could do about that. I reported it on.
22 I wanted another member to get involved in the
23 investigation. It wouldn't be appropriate for me to
24 delve into the investigation of this matter.

25 148 Q. Okay. Just to confirm, you say to the Chairman that 11:23
26 you knew the facts, but can you know the facts as a
27 member of An Garda Síochána if there isn't a statement
28 being made?

29 A. I certainly can, yeah, I can report on the facts of

1 what Liam McHugh told me.

2 149 Q. So what you are reporting is only recall, is that
3 right; your own recall of what you understood to be
4 reported to you?

5 A. I reported the facts of my conversation with Liam 11:24
6 McHugh.

7 150 Q. You reported a conversation, not any facts, isn't that
8 fair to say?

9 A. No, they are facts. The facts are contained, I met
10 him, location and time and place, and the facts, the 11:24
11 details of the conversation.

12 151 Q. Just so I am clear, as a general rule if someone
13 doesn't make a statement to you for whatever reason, is
14 it ordinarily the case that you report it up in any
15 chain in any scenario? 11:24

16 A. Well the report, in most cases they would come before
17 the statement. You go to the scene of an assault on a
18 street on a Saturday night, someone has an injury, you
19 create a Pulse incident, the person could be
20 intoxicated, you go back two days later to see if they 11:25
21 want to make a statement, they may or may not.

22 152 Q. We'll come back to that. In an ordinary case where you
23 have assault, you create a Pulse ID for the incident,
24 you identify the relevant parties and you go back in a
25 couple of days to see if anyone wants to make a formal 11:25
26 statement, isn't that your evidence to the Tribunal?

27 A. That's correct.

28 153 Q. So where is the Pulse ID in this scenario?

29 A. There is no Pulse ID in this scenario.

1 154 Q. why is that the case? Because you deviated from what
2 you describe as general practice that you would
3 normally follow and I want to understand why that is.
4 A. well, this isn't your average incident that you would
5 deal with. Maybe I should have created a Pulse 11:25
6 incident, I don't know. At the time I was happy to
7 send in my report and have it investigated by another
8 member.

9 155 Q. So this isn't your average incident. Can you explain
10 to the Tribunal what you mean by that? 11:25

11 A. When you have a member of the public alleging that he
12 has been approached by a guard and the guard has
13 attempted to persuade that member of the public to make
14 a false report, which is my understanding of what Liam
15 McHugh was telling me, that's not your average incident 11:26
16 that you would be dealing with on a day-to-day basis.
17 As I am saying, maybe I should have created a Pulse ID.
18 I don't know.

19 156 Q. And would you say this is a more serious incident
20 considering the nature of the alleged crime? 11:26

21 A. It's a very serious incident.

22 157 Q. It's a very serious incident. So just we are clear, a
23 very serious incident means that you should deviate
24 from the general practice that you normally follow?

25 A. I don't think I deviated. 11:26

26 158 Q. In your own evidence, Sergeant Lyons, you deviated from
27 general practice?

28 A. Yeah, I see, I see, Chairman, I see where -- I accept
29 the point in relation to creating a Pulse incident.

1 Usually you would create a Pulse incident. I didn't.
2 Maybe that was incorrect. I don't know. I don't know.
3 159 Q. You see, Sergeant Lyons, the difficulty is, it is a
4 very serious incident and you have accused your own
5 colleague of criminal activity. So when you deviate 11:27
6 from that you have limited in any way the ability of
7 Garda Keogh to respond to this allegation that you were
8 now bringing up the line?
9 A. I don't think I have limited his ability to respond to
10 it, no. 11:27
11 160 Q. Okay. Could I just ask you to look at your statement
12 please. Page 11718, volume 42. Can I just ask you
13 about 4.28?
14 A. Yes.
15 161 Q. "The bald guard then informed Mr. McHugh that if it 11:28
16 were the case that he wished to make a complaint in
17 relation to this then he (the bald guard) would him
18 back him up. I asked Mr. McHugh if the individual he
19 was referring to as the bald guard was Garda Nicholas
20 Keogh." 11:28
21
22 Do you see that
23 A. Yes.
24 162 Q. Do you see how you name Garda Keogh?
25 A. Yes. 11:28
26 163 Q. Now correct me, but it doesn't appear that Garda
27 Nicholas Keogh is the only member of the Athlone Garda
28 Station that is without his hair?
29 A. That's probably the case.

1 164 Q. So you named Garda Keogh?
2 A. Yes.

3 165 Q. So you jumped to the conclusion and you create a chain
4 of inquiry without any basis for knowing that it is in
5 fact Garda Keogh, because Garda Keogh isn't named by 11:29
6 the one person who you say gives you the evidence?
7 A. I asked Mr. McHugh a straight question, was it Garda
8 Keogh and he said it was. I was happy then with that
9 identification.

10 166 Q. And as we noted, it is the case that there are several 11:29
11 other members of An Garda Síochána serving in an
12 Athlone that are -- or are without their hair. I don't
13 know what the most politically correct term is?
14 A. Yeah, there are probably several bald members in
15 Athlone Garda Station at the time, but I asked 11:29
16 Mr. McHugh to confirm if it was Nicholas Keogh that he
17 referred to, and he said it was.

18 167 Q. Would you call that a leading question?
19 A. Maybe in a court case scenario it would be a leading
20 question but I had to identify the person he was 11:29
21 talking about.

22 168 Q. And you didn't ask for any other descriptors, is that
23 the case?
24 A. That's correct.

25 169 Q. And there's no notes from any of the incidents, any of 11:30
26 the days on which you were present, between the 29th
27 May and the 2nd June, isn't that right?
28 A. In relation to this incident, no.

29 170 Q. In relation to this incident. That is right, I am

1 correct in that?

2 A. You are correct, yes, Chairman.

3 171 Q. Okay. Just to go the last part of that statement:

4

5 "No, not at all, I am not bringing trouble on myself." 11:30

6

7 Now, correct me if I am wrong, would that suggest a

8 hesitancy on the part of Mr. McHugh to make any

9 statement? He didn't want to bring trouble on himself.

10 Is it likely that he would make a statement to anyone? 11:30

11 A. If you are asking me --

12 172 Q. Did you consider that, the likelihood of Mr. McHugh

13 taking the matter any further, in deciding to send this

14 up the line?

15 A. Without asking him, I got the impression from him that 11:31

16 he wouldn't take this further in an official capacity

17 or make a statement, but I didn't ask him, he didn't

18 tell me that. I got the impression that he was making

19 me aware of what was going on in the background for me

20 to use it as I saw fit. 11:31

21 173 Q. Okay.

22 A. To make me aware of it.

23 174 Q. So your evidence to the Tribunal is that you didn't

24 believe that Liam McHugh would make a statement and yet

25 you reported on an alleged incident in any event, is 11:31

26 that right?

27 A. That's correct.

28 175 Q. Now, just --

29 A. I'm speculating, I don't know --

1 176 Q. That is your evidence to the Tribunal, so be it. In
2 terms of again ordinary courses of event, if someone
3 isn't going to make a statement, it wouldn't be
4 ordinary for the matter to continue to be pursued,
5 would that be correct? 11:32

6 A. Sorry, could you rephrase that for me?

7 177 Q. If an alleged injured party declined to make a
8 statement, we don't continue on our line of inquiry,
9 isn't that right?

10 A. Yeah. 11:32

11 178 Q. In ordinary course?

12 A. In ordinary course of events, yeah. If an injured
13 party doesn't want to make a complaint it would be very
14 difficult to pursue with the investigation. There are
15 some cases where you may. 11:32

16 179 Q. But as a general rule we don't?

17 A. As a general rule we don't.

18 180 Q. Because it's not likely to, I suppose, lead to any kind
19 of fruition, is that fair?

20 A. Yeah, in the normal course. 11:32

21 181 Q. In the normal course. So this is different because
22 it's a member of An Garda Síochána? Yes?

23 A. I wasn't treating it any differently because it was a
24 member of An Garda Síochána.

25 182 Q. Well, just to be clear. So in the general course of 11:32
26 events if someone isn't going to make a statement, then
27 we don't send anything up any line anywhere, and we
28 also create a Pulse ID. There's two differences
29 where --

1 A. If you are asking me -- you see, I don't know when
2 another member went to Liam McHugh if he was going to
3 make a complaint or not. I got the impression from him
4 he wasn't. That's from reading between the lines.
5 Now, if another member had gone to him, if he made a 11:33
6 statement, I wouldn't have been shocked. But I got the
7 impression that he was making me aware of what was
8 going on.

9 183 Q. Okay. I just want to go back to this in terms of your
10 credibility assessment and how you dealt with this. 11:33
11 You accept that it was a serious issue to make a
12 complaint about this against a colleague, yes?

13 A. Yes.

14 184 Q. Have you ever done it before or since?

15 A. No. 11:33

16 185 Q. Okay. Is that because you consider it such a serious
17 thing to do?

18 A. I have never -- I have never met a situation like this
19 before or after.

20 186 Q. But is it fair to say you do consider it something that 11:33
21 if you were in Garda Keogh's situation, that your
22 colleague would do their due diligence before making
23 such an allegation against you?

24 A. I was obliged to report this matter.

25 187 Q. On what basis were you obliged to report this matter? 11:34
26 A. Because I had been made aware of it. I had the
27 conversation with Mr. McHugh. I couldn't do it -- if I
28 had failed to report it, I would have been -- I would
29 have been wrong.

1 188 Q. And again just for the purposes of my understanding of
2 it, because I am not a member of An Garda Síochána, if
3 Liam McHugh reported an assault to you and the same
4 scenario arose and it wasn't a member of An Garda
5 Síochána, would you have sent it up the line to a 11:34
6 further colleague?

7 A. If Liam McHugh reported an assault to me.

8 189 Q. Yes, from a civilian?

9 A. That he was assaulted.

10 190 Q. No, not that he was assaulted, that he saw or witnessed 11:34
11 an assault?

12 A. But now I would have gone to that person that allegedly
13 was assaulted and investigate it.

14 191 Q. Even though you have Liam McHugh saying, no, I'm not 11:35
15 bringing any trouble on myself. Presumably, unless the
16 injured party reported, there is nothing to report on
17 it?

18 A. No, if Liam McHugh was tells me somebody else was
19 assaulted, he can't decide whether it's investigated or
20 not, he's only a witness, or he mightn't even be a 11:35
21 witness, he might have just heard something on the
22 grapevine. I'd go to the injured party and ask them if
23 they want to make a complaint.

24 192 Q. Very good. Can I just ask you about your relationship 11:35
25 with Garda A? Can you just confirm for me, I think you
26 said that you had been a partner of his for two years,
27 from 2012 to 2014, or is it four years?

28 A. On and off I was a partner with Garda A from 2006 to
29 2016, at different stages.

1 193 Q. Okay. So you know him well?
2 A. I know him very well.

3 194 Q. Is it your evidence to the Tribunal that he didn't talk
4 to you in any substantive way about the allegations
5 that were being made against him? 11:36
6 A. In relation to the protected disclosures?

7 195 Q. Yes.
8 A. I don't recall discussing with Garda A the nature of
9 the protected disclosures. But as I have said in my
10 evidence, it would be a natural thing to do. But I 11:36
11 don't specifically recall those conversations.

12 196 Q. So is it fair to say that any conversation you did have
13 was light, brushed over, limited, what word would you
14 use to explain it?

15 A. No, I don't think you could say that. As I have said, 11:36
16 I don't recall having conversations. It would be a
17 very natural thing to do, as I am sure it would be a
18 great source of stress to a member, you know, if the
19 allegations were being made against him. It would be
20 natural to discuss it, but I don't recall these 11:36
21 conversations, so I can't say what sort of
22 conversations they were.

23 197 Q. Okay. So you accept that it was more likely than not
24 that a conversation would cause distress, that it would
25 be very difficult, but you don't remember whether or 11:37
26 not you had those types of conversations with Garda A?

27 A. No, I don't remember specific conversations with Garda
28 A.

29 198 Q. Did you have many conversations with Garda A then on

1 specifics?

2 A. In relation to the protected disclosures?

3 199 Q. Yes.

4 A. At this time, May/June, I don't remember or recall
5 having any conversations with Garda A. I probably did. 11:37
6 It would be a natural thing to do. It would be strange
7 if I hadn't. But I don't recall the specifics of those
8 conversations, what was discussed or any details.

9 200 Q. Would it be fair to say you would have good loyalty to
10 Garda A, as is required on a partner basis? 11:37

11 A. I'd be close with Garda A. I would describe him as a
12 close, personal friend. At the time I would also have
13 been quite close with Garda Keogh.

14 201 Q. Okay.

15 A. I got on well with both members and I had good time for 11:38
16 both of them.

17 202 Q. And yet you took the word of Mr. McHugh over your
18 previous partner?

19 A. All I can say about that is that from my conversation
20 with Mr. McHugh, when I walked away from that 11:38
21 conversation I took it that what he was telling me was
22 an honest account.

23 203 Q. And you didn't seek an honest account from Garda Keogh?

24 A. No, I didn't think it was my place to go and question
25 Garda Keogh about this. It actually would have been 11:38
26 totally inappropriate to do so.

27 204 Q. But you do realise by, I suppose, again sending it up
28 the line, that you were setting down a train of inquiry
29 that could have devastating effects for Garda Keogh?

1 A. Well it would have to be investigated.

2 205 Q. Irrespective of whether it had to be investigated,
3 would you accept that your colleague, sending up the
4 line an allegation that you were involved in criminal
5 activity, would have a devastating effect on you 11:39
6 personally?

7 A. It would have an effect on you personally. But at the
8 same time, I was obliged to report this. I had no
9 choice. If I didn't report it, I would have been
10 wrong. 11:39

11 206 Q. Well, I just want to be clear about the obligation,
12 Sergeant Lyons. There's no code of conduct requiring
13 you to do so in the absence of any statement by either
14 the injured party or any formal evidence.

15 A. But if I didn't report it no statement would ever have 11:39
16 been taken.

17 207 Q. But no statement was taken, by you or anyone. Surely
18 the appropriate thing would have been to get a
19 statement first.

20 A. I was too centrally involved to get involved in an 11:40
21 investigation.

22 208 Q. On what basis were you centrally involved? You weren't
23 at the crime, you weren't involved in the crime, you
24 had no direct knowledge other than taking an initial
25 witness statement? 11:40

26 A. I was the current partner of Garda A.

27 209 Q. So it was conflict of interest?

28 A. And I was also a previous partner of Garda Keogh.

29 210 Q. So it was a conflict of interest?

1 A. I don't think it was my place to investigate it. I
2 think it was my place to report on it and let other
3 members investigate the matter. If I didn't report on
4 it --

5 211 Q. Was it a conflict of interest? 11:40

6 A. Well, yes, I would have been conflicted because I knew
7 all parties involved.

8 212 Q. And in those circumstances, did you raise that as an
9 issue when you sent it up the line?

10 A. No, I think that would have been pretty obvious. 11:40

11 213 Q. Okay. You think it would have been pretty obvious?

12 A. Yes, that I would not be the right person to
13 investigate this matter and that actually I would
14 probably be the one person that shouldn't investigate
15 it. 11:41

16 214 Q. Can we just bring up page 657 again please. And just
17 the attached correspondence then, I think it's the
18 following page, is it? Just that page, sorry. If you
19 were conflicted, you could have written it down. Yes?

20 A. I don't think that needed to be committed to paper. I 11:41
21 think Detective Sergeant Curley was well aware that I
22 wouldn't have been the appropriate person to
23 investigate this matter.

24 215 Q. You don't mention Sergeant Curley either and any
25 conversation with him in that letter, isn't that right? 11:42

26 MS. O'ROURKE: I think the addressee should be
27 identified.

28 MS. MULLIGAN: Correct. It's to Sergeant Curley, isn't
29 that right. You don't refer -- I will amend my

1 question. You don't refer to any conversation in that
2 note to Sergeant Curley, isn't that right?

3 A. I don't make reference to our previous conversation?

4 216 Q. Yes?

5 A. In the e-mail? 11:42

6 217 Q. No?

7 A. No.

8 218 Q. And you don't make reference to that conversation to
9 anyone. This is the only correspondence you send up
10 the line? 11:42

11 A. That's correct.

12 219 Q. Isn't that right? Okay. So it's inferred that there
13 is a conflict of interest, that's your evidence to the
14 Tribunal?

15 A. I wasn't attempting to infer. But I didn't think that 11:42
16 needed to be explained. I thought that was pretty
17 obvious to all concerned.

18 220 Q. And if there was such a conflict of interest, surely
19 the best thing to do would have been to get a statement
20 from Liam McHugh in order to progress the matter in the 11:43
21 first place?

22 A. Yes. And that's why I reported the matter, so a member
23 could be appointed to investigate and approach
24 Mr. McHugh to get a statement.

25 MS. MULLIGAN: My apologies, Chairman. Very good, I 11:43
26 have no further questions.

27

28 END OF EXAMINATION

29

1 CHAIRMAN: Very good. Now, you have no questions. So
2 we are on to Ms. O'Rourke. You appear for?

3 MS. O'ROURKE: I appear for Garda Lyons -- Sergeant
4 Lyons, and I have very few questions.

5 CHAIRMAN: Thank you very much.

11:44

6

7 GARDA AIDAN LYONS WAS EXAMINED BY MS. O'ROURKE, AS
8 FOLLOWS:

9

10 221 Q. MS. O'ROURKE: You have given evidence in relation to
11 the fact that you were a partner of Garda Keogh for a
12 particular period of time and I think you were also a
13 partner of Garda A. In respect of the period, can you
14 tell the Chairman what your duties or what your shifts
15 essentially were in the period up to May 2015.

11:44

16 A. Yeah. Three months prior to this weekend, the weekend
17 when I had the conversation with Mr. McHugh, I was away
18 from Athlone Garda Station, I was seconded on a
19 part-time basis to another Garda unit, a different
20 Garda unit.

11:44

11:44

21 222 Q. And that was on a three-month basis. Was that the
22 first time that you were on such a --

23 A. No, it was a three month on, three month off basis,
24 which had been going on for approximately, maybe 18
25 months prior to this.

11:45

26 223 Q. When you were on that three months on, three months
27 off, were either Garda A or Garda Keogh assigned to
28 that particular unit?

29 A. No, another Garda member from Athlone Garda Station was

1 assigned to this other unit.

2 224 Q. Okay. Thank you.

3 225 Q. CHAIRMAN: So you were away from Athlone for a period?
4 I'm sorry, Ms. O'Rourke. How long had you been back in
5 Athlone at the time when this episode happened. 11:45

6 A. Yes, Chairman, I believe I was back a matter of days.
7 CHAIRMAN: I see.

8 226 Q. MS. O'ROURKE: Just in relation, can you recall then
9 when you did come back, what sort of a roster would you
10 have been on, or do you recall that at this remove? 11:45

11 A. So I would have been on the detective branch non-core
12 roster. So my nights would have been typically 6:00pm
13 to 4:00am and maybe some 12:00pm to 10:00pm shifts, and
14 an early shift, which is 7:00am to 5:00pm.

15 227 Q. I think we've heard evidence that on 20th June 2014 a 11:46
16 murder happened in Athlone, were you involved in that
17 murder investigation?

18 A. I was, yes.
19 CHAIRMAN: Sorry, the date of that again?
20 MS. O'ROURKE: My understanding is it's 20th June 2014. 11:46
21 CHAIRMAN: Thank you. That can be checked in due
22 course. I know it has been referred to, the 20th June.
23 Thank you.

24 228 Q. MS. O'ROURKE: Were you heavily engaged in that, Garda 11:46
25 Lyons?

26 A. I was, yes. I arrested and charged two of the culprits
27 for that murder.

28 229 Q. There is just one other matter by way of clarification.
29 My understanding is that if a member of the public

1 raises an issue with a guard, in the first instance a
2 report is forwarded; is that correct?

3 A. That's correct.

4 230 Q. And a statement may subsequently be taken, is that
5 correct?

11:47

6 A. Yeah. That would be correct.

7 MS. O'ROURKE: I have no other questions for you,
8 Sergeant Lyons.

9

10 END OF EXAMINATION.

11:47

11

12 CHAIRMAN: Thank you very much. So we're back around
13 to you, Mr. Murrinan.

14 MR. MARRINAN: Yes, sir. There is one matter that is
15 concerning me in relation to this and I think in
16 fairness to the sergeant, it has been suggested during
17 the course of Garda Keogh's evidence and also at
18 various stages since that in some way Sergeant Lyons
19 was involved in fabricating --

20 CHAIRMAN: Oh that's absolutely clear, he made it up. 11:47

21 MR. MARRINAN: Made it up.

22 CHAIRMAN: And they picked him because he was a person
23 of probity.

24 MR. MARRINAN: Yes.

25 CHAIRMAN: So they set him up and he went along with
26 it. That is exactly what has been suggested. 11:47

27 MR. MARRINAN: Now I obviously asked a number of
28 questions --

29 CHAIRMAN: I'm sorry, don't be offended because I am

1 putting it simply and clearly, but if I am wrong about
2 this no doubt somebody will tell me I am wrong about
3 it. But that's my understanding.
4 MR. MARRINAN: Yes. But he hasn't been challenged by
5 Garda Keogh's team in relation to this. 11:48
6 CHAIRMAN: That's a matter for them, Mr. Marrinan.
7 MR. MARRINAN: It is, but I am just highlighting it now
8 because in fairness to Sergeant Lyons, I mean he has
9 had that allegation --
10 CHAIRMAN: But you have put the allegation to him. 11:48
11 MR. MARRINAN: I have put to him and he has dealt with
12 it.
13 CHAIRMAN: In fairness.
14 MR. MARRINAN: Absolutely.
15 CHAIRMAN: But I mean, he has dealt with it, 11:48
16 Mr. Marrinan.
17 MR. MARRINAN: well I am only highlighting at this
18 point should it become an issue later on.
19 CHAIRMAN: I understand. Sorry, if I am understanding,
20 you think that Ms. Mulligan should really have -- don't 11:48
21 think I am criticising you for a moment, but you think
22 she should have sort of nailed her colours to the mast
23 and said, you made it up.
24 MR. MARRINAN: Absolutely.
25 CHAIRMAN: I am putting it to you that you made it up. 11:48
26 well I am assuming that is the case because, as I say,
27 Sergeant Lyons has actually explicitly dealt with that,
28 he said, look, 22 years, I have never been accused of
29 anything else, and why would do I that. But Garda

1 Keogh gave very detailed evidence of cars going up and
2 down a Saturday night, he gave his suspicions, he said,
3 yes, and they picked the honest guy, which -- sorry, if
4 I can be forgiven for being brutal, they picked the
5 person least likely to be challenged or less likely. 11:49

6 MR. MARRINAN: Exactly. But the concern is this: If
7 the position has changed, as often it does and has
8 changed in relation to a number of matters, well then
9 we're entitled to know it has changed. But if it is
10 still a square on assault in relation to -- 11:49

11 CHAIRMAN: well, I am taking it, Mr. Marrinan, that it
12 is. I will ask Ms. Mulligan if she wants to put
13 anything. I am taking it that the issue is very
14 clearly laid out. Now, somebody may say it's of less
15 relevance, that we are concerned with the response to 11:50

16 it, somebody might say that, but specifically as I am
17 taking it Garda Keogh's evidence stands and what is
18 more, he said, look, nobody followed it up, nobody sort
19 of -- and those are indications -- anyway, Mr. Kelly.

20 231 Q. MR. KELLY: I will put it to you straightforward, 11:50

21 sergeant. Is it true that you, the partner and friend
22 of Garda A, made up this whole incident with Liam
23 McHugh?

24 A. No, it's not true. As I have said --

25 CHAIRMAN: Or that others put you up to it. 11:50

26 MR. KELLY: Yes.

27 CHAIRMAN: And said, we will pick you because you're
28 less likely to be disbelieved, they're more likely to
29 believe you because you have a good -- that is the

1 case. So you have dealt with that. What do you say to
2 that?

3 A. I deeply resent those comments and that allegation.

4 232 Q. CHAIRMAN: I mean, I am not saying this. Don't be
5 offended by the fact that I am -- 11:50

6 A. I understand.

7 233 Q. CHAIRMAN: -- putting this in black and white terms.

8 A. What I am saying is that I believe that Garda Keogh
9 knows, he knows that I did not make up these
10 allegations. Despite what he says in his evidence to 11:51
11 further his case, he knows that I am not the sort of
12 person who would allow myself to be manipulated into
13 making a false report. I wouldn't do it. I think
14 everyone in Athlone Garda Station knows I wouldn't do
15 it. I had that conversation with Liam McHugh. 11:51

16 234 Q. CHAIRMAN: Very good.

17 A. I took from it what I took from it and I reported on
18 it. I would be a foolish man to say I had a
19 conversation with Liam McHugh on a public street in
20 Athlone, where there's any number of CCTV cameras 11:51
21 covering that meeting. That didn't happen. I reported
22 it and I let it take its own course after that.

23 CHAIRMAN: All right.

24 235 Q. MR. KELLY: Just so there is absolutely no confusion
25 whatsoever, I am putting to you that it didn't take 11:51
26 place, you made no note of it, you waited some time
27 before you reported it and Garda A was your partner,
28 your friend, your mate and you made it up in order to
29 discredit Nick Keogh.

1 A. That is totally incorrect. I would rather have had
2 absolutely no involvement in this whole situation. If
3 Liam McHugh could have approached somebody else I would
4 have been very happy. It put me in a very awkward
5 position. Here I am today. As I have said, I am a 11:52
6 close personal friend with Garda A. I was also very
7 friendly with Garda Keogh. I had no problem with
8 either member.

9 236 Q. Did it ever occur to you to say, look, Mr. McHugh, it
10 is all terribly interesting, but why don't you go down 11:52
11 to the Garda station and report it down there?

12 A. No, because if he didn't go down to the Garda station
13 and report it and I failed to report it, well then...

14 237 Q. Did you invite him to go down to the Garda station and
15 report it? 11:53

16 A. No. Liam McHugh would easily be found, you would find
17 him any day of the week, I reported it so that some
18 other member could be assigned to investigate.

19 238 Q. But you never said to him, look, Liam, it would be best
20 to go down to the Garda station and report this 11:53
21 formally?

22 A. No. I think if he went down to the Garda station he'd
23 be into a busy public office to talk to a Garda member
24 who is answering phones and dealing with God knows
25 what. It was best to let him off home and get someone 11:53
26 to go out to him and take a statement off him at the
27 appropriate time. Make an appointment to take a
28 statement off him.

29 MR. KELLY: Thank you very much.

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END OF EXAMINATION.

CHAIRMAN: Very good. Now, is that it, Mr. Marrinan.

MR. MARRINAN: There are a couple more questions. 11:53

CHAIRMAN: Let me say, Mr. Marrinan, so we all know where we are. I don't require people to point a finger and say, I put it to you, X, Y and Z if it's obvious that the allegation is out there. In this case, in my view, if Ms. Mulligan, Mr. O'Brien or Mr. Kelly wanted to alter their position, they should notify us. But absent that I don't require -- which will save us time, people will understand that they don't need to say, I put it to you and a series of allegations like that. They don't actually need to do it, but thank you for giving me the opportunity of identifying that and of clarifying the situation so we are under no illusion as to where we stand on the issue as to the Mr. Liam McHugh episode. Now, sorry, Mr. Marrinan. 11:54

SERGEANT AIDAN LYONS WAS RE-EXAMINED BY MR. MARRINAN, AS FOLLOWS: 11:54

239 Q. MR. MARRINAN: If you could just clear up this matter for me. This happened on the Saturday night? 11:54

A. Mm-hmm.

240 Q. You had a conversation with Detective Sergeant Curley, you're not sure whether it was on the Saturday night, you're not sure, maybe it might have been on the Sunday

1 or the Monday?

2 A. Most likely the Sunday.

3 241 Q. Most likely the Sunday?

4 A. It wasn't the Saturday night.

5 242 Q. And you sent in your report on the 2nd June. As far as 11:55
6 you were concerned this was important information that
7 you thought should be made available to your superiors?

8 A. That's correct.

9 243 Q. As far as you were concerned there was only one
10 construction on what had been said to you; namely, that 11:55
11 this was a discussion that Garda Keogh had in fact
12 tried to coach a witness into making a false complaint,
13 is that right?

14 A. That was my belief.

15 244 Q. I think you have agreed with Ms. Mulligan that that 11:55
16 would have been a serious matter, isn't that right?

17 A. Very serious.

18 245 Q. During the summer of 2014, you're aware of the fact
19 that the Ó Cualáin investigation came into Athlone
20 Garda Station and was conducting interviews, isn't that 11:55
21 right?

22 A. That's correct.

23 246 Q. You also agreed with me that this was a matter that
24 would substantially affect the credibility of Garda
25 Keogh if it were true? 11:56

26 A. That's correct.

27 247 Q. Did you make any enquiries, either formally or
28 informally, as to what had happened to the report that
29 you had sent in to your superiors?

1 A. No, I didn't make a single enquiry.

2 248 Q. If it was a matter that was going to be pursued and
3 taken further, you would have been requested to make a
4 statement in relation to it, isn't that right?

5 A. That's correct. 11:56

6 249 Q. Just to clear this up, because I think Chief
7 Superintendent Curran was questioned in relation to
8 this, but you weren't required to make a statement at
9 the outset, because you were merely reporting the
10 incident, isn't that right? 11:56

11 A. That's correct.

12 250 Q. If there is to be a further investigation and perhaps
13 prosecution, or certainly a referral of the file to the
14 Director of Public Prosecutions, at that stage you
15 would be requested to make a statement in relation to 11:57
16 the matter, isn't that so?

17 A. That would be correct.

18 251 Q. So certainly you knew that this matter was going no
19 further because you hadn't been requested to make a
20 statement in relation to it? 11:57

21 A. I didn't give it any thought. I was quite happy to
22 report on the matter and put it to the back of my mind.
23 Quite happy to do so.

24 252 Q. You see, potentially the failure to investigate this
25 matter could have had significant consequences for 11:57
26 Garda A, isn't that right?

27 A. I don't know what I was obliged to do. What I felt
28 was, I was obliged to report the matter.

29 253 Q. Yes.

1 A. After that, I can't comment.

2 254 Q. And I am not seeking to lay any blame at your doorstep.
3 But at the same time, this could have had significant
4 impact, the failure to investigate it potentially could
5 have had a significant impact in relation to Garda A? 11:58

6 A. I don't know. I don't know what to say about that.
7 The failure to investigate, I don't know.

8 255 Q. Well, you see, you've agreed an impact, if it were
9 true, and say Liam McHugh had made a statement, and you
10 had formalised the matter yourself by having made a 11:58
11 statement at the request of your superiors. Well then,
12 this would have had a significant impact on Garda
13 Keogh's credibility?

14 A. If it was investigated and he found to have done
15 nothing wrong, yeah, I suppose. If it was investigated 11:58
16 and found to have been in the wrong, it would have
17 affected his credibility.

18 256 Q. And the failure to investigate it was effectively
19 depriving Garda A of a possible defence or evidence
20 that assisted him, isn't that right? 11:59

21 A. I don't know if this is something that I can address.
22 MS. O'ROURKE: Chairperson, by way of observation, I
23 haven't intervened but I am really at a loss to see how
24 Sergeant Lyons can advance this matter.
25 CHAIRMAN: I think that's right, Mr. Marrinan, I don't 11:59
26 think that this arises, to be honest.
27 MR. MARRINAN: Very good.
28 CHAIRMAN: I mean, we know the situation, it's very
29 clear. Fair enough, if it had been investigated and

1 turned out that Garda Keogh was prosecuted for it, yes,
2 certainly, that wouldn't have helped him. That would
3 have been diminished him, and then in diminishing Garda
4 Keogh, I suppose necessarily it would -- but I don't
5 know that it would let Garda A off the hook. I mean, 12:00
6 that's a question you could speculate on. Suppose
7 Garda Keogh was shown to be totally in the wrong in
8 this one, suppose he was, does that mean that he's
9 wrong about everything else? Does that mean that the
10 Ó Cualáin investigation stops, said, look, he's a liar? 12:00
11 No, it doesn't. I don't think -- I think that is
12 speculative, and there's a word for it that's used, I
13 think it's speculative, Mr. Marrinan, and it's outside
14 the scope of this witness's involvement in the matter.
15 So I think Ms. O'Rourke is right. 12:00
16 MR. MARRINAN: well, of course, I am not exploring any
17 of that in the sense of attempting in any way to lay
18 blame at the doorstep of Sergeant Lyons.
19 CHAIRMAN: No, I understand that.
20 MR. MARRINAN: The questions are asked arising out of a 12:01
21 situation where there remains a suggestion that this
22 incident never took place.
23 CHAIRMAN: Precisely.
24 MR. MARRINAN: Therefore, if it was an incident that
25 had taken place, there could be a suggestion made that 12:01
26 one would have thought that the matter would have been
27 pursued.
28 CHAIRMAN: They could indeed and that's exactly the
29 suggestion that Garda Keogh has made very clearly.

1 MR. MARRINAN: I will not pursue the matter any
2 further. Thank you very much.

3 CHAIRMAN: Okay, thanks very much. Thank you,
4 Mr. Marrinan. Please don't think I am criticising you,
5 I am responding to Ms. O'Rourke's observation, 12:01
6 objection, and I think it's well-founded. Thank you
7 very much.

8 THE WITNESS: Thank you.

9 CHAIRMAN: Thank you very much.

10 12:01

11 END OF EXAMINATION

12

13 THE WITNESS THEN WITHDREW

14

15 MR. MARRINAN: The next witness is Garda Tom Higgins. 12:01

16 CHAIRMAN: Thank you very much.

17 MR. McGRATH: Good morning, Chairman, I should say I
18 appear for Garda Tom Higgins, I am instructed by
19 Mr. Noel McCartan and I am led by Hugh Hartnett, who is
20 not here. 12:01

21 CHAIRMAN: Thanks very much.

22 MR. MARRINAN: Garda Higgins's statement is in volume
23 56, Chairman.

24 CHAIRMAN: Yes.

25 12:02

26 GARDA TOM HIGGINS, HAVING BEEN SWORN, WAS
27 DIRECTLY-EXAMINED BY MR. MARRINAN, AS FOLLOWS:

28

29 THE WITNESS: Garda Tom Higgins, Chairman.

1 257 Q. MR. MARRINAN: Garda Higgins, would you just give us a
2 brief summary in relation to your career in An Garda
3 Síochána to date, please?
4 A. I was attested in June '98, where I was stationed in
5 Bailieborough for two years, in Kingscourt, and where I 12:02
6 later in 2002 came to Athlone, where I have been in
7 Athlone since.
8 258 Q. In 2014 what unit were you attached to?
9 A. I was attached to the detective unit.
10 259 Q. Okay. And who were you partnered with at that time, do 12:02
11 you recall?
12 A. John Quinn.
13 260 Q. And who was your immediate supervising sergeant?
14 A. Detective Sergeant Eamon Curley.
15 261 Q. You are being called in relation to your interaction 12:03
16 with Detective Sergeant Curley sometime in 2014. You
17 don't recall the date on which you had an interaction
18 with him, is that right?
19 A. I don't recall the date, I'm just aware sometime in
20 June or summer 2014. 12:03
21 262 Q. This concerns the evidence that had been given by the
22 last witness, Sergeant Lyons, and his interaction with
23 Mr. Liam MCHugh, isn't that right?
24 A. That's correct.
25 263 Q. Can you just tell us what your recollection is of what 12:03
26 was mentioned to you by Detective Sergeant Curley?
27 A. Sometime in summer or June of 2014, Detective Sergeant
28 Eamon Curley approached me in the detective office, he
29 would have had a report in his hand. This report, as

1 you previously heard from Sergeant Aidan Lyons, was the
2 e-mail that he had sent regarding Mr. Liam McHugh.

3 264 Q. Did you see that report?
4 A. I did, yes.

5 265 Q. Did you read it? 12:04
6 A. I did, yes.

7 266 Q. What interpretation did you place on that report?
8 A. Just there was an allegation regarding one member had
9 stated that another member had searched Mr. Liam
10 McHugh, or members, and that a sum of money was taken 12:04
11 from him.

12 267 Q. Had you interpreted the report of Garda Lyons as being
13 a suggestion that Garda Keogh had coached Liam McHugh?
14 A. I didn't take any interpretation of it, Mr. Chairman.
15 My role from D/Sergeant Eamon Curley, asked me would I 12:05
16 obtain a statement from Mr. Liam McHugh.

17 268 Q. But do you recall when you read the statement, what
18 your impression was at the time?
19 A. I didn't take any interpretation into it, because at
20 the time when I was asked to take a statement, I stated 12:05
21 to D/Sergeant Eamon Curley that I didn't think it
22 appropriate, I just didn't feel comfortable in taking a
23 statement when there was colleagues of mine involved in
24 this.

25 269 Q. Yes. And did you explain that to Detective Sergeant 12:05
26 Curley?
27 A. I did, yes.

28 270 Q. And did he accept what you were saying in relation to
29 that?

1 A. I informed him that if I came across Mr. McHugh that I
2 would obtain his telephone number. At the time I was
3 aware that there was members of Gardaí from Galway
4 carrying out an investigation regarding these
5 allegations that were being made. Not this specific 12:06
6 allegation, but regarding the protected disclosure.
7 So I felt it would have been more appropriate for some
8 member from outside Athlone division to carry out this
9 obtaining of the statement?

10 271 Q. So from the report that you read of Sergeant Lyons, you 12:06
11 associated that in some way with the issues that arose
12 out of a protected disclosure made by Garda Keogh; is
13 that right?

14 A. This was what I was believing, yes, because Garda
15 Keogh's name was mentioned in it. 12:06

16 272 Q. I suppose it impacted on Garda Keogh because nobody
17 else is identified in what was said by Liam McHugh,
18 isn't that right?

19 A. Just what I read, was Garda Keogh and other members.

20 273 Q. Go on then with your conversation with Detective 12:07
21 Sergeant Curley?

22 A. So I informed Detective Sergeant Eamon Curley that I
23 didn't think it was appropriate for me, I didn't feel
24 comfortable in obtaining the statement. However, I
25 would endeavour to obtain Mr. McHugh's mobile number, 12:07
26 that it could be passed on to the members in Galway in
27 order to obtain the statement from him. Sometime
28 later, I'm not sure was it a day or a two after, I
29 encountered Mr. McHugh on Connaught street, and I

1 stopped the car and I informed him that there was an
2 incident that was being investigated and could I obtain
3 his telephone number, that I can pass it on to other
4 members that may wish to contact him at a future date.
5 I can recall Mr. McHugh taking his phone out of his 12:08
6 jacket, he couldn't remember his phone number, and he
7 had it wrote on a piece of paper on the back of his
8 phone. I wrote it on a piece of paper. When I
9 returned to the Garda station, I gave his telephone
10 number to Detective Sergeant Eamon Curley. 12:08

11 274 Q. In relation to your interaction with Liam McHugh at
12 that time, can you tell us exactly what you said to
13 him?

14 A. I just advised him that there was an incident that he
15 may need to be spoken to about, that there was other 12:08
16 members that may need to talk to him. I didn't have
17 any conversation regarding it. I did not want to be
18 involved in this incident, because I was aware that
19 this had to do with colleagues of mine in Athlone and I
20 didn't feel it appropriate and I didn't feel 12:08
21 comfortable in discussing this matter with Liam McHugh.

22 275 Q. Did Liam McHugh appear to understand that there was
23 some incident?

24 A. He didn't, he didn't mention the incident. All I said
25 to me -- he gave me his phone number, he had no problem 12:09
26 giving me his phone number.

27 276 Q. Would he normally be quite compliant like that?

28 A. I never had to ask him for his phone number before, so
29 I can't...

1 277 Q. I mean, is he reasonably respectful of members of An
2 Garda Síochána and assist them like that?
3 A. Ah well, I never had any -- I wouldn't have had a lot
4 of encounters with Mr. McHugh. You could see him five
5 times in a day, you mightn't meet him for... 12:09

6 278 Q. Right. You see, where I am coming from, if I was in
7 Athlone and a member of An Garda Síochána, even if I
8 knew him, came up and asked me for my mobile number and
9 that there was some incident, I might ask --

10 A. You'd be curious, yes. 12:09

11 279 Q. You would be naturally curious?
12 A. Yes.

13 280 Q. What are you talking about? Was there any element of
14 that?

15 A. No, no. 12:09

16 281 Q. In the context of the conversation that you had with
17 him, because you were there, should we infer anything
18 from that, do you think?

19 A. No.

20 282 Q. No? 12:10

21 A. Just, I didn't want to open up the conversation
22 because, as I said, I didn't wish to get involved in
23 this.

24 283 Q. Then you say you wrote down the number and you returned
25 to the Garda station and you gave it to Detective 12:10
26 Sergeant Curley, is that right?

27 A. That's correct, yes.

28 284 Q. I think prior to that incident on the 28th May, you
29 were present along with Detective Sergeant Curley --

1 sorry, it was on the 29th May, was it, that you went to
2 take a statement from Olivia O'Neill?
3 A. That's the date that's there as the date. I have no
4 recollection of this incident. I do recall --
5 285 Q. CHAIRMAN: That's the end of your involvement with Liam 12:11
6 McHugh. We're now moving onto the next question, isn't
7 that right, Mr. Marrinan?
8 MR. MARRINAN: Yes.
9 A. I do recall some date in 2014 as well, D/Sergeant Eamon
10 Curley asking me to drive him up to Olivia O'Neill's 12:11
11 house in order to obtain a statement. My recollection
12 on it, I brought Eamon Curley to the house, she wasn't
13 at home. We observed her down the street further. I
14 had no interaction with Olivia O'Neill, only that I can
15 recall that there was no statement obtained from Olivia 12:11
16 O'Neill.
17 286 Q. All right. Okay. Do you recall what the statement was
18 about?
19 A. I don't.
20 287 Q. Right. So you were really just the driver, is that 12:11
21 right?
22 A. That's correct.
23 288 Q. You remained in the car throughout?
24 A. That's correct.
25 289 Q. And Detective Sergeant Curley, I think, did he remain 12:11
26 in the car throughout?
27 A. I can't -- again I can't recall if he sat in the car or
28 got out. All I know is there was no statement obtained
29 from Ms. O'Neill.

1 290 Q. CHAIRMAN: Do you remember who the conversation with
2 Olivia O'Neill?

3 A. It was Detective Sergeant Eamon Curley, because I
4 wasn't even aware of what the statement --

5 CHAIRMAN: Okay.

12:12

6 291 Q. MR. MARRINAN: We will just go back now. That's all
7 you can assist us on in relation to that particular
8 incident on the 29th May; is that right?

9 A. That's correct.

10 292 Q. If we could then go back, please, to the Liam McHugh
11 incident and have page 527 up on the screen. This is a
12 report sent on 9th July 2014 by Detective Sergeant
13 Eamon Curley to superintendent, Athlone. I will just
14 read the report and then ask you for your comment in
15 relation to this.

12:12

12:13

16

17 "Conversation with Liam McHugh as reported by Garda
18 Aidan Lyons.

19

20 I note receipt of attached correspondence. Prior to
21 same being forwarded to me I requested that I may not
22 be the most suitable person to pursue same as I am
23 personally known to Liam McHugh.

12:13

24

25 I had requested personnel within the detective office
26 to complete this task. I had tasked Garda Tom Higgins
27 with this role. Garda Tom Higgins met with Liam McHugh
28 and invited him to make a statement in relation to this
29 incident. Liam McHugh refused to consent to provide a

12:13

1 witness statement at that time but undertook to think
2 about it and maybe make himself available to provide
3 such a statement in the future.
4

5 Garda O'Higgins reported this situation to me following 12:13
6 his meeting with Liam McHugh. "
7

8 what do you say in relation to that?

9 A. The only thing I reported was I gave the telephone
10 number to Detective Sergeant Eamon Curley. 12:14

11 293 Q. First of all, there was no written report that was put
12 in by you, isn't that right?

13 A. No.

14 294 Q. Had you gone and requested a statement, would that be
15 something that would you have noted at the time? 12:14

16 A. If I had requested a statement I would have documented
17 it at the time, day, date, time, refused to make a
18 statement, I would have submitted back a report.

19 295 Q. How certain are you of your position in relation to
20 this? 12:14

21 A. I am one hundred percent clear, because at the time I
22 made my feelings known that I wasn't comfortable. I
23 didn't think it was appropriate for a member from
24 Athlone to get involved in an investigation where there
25 was colleagues of mine being... 12:15

26 296 Q. CHAIRMAN: Okay. Mr. Marrinan is saying, here is what
27 Detective Sergeant Curley said, and that's wrong as far
28 as you're concerned?

29 A. It is wrong. It is wrong.

1 CHAIRMAN: Yes.

2 297 Q. MR. MARRINAN: And is wrong in a number of respects. I
3 think that if we just explore it so that we are certain
4 what your evidence is in relation to this and we will
5 hear what Detective Sergeant Curley has to say in 12:15
6 relation to it. It's correct, if we look at the second
7 paragraph there:
8
9 "Garda Tom Higgins met with Liam McHugh."
10 12:15
11 well you did, but it was an informal meeting you say,
12 is that right?
13 A. That's correct.

14 298 Q. You just bumped into him?
15 A. well I went looking for him to get his phone number. 12:15

16 299 Q. Yes, yes. "And invited him to make a statement in
17 relation to the incident."
18
19 You say you didn't do that?
20 A. No, that's incorrect. 12:16

21 300 Q. CHAIRMAN: You didn't invite him to make a statement.
22 A. No.

23 301 Q. CHAIRMAN: He didn't refuse to make a statement?
24 A. No, but I never asked him.

25 302 Q. MR. MARRINAN: Did you ever tell Sergeant Curley that 12:16
26 you had asked Liam McHugh to make a statement?
27 A. No.

28 303 Q. "Liam McHugh refused to consent to provide a witness
29 statement at that time."

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But then that doesn't arise on your evidence. So he's mistaken in relation to that, when he reports that to his superiors?

A. That's correct.

12:16

304 Q. "Again but undertook to think about it", no issue arose in relation to that?

A. No.

305 Q. "And maybe make himself available to provide such a statement in the future."

12:16

Again, that didn't arise in the context of your conversation?

A. The only way that would have arisen is, I gave him a phone number, he may in the future if someone contacts him, but it wasn't said by me.

12:16

306 Q. CHAIRMAN: You got his phone number?

A. That's correct.

307 Q. CHAIRMAN: And passed on the phone number, full stop, end of involvement of Garda Higgins?

12:17

A. That's correct.

308 Q. CHAIRMAN: So anybody who says anything else is incorrect?

A. That's correct.

CHAIRMAN: Okay.

12:17

309 Q. MR. MARRINAN: It's difficult to reconcile obviously the two accounts, but is there any possibility that you just simply may have given Detective Sergeant Curley the wrong impression of your interaction with Liam

1 MCHugh at the time?

2 A. No, I wouldn't have, because, as I said, I made my
3 feelings known from the start that I wasn't
4 comfortable, I didn't think it was appropriate for me
5 to take a statement and that I would obtain his 12:17
6 telephone number, which I did.

7 310 Q. Well, you know what I mean, you might have just simply
8 said to him something along the lines of, I met that
9 fella, I got his mobile number, but he's not
10 interested. Is that a possibility? 12:17

11 A. It wasn't said by me. Unless it was misinterpreted by
12 D/Sergeant Curley, but that wasn't said by me.

13 311 Q. Are you sure?

14 A. Mm-hmm.

15 312 Q. I mean, he has to have heard something and he has 12:18
16 misinterpreted it and he has put this in his report. I
17 am sure he didn't just simply make this up.

18 A. I am not saying he did make it up and I am not saying
19 what he interpreted, I am just clearly stating what I
20 said. 12:18

21 313 Q. But is there a possibility that you may have said
22 something that may have given a false impression that
23 your interaction with Liam MCHugh was a little bit more
24 than just taking the...

25 A. No, because there was never -- any interaction -- if 12:18
26 that was my case I would have documented my interaction
27 with him.

28 314 Q. Yes.

29 A. But I didn't document my interaction, because the only

1 role I had to play was to obtain his telephone number.
2 And I didn't discuss the incident with him because I
3 didn't want to discuss the incident with him. I just
4 wanted to obtain his telephone number in order that it
5 could be passed on to other members from outside the 12:19
6 division that could obtain his statement at a further
7 dat.

8 315 Q. In support of that you point to the fact that you
9 didn't make a written report and you would have done in
10 those circumstances, is that right? 12:19

11 A. That's correct.

12 316 Q. And nobody asked you for a written report, which one
13 might expect, isn't that right?

14 A. In the normal course.

15 317 Q. That would be -- 12:19

16 A. Yes, that's correct.

17 318 Q. Particularly in relation to something that could be
18 quite significant, such as this?

19 A. That's correct.

20 319 Q. And nobody asked you to provide a statement, isn't that 12:19
21 right?

22 A. Not until the Tribunal, no. That's correct.

23 MR. MARRINAN: would you answer any questions. Thank
24 you.

25 12:19

26 END OF EXAMINATION

27

28 CHAIRMAN: Thank you very much. Now, should we go
29 around the same. Yes, Ms. Mulligan.

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GARDA TOM HIGGINS WAS CROSS-EXAMINED BY MS. MULLIGAN,
AS FOLLOWS:

320 Q. MS. MULLIGAN: Garda Higgins, just one question. When you said that you weren't comfortable making a statement, what was his response. 12:19

A. He didn't respond to me, but by that I took that he was in agreement with me. He didn't say -- he answer me. But by that I just took -- 12:20

321 Q. CHAIRMAN: You had said you weren't comfortable?

A. That's correct.

322 Q. CHAIRMAN: with taking a statement, or approaching Liam Mchugh with a view to getting a statement from him?

A. That's correct. 12:20

323 Q. CHAIRMAN: And you said that in some shape or form?

A. Yes.

324 Q. CHAIRMAN: Okay. And you say he didn't agree or disagree?

A. He didn't respond. 12:20

325 Q. CHAIRMAN: But you understood that he had understood?

A. That's correct.

326 Q. CHAIRMAN: Is that --

A. Yes.

MS. MULLIGAN: Nothing further. 12:20

END OF EXAMINATION

CHAIRMAN: Thank you very much. Anybody else?

1 MS. O'ROURKE: I don't have any questions, Chairman.
2 CHAIRMAN: Thanks very much.
3 MR. MÍCHEÁL O' HIGGINS: Chairman, I have appear for
4 Inspector Curley. I have a few questions.
5 CHAIRMAN: Sure, yes. 12:20
6 MR. MÍCHEÁL O' HIGGINS: Many of which will be issues of
7 inferences rather than conflict.
8 CHAIRMAN: whatever, you are there to ask the
9 questions, Mr. O'Higgins.
10
11 GARDA TOM HIGGINS WAS CROSS-EXAMINED BY MR. MÍCHEÁL
12 O' HIGGINS, AS FOLLOWS:
13
14 327 Q. MR. MÍCHEÁL O' HIGGINS: Good morning. Now,
15 Mr. Higgins, could I ask you first of all, I have 12:21
16 instructions from Sergeant Curley, now Inspector
17 Curley, that he did not in fact discuss the Galway
18 investigation with you. That is correct, isn't it?
19 A. I never said he discussed it. He didn't discuss the
20 Galway investigation with me, that's correct. 12:21
21 328 Q. And the reason, of course, that he wouldn't have
22 discussed it with you, I am instructed, is that he was
23 not aware of the subject-matter of the investigation
24 that had been carried out by the Galway team. I take
25 it you wouldn't differ with that? 12:21
26 CHAIRMAN: well he doesn't know whether he was or he
27 wasn't, but he says he didn't discuss it with him. So
28 that's the answer you're looking for, Mr. O'Higgins.
29 329 Q. MR. MÍCHEÁL O' HIGGINS: And I think it's the case that,

1 or my instructions are that then Sergeant Curley
2 assigned you the task of ascertaining whether Liam
3 McHugh was willing to make a statement regarding the
4 incident that had been reported.

5 A. AS I say, we had a conversation in the detective office 12:22
6 and he asked me and I informed him that I didn't feel
7 comfortable, I didn't think it was appropriate.

8 330 Q. CHAIRMAN: But before that, Mr. O'Higgins' question is,
9 that's what he wanted? Sergeant Curley, we will use
10 the title that he at the time? 12:22

11 MR. MÍCHEÁL O' HIGGINS: Yes.

12 331 Q. CHAIRMAN: Detective Sergeant Curley wanted you to
13 approach Liam McHugh to take a statement from him?

14 A. That's right.

15 332 Q. CHAIRMAN: That's what he wanted? 12:22

16 A. Yes, right.

17 333 Q. MR. MÍCHEÁL O' HIGGINS: And that arose from the report
18 that had been provided to him, you're aware of that?

19 A. That's correct.

20 334 Q. I am also instructed that Sergeant Curley did not 12:22
21 discuss Garda A with you and that, in fact, Garda A was
22 not referred to in any of the reports that Sergeant
23 Curley provided to you?

24 A. That's correct. The only report I seen is the report
25 that Sergeant Lyons -- and Garda A is not mentioned in 12:22
26 it.

27 335 Q. Yes. You see, Sergeant Curley's recollection is that
28 you did not offer simply to get a contact number for
29 Liam McHugh, and, indeed, it's not his recollection

1 that he would have asked you for such a number, because
2 he could have that independently. What he asked you to
3 do was to ascertain that the man was willing to make a
4 statement?

5 A. I have stated that that is what he asked me to do, to 12:23
6 obtain the statement. However, I also have stated that
7 I didn't feel comfortable, I didn't think it was
8 appropriate.

9 CHAIRMAN: Mr. O'Higgins, is it all right if I ask
10 something? 12:23

11 MR. MÍCHEÁL O' HIGGINS: Certainly.

12 336 Q. CHAIRMAN: So he wanted you to go and see if Liam
13 McHugh would make a statement and if necessary take a
14 statement from him?

15 A. That's correct. 12:24

16 337 Q. CHAIRMAN: You weren't comfortable with that and you
17 understood that he was accepting or in some shape or
18 form understanding of your discomfort?

19 A. He didn't actually say it to me.

20 338 Q. CHAIRMAN: No, I appreciate that? 12:24

21 A. Sorry, yes, but I understood that.

22 339 Q. CHAIRMAN: In your head?

23 A. Yes.

24 CHAIRMAN: He didn't say, don't be ridiculous, or,
25 that's nonsense. So rightly or wrongly you had an 12:24
26 understanding that he was appreciative of the
27 difficulty, the embarrassment or whatever it was that
28 you were expressing.

29 A. That's correct.

1 340 Q. CHAIRMAN: Okay. So where did that leave the request?
2 How did you interpret that as, well, I will get a
3 telephone number? Do you understand what I am getting
4 at? How did you decide, well, I think I know where we
5 stand now? 12:24

6 A. Just from the start, Detective Sergeant Eamon Curley
7 informed me that he didn't feel comfortable himself
8 obtaining the statement.

9 341 Q. CHAIRMAN: Yes.
10 A. He knew Mr. McHugh personally. 12:24

11 MR. MÍCHEÁL O' HIGGINS: That's accepted.

12 A. I could understand that myself, that he would feel
13 uncomfortable.

14 342 Q. CHAIRMAN: Only double plus extra, because you felt at
15 least as embarrassed as he was? 12:25

16 A. That's correct.

17 343 Q. CHAIRMAN: Okay.
18 A. As I said, Detective Sergeant Eamon Curley never said
19 to me that he was happy with me doing this. However,
20 by saying nothing, I thought he was in agreement with 12:25
21 me.

22 344 Q. CHAIRMAN: I understand. But now in your mind you have
23 had conversation and you know what is looking for. So
24 did you just leave it to chance as to what would happen
25 when you met Liam McHugh or did you just decide, look, 12:25
26 I will get his telephone number and then somebody can
27 ring him up?

28 A. Well I was aware that there was an investigation being
29 conducted, I then thought --

1 345 Q. CHAIRMAN: You thought the Galway people --
2 A. I thought it would be more appropriate.
3 346 Q. CHAIRMAN: -- should be doing this?
4 A. I thought it would be more appropriate. To me in my
5 service, it's not good policing policy for members of 12:25
6 the local station --
7 347 Q. CHAIRMAN: I understand.
8 A. -- to carry out an investigation regarding their
9 colleagues.
10 348 Q. CHAIRMAN: So you had it in mind that if things went 12:26
11 the way you thought they ought to go, this number would
12 be passed onto the Galway detectives, who would make
13 contact with Liam McHugh and proceed from there?
14 A. That's correct.
15 349 Q. CHAIRMAN: That's what you had in mind? 12:26
16 A. That's correct.
17 CHAIRMAN: Thank you very much. I am sorry about that.
18 MR. MÍCHEÁL O' HIGGINS: That has clarified matters,
19 Chairman.
20 350 Q. So, Mr. Higgins, can I ask you then in relation to the 12:26
21 report that Mr. Marrinan brought you through. It's
22 Sergeant Curley's recollection that, in fact, after you
23 had spoken with Liam McHugh you returned to the office
24 and you met Sergeant Curley, all right. You informed
25 him that you had met with Liam McHugh and that Liam 12:26
26 McHugh had told you that he would not consent or wasn't
27 agreeable to providing you with a statement. Do you
28 recall that?
29 A. The only recollection I have regarding this incident

1 is: Obtaining the telephone number, handing it to
2 Detective Sergeant Eamon Curley, and he was aware that
3 I did not feel comfortable or didn't think it was
4 appropriate. So there could have been no other
5 conversation regarding the station that he refused to 12:27
6 make a statement or he declined or that he may wish to
7 make one at a further date. This didn't take place
8 between me and Detective Sergeant Curley.

9 351 Q. Can I just indicate my instructions and you can
10 indicate specifically whether you agree or disagree. 12:27
11 First of all, Sergeant Curley has no recollection of
12 receiving a phone number on a piece of paper from you.
13 That's his -- he doesn't recall that. But he does
14 recall you returning to the office and telling him that
15 you met with Liam McHugh. So do you recall returning 12:27
16 to the office and telling Sergeant Curley that you had
17 met Liam McHugh?

18 A. Naturally I would have met Liam McHugh in order to
19 obtain his telephone number. So I would have informed
20 him that I met him in order to obtain his telephone 12:28
21 number.

22 352 Q. And did you inform him of that, did you inform Sergeant
23 Curley of that when you returned to the office, having
24 met Sergeant Curley?

25 A. That's correct, I would have, he was aware that -- 12:28

26 353 Q. That's fine. I ask you this then, you told him, I'm
27 suggesting to, you told Sergeant Curley that Liam
28 McHugh had told you he would not consent to providing a
29 witness statement?

1 CHAIRMAN: He doesn't agree with that.

2 A. No, I don't, because I couldn't tell him that when I
3 didn't even ask Mr. McHugh to make a statement.

4 354 Q. MR. MÍCHEÁL O' HIGGINS: And my instructions are that
5 whilst you were in the office Sergeant Curley prepared 12:28
6 his report that we are looking at on screen.

7 A. There's two offices, he'd have his own office, I cannot
8 say when he prepared his report.

9 355 Q. Well you see -

10 A. I wasn't privy to any -- I didn't actually see him do 12:28
11 the report.

12 356 Q. All right. Well I just want to put this to you so you
13 have an opportunity to say yes or no to it. It's my
14 understanding, it's my instructions indeed, that while
15 you were in the office he was preparing his report and, 12:29
16 in fact, he read over to you the second paragraph there
17 that relates to your interaction with Liam McHugh,
18 which was to ensure that it was an accurate account of
19 your interaction?

20 CHAIRMAN: Do you follow? 12:29

21 A. I know what he's saying but that's not correct.

22 CHAIRMAN: That's not right, you don't agree with that?

23 357 Q. MR. MÍCHEÁL O' HIGGINS: We might look at that then,
24 Mr. Higgins, if we may. The second paragraph there
25 relates to the interaction and it records or purports 12:29
26 to record:
27
28 "I had requested personnel within detective office to
29 complete this task. I had tasked Garda Tom Higgins

1 with this. Garda Tom Higgins met with Liam McHugh and
2 invited him to make a statement in relation to this
3 incident. Liam McHugh refused to consent to provide a
4 witness statement at the time but undertook to think
5 about it and maybe make himself available to provide
6 such a statement in the future." 12:29

7
8 My question to you: How would -- well, first of all,
9 would you agree with me that is something you told to
10 Sergeant Curley, because that is what's in the report 12:30
11 that he got from you?

12 A. That's not correct. That is not what -- that's what in
13 the report that you're after reading now, but it's not
14 correct what I told Detective Sergeant Curley.

15 358 Q. All right. I am just wondering is there a possibility 12:30
16 of misunderstanding here? Do you see the last clause,
17 where it says:

18
19 "But undertook to think about it and maybe make himself
20 available to provide such a statement in the future." 12:30

21
22 How would you he have known about that, what you had
23 told him?

24 CHAIRMAN: wherever he got it, he didn't get it from
25 Garda Higgins. That's his evidence. 12:30

26 A. I don't know what Detective Sergeant Eamon Curley was
27 thinking. All I am stating is my role in this. I
28 obtained the phone number, I gave it to Detective
29 Sergeant Eamon Curley in order to --

1 359 Q. CHAIRMAN: I understand. So we have a disagreement as
2 follows, if I understand it. Number one, you arrive
3 back from your meeting with Liam McHugh with a piece of
4 paper with a mobile telephone number on it. You got
5 that from Liam McHugh, who turned over the phone and 12:31
6 the number was written on the back?
7 A. That's correct.

8 360 Q. CHAIRMAN: Okay. So he gave it to you. So the only
9 thing, the only development, so to speak, that arose
10 from that, was a piece of paper with a mobile phone on 12:31
11 it, for reasons that you have explained and so on?
12 A. That's correct.

13 361 Q. CHAIRMAN: So you say you gave that to Detective
14 Sergeant Curley?
15 A. That's correct. 12:31

16 362 Q. CHAIRMAN: He says, no. Apparently he's going to say
17 he doesn't remember any piece of paper with the
18 telephone number. That's the first disagreement. The
19 second disagreement is that he says while you were
20 present in the office -- obviously he said you had a 12:31
21 conversation but that is not -- while you were present
22 in the office he's typing up his report and then he
23 reads it to you and then you either nod to confirm or
24 simply don't disagree with it. And you say that didn't
25 happen as far as you're concerned? 12:32
26 A. That's correct.

27 363 Q. CHAIRMAN: And what's more, it couldn't have happened
28 because of the context that you are describing?
29 A. That's correct.

1 364 Q. CHAIRMAN: Is that right?

2 A. That's correct.

3 CHAIRMAN: Okay. There's the disagreement between the
4 parties.

5 365 Q. MR. MÍCHEÁL O' HIGGINS: Thank you Chairman. Could I 12:32
6 ask you then to deal with the final paragraph on the
7 first page there. You might just scroll down, please,
8 Mr. Kavanagh, to the next paragraph of the document
9 that's on the screen, which is a report of 9/7/14. In
10 this Eamon Curley, Detective Sergeant, says: 12:32

11
12 "Due to the fact that the matter under inquiry relates
13 to members within Athlone Garda Station, I feel it may
14 be prudent for a member other than Athlone crime/drug
15 office staff to pursue Liam McHugh further for a 12:32
16 statement on this matter."

17
18 And that was his position on the matter.

19 CHAIRMAN: And that was your position as well.

20 A. I agree with that. 12:32

21 MR. MÍCHEÁL O' HIGGINS: Thanks very much.

22

23 END OF EXAMINATION

24

25 CHAIRMAN: Anybody else? Are we all happy with that. 12:33

26 Now, Mr. Murrinan.

27 MR. POWER: Chairman I wonder if I could.

28 CHAIRMAN: Sorry. And you appear for?

29 MR. POWER: I appear for Garda Higgins, Tom power is my

1 name.

2 CHAIRMAN: Thanks very much, Mr. Power, I am so sorry.

3 MR. POWER: Not at all.

4

5 GARDA TOM HIGGINS WAS THEN EXAMINED BY MR. POWER, AS
6 FOLLOWS:

7

8 366 Q. MR. POWER: we're all clear that in relation to the
9 issue of taking statement from Liam McHugh there is a
10 conflict between yourself and the evidence of Sergeant 12:33
11 Curley. Can I just deal first very briefly with the
12 issue about taking a statement from Ms. Olivia O'Neill.
13 I think your position is that you just drove Sergeant
14 Curley there, is that correct?

15 A. That's correct yes. 12:33

16 367 Q. I think you're aware that Ms. O'Neill has given
17 evidence to say you did a lot of the talking, what do
18 you say to that?

19 A. No, that's incorrect.

20 368 Q. So who do you say did all the talking? 12:33

21 A. Detective Sergeant Eamon Curley was speaking with
22 Ms. O'Neill.

23 369 Q. I think you said in your evidence that you didn't know
24 why you were going there to take a statement?

25 A. That's correct. 12:34

26 370 Q. Thank you. If we can just then move on to the issue
27 about Liam McHugh. I think you say that you were
28 worried and that you didn't think it was proper for you
29 to be taking a statement. Could you just tell the

1 Tribunal in a bit more detail why you didn't feel it
2 was proper for you to take a statement?

3 A. Well, as I stated, when it involved colleagues of mine,
4 it just wouldn't be appropriate. In my belief and my
5 policing career it's good practice to let members from 12:34
6 a different division and also of a higher rank. If a
7 guard is being investigated it's usually somebody of a
8 higher rank, maybe a sergeant. And if a sergeant is
9 being investigated it would be an inspector or a
10 superintendent. So it always a rank above the person 12:35
11 that's --

12 CHAIRMAN: But here you were both in some respect
13 feeling a little embarrassed, a little or maybe a lot
14 embarrassed, yourself and the detective sergeant.

15 A. That's why I informed him and I thought he was in 12:35
16 agreement with me because he was in the same position
17 as me.

18 371 Q. MR. POWER: And you left it at that and you went out.
19 Did you go looking for Mr. McHugh or did you just run
20 into him? 12:35

21 A. Well I was looking for him, but I didn't go -- I came
22 across him. I cannot recall whether it was that day or
23 the next day, but shortly, sometime shortly afterwards
24 I did meet him, because he is a guy as you could see,
25 as I said, five or six times a day and you mightn't see 12:35
26 him for a week after that, do you know.

27 372 Q. Just in relation to the phone number, I think you seem
28 to remember meeting with Liam McHugh and you say that
29 he didn't know his own phone number?

1 A. He didn't know, that's why -- my recollection he took,
2 he removed his phone from his pocket and he had it
3 wrote down on a piece of paper stuck to the back of his
4 phone.

5 373 Q. As you say, you didn't want anything more to do it and 12:35
6 you are simply referring that piece of paper to
7 Sergeant Curley?

8 A. That's correct.

9 374 Q. I think you were aware that there was a Galway team
10 investigating matters surrounding the protected 12:36
11 disclosure of Garda Keogh?

12 A. I was. It had been spoken about throughout the station
13 that there was gardaí from Galway investigating
14 allegations.

15 375 Q. And I think you felt it was more appropriate that they 12:36
16 would investigate --

17 A. That's correct.

18 376 Q. -- any issues surrounding Garda Keogh. And I think
19 Garda Keogh is named in the report that you saw from
20 Garda Aidan Lyons? 12:36

21 A. That's correct, yes.

22 MR. POWER: Thank you.

23 CHAIRMAN: Is Mr. McHugh still to be seen selling the
24 Big Issue around Athlone? Have you seen him recently?

25 A. Yeah, he's still to be seen, yes. 12:36

26 CHAIRMAN: There it is. Maybe we will have to send
27 somebody else down to see if we can find him. All
28 right.

29 MR. MARRINAN: Certainly we will consider it, Chairman.

1 CHAIRMAN: I think we will probably have to consider
2 it. Just in case anybody thought that it hadn't
3 occurred to us previously to ask Mr. McHugh, we
4 certainly made some efforts.

12:37

5
6 END OF EXAMINATION

7
8 CHAIRMAN: Okay. Anything else, Mr. Murrinan?

9 MR. MURRINAN: No, nothing further arises. Thank you
10 very much, garda.

12:37

11 CHAIRMAN: Thanks, Garda Higgins.

12
13 THE WITNESS THEN WITHDREW

14
15 MR. MURRINAN: The next witness is Inspector Eamon
16 Curley, please.

12:37

17 CHAIRMAN: Thanks very much.

18 MR. MURRINAN: His statement is in volume 3 at page 189
19 and also a supplemental statement in volume 51 at
20 14364.

12:37

21 CHAIRMAN: Thanks very much. Good afternoon,
22 inspector. Thanks very much.

23
24 INSPECTOR EAMON CURLEY, HAVING BEEN SWORN, WAS
25 DIRECTLY-EXAMINED BY MR. MURRINAN, AS FOLLOWS:

12:37

26
27 THE WITNESS: Inspector Eamon Curley.

28 377 Q. MR. MURRINAN: Inspector Curley, would you mind just
29 giving us a brief summary of your career in An Garda

1 Síochána until the present time, please?

2 A. Yes, Chairman. I joined An Garda Síochána in 1995. I
3 was attested in 1996. From there, I was stationed
4 first of all in Limerick city, initially as a normal
5 uniform garda and in 2000 I was appointed to the role 12:38
6 of detective garda. I remained in that role until
7 2004, when I was promoted to the rank of sergeant. In
8 2004 I was in mainly Limerick city but in different
9 station. I went from Henry Street to Roxborough Road.
10 I remained there until 2006, when I transferred to 12:38
11 Athlone. In 2006 I was on regular duties in Athlone
12 for 12 months and in 2007 I was appointed to the role
13 of detective sergeant. I remained in the role of
14 detective sergeant in Athlone up until 2016, when I was
15 promoted to the rank of inspector, which I currently 12:38
16 hold, and I am currently stationed in Portlaoise.

17 378 Q. Thank you very much. You are here to deal with a
18 number of issues. If we could just deal with issue 1,
19 it's a fairly formal matter in relation to this. That
20 concerns the investigation, the Pulse entry made by 12:39
21 Garda Keogh on 18th May 2014. I think that you
22 received a complaint from Garda A in relation to that
23 entry, isn't that right?

24 A. That's correct.

25 379 Q. If we could have page 8332 up on the screen, please. 12:39
26 This is a complaint that was directed --
27 CHAIRMAN: This is issue 2, Mr. Marrinan.
28 MR. MARRINAN: No, this one is issue 1.
29 CHAIRMAN: I thought issue 1 was the Pulse entry.

1 MR. MARRINAN: Yes.

2 CHAIRMAN: I'm sorry. This is Pulse query.

3 MR. MARRINAN: This is the Pulse entry.

4 CHAIRMAN: I'm sorry, forgive me. Sorry. Sorry.

5 Thanks very much. What number? 12:39

6 MR. MARRINAN: 8332. We see the intelligence entry

7 there.

8 CHAIRMAN: Yes.

9 380 Q. MR. MARRINAN: I won't read through it all. At the end

10 of the first paragraph, he says: 12:40

11

12 "Garda Keogh has recently made a number of complaints

13 against me which I believe are a result of a personal

14 grievance which Garda Keogh holds against me."

15 12:40

16 Then he says:

17

18 "I previously verbally reported my dissatisfaction with

19 this intelligence record to my superiors in Athlone and

20 was informed that the matter would be dealt with." 12:40

21

22 I think that was a complaint he made to Superintendent

23 McBrien?

24 A. Yes, Chairman.

25 381 Q. We have heard evidence in relation to that? 12:40

26 A. Yes.

27 382 Q. "The matter has not been dealt with. The intelligence

28 record is still in existence and has not been reviewed.

29

1 I am aware that this intelligence record was widely
2 viewed and discussed by members on a national scale and
3 I have been the brunt of many a joke. I do not believe
4 that the Garda intelligence system is the forum for any
5 members to make scurrilous slanders and unfounded 12:41
6 allegations against other members in order to settle
7 personal grievances.

8
9 I wish to express my severe disappointment that this
10 matter has not been dealt with in a more timely 12:41
11 fashion. If a situation is not resolved I will be
12 forced to take legal advice on the matter which is
13 causing me great upset.

14
15 Forwarded for your immediate attention please. " 12:41

16
17 And that's signed by Garda A. Did you actually discuss
18 the contents of this with Garda A or did you just
19 receive it?

20 A. No, Chairman. Received the report. 12:41

21 383 Q. Then if we have 8331 up on the screen. This is dated
22 three days later, the 30th July, and you forwarded that
23 to the superintendent in Athlone, isn't that right?

24 A. That's correct, Chairman.

25 384 Q. You had no other further dealings with that? 12:42

26 A. No. None, Chairman.

27 385 Q. Then if we just move on to the issue 2, which is the
28 investigation of the Pulse check by Garda Keogh on 18th
29 May. I think again you received a report in relation

1 to this. If we could have page 8619 up on the screen.
2 Now, this is dated 24th September 2014, it concerns
3 Garda Keogh and another guard performing a check on the
4 Garda Pulse system on Garda A. And he says:

5
6 "On 20th September 2014 I noticed that the above named
7 two Gardaí had checked my personal details on the Garda
8 system. I can think of no good reason as to why these
9 gardaí have been checking on me. The other guard gives
10 his reason for checking as incident inquire and Garda 12:43
11 Keogh offers no reason at all for his using the Pulse
12 system to check me. I believe that both these gardaí
13 were using Pulse for personal reasons and these checks
14 were in no way Garda related matters and that they may
15 have breached the Data Protection Act while carrying 12:43
16 out these checks."

17
18 Then he has a reference to the other guard. He says:

19
20 "I would like this matter fully investigated please." 12:43
21

22 Again, I don't think you were involved in the
23 investigation, but if you turn to page 8618, the
24 previous page, on the 24th September, the same day, you
25 forward the complaint to Superintendent McBrien in 12:44
26 Athlone Garda Station, isn't that right?

27 A. That's correct, Chairman.

28 386 Q. You indicate that Garda A is requesting that this
29 matter be investigated, isn't that so?

1 A. Yes.

2 387 Q. Now, just following the chronology and referring back
3 to issue number 1, I think that you were requested to
4 do an audit on entries that had been made by Garda
5 Keogh, isn't that right? 12:45

6 A. That's correct. That's correct, Chairman.

7 388 Q. And you had been requested by Superintendent McBrien
8 and we have heard of that request. And on 10th
9 November 2014, at page 8370, please, you performed an
10 audit of all intelligence entries that were made by 12:45
11 Garda Keogh. Isn't that right?

12 A. That's correct, Chairman.

13 389 Q. I don't intend to open these, unless anybody requests,
14 but we can see at page 8370, you say:

15 12:45

16 "In relation to the above and attached correspondence I
17 wish to report that I have now carried out an audit of
18 Pulse intelligence entries created by Garda Keogh since
19 1st January 2013. I wish to report that Garda Keogh
20 has one intelligence entry created on Pulse in 2014, 12:46
21 which is the one that is the subject-matter of this
22 report."

23

24 Then you give the number. You then say:

25 12:46

26 "Garda Keogh created 18 separate intelligence entries
27 on Pulse in 2013. I have examined same with a view to
28 seeing if they contain information of a similar nature
29 of that contained in Pulse intelligence number ending

1 409, or if they contain information that would lead to
2 the intelligence contained in Pulse intelligence 409."

3

4 So that was your brief, isn't that right?

5 A. That's correct, Chairman.

12:46

6 390 Q. Then you set out a total of 18 intelligence reports,
7 and they are over page 8370, 8371 and 8372. And then
8 you conclude in your report at page 8373, please:

9

10 "In conclusion I can report that none of the Pulse
11 intelligence entries created by Garda Keogh from 1st
12 June 2013 to date relate in any way to the intelligence
13 he created on 18th May 2014, which in fact is the sole
14 intelligence entry he created in the year 2014."

12:47

15

12:47

16 You signed off in relation to that, is that right?

17 A. Yes, Chairman.

18 391 Q. And that was the sole dealings that you had in relation
19 to both those issues, is that correct?

20 A. Yes, Chairman.

12:47

21 392 Q. If we could then deal with issue 3, which, as you are
22 aware, is the investigation into Olivia O'Neill's visit
23 to Athlone Garda Station on 28th May of 2014. When did
24 you first become aware that there was an issue in
25 relation to Olivia O'Neill's visit to Athlone Garda
26 Station?

12:48

27 A. On 30th May 2014.

28 393 Q. And in what context did you become aware?

29 A. I received an e-mail that morning at 9:19am seeking

1 to -- it's page 513 and 514 of my statement, seeking to
2 see would Olivia O'Neill make a statement in relation
3 to the matter.

4 394 Q. Did you receive also a copy of the report that had been
5 compiled by Garda Stephanie Treacy? 12:49

6 A. So at that time, at 9:19am I received the e-mail, it
7 merely had the request from -- a copy of the request
8 from Chief Superintendent Curran to Superintendent
9 Athlone and a copy of the e-mail or an e-mail to me,
10 which is page 513: 12:49

11
12 "Forwarded for your information and attention as
13 requested."

14
15 Just basically obtain a statement in relation to the 12:49
16 information divulged to Garda Treacy on the 28th May.
17 So having received those two documents, I sought
18 further documents to see what was the nature of the
19 interaction that I was to seek the statement on. And
20 at 15:22 on that date I received an e-mail, which 12:49
21 included Garda Stephanie Treacy's report and a report
22 of Inspector Farrell to Chief Superintendent Curran,
23 which are at page 516 and 652 respectively.

24 395 Q. Just in relation to the report of Garda Treacy, I don't
25 intend to revisit it or open it, but what meaning did 12:50
26 you take from that report? What did you think in
27 actual fact she was reporting?

28 A. Well, on the face of it, to me it appeared that
29 somebody had some information in relation to Garda

1 corruption in Athlone. And on the face of the report
2 it appeared that the person who had that information
3 was Garda Nick Keogh. But that's it on the face of it.
4 That's my interpretation of it.

5 396 Q. Well, I suppose if that was your interpretation, the 12:50
6 person to approach would have been Garda Keogh in
7 relation to the matter?

8 A. Well I received a specific task, to interview Olivia
9 O'Neill. I suppose I wasn't the decider or the
10 investigator on this. So I had been assigned a 12:51
11 specific task to interview Olivia O'Neill. That was
12 the task I was doing. I wasn't the decider on it, I
13 wasn't the decider as to say, well other people may
14 have more information on this. The specific task I got
15 was to interview Olivia O'Neill. 12:51

16 397 Q. Having read Garda Treacy's report, I mean, did you
17 interpret it to mean that Garda Keogh had in fact in
18 some way coached Olivia O'Neill to make a statement,
19 not only to make a statement and name names but also to
20 include a narrative that he had supplied her? 12:51

21 A. I suppose on the face of it, having read the report
22 first, my initial reaction was that it was in relation
23 to Garda corruption. Who the most information in
24 relation to this Garda corruption, on the face of it,
25 it appeared that Garda Keogh had information in 12:52
26 relation to this. I didn't jump beyond that. I didn't
27 consider the word coaching. I heard the word coaching
28 mentioned several times here. I didn't consider that
29 word. I was given a specific ask, to interview Olivia

1 O'Neill regarding her knowledge of this interaction.
2 And that's what I undertook to do.

3 398 Q. You also read the report that had been sent by
4 Inspector Farrell on behalf of the superintendent to
5 Chief Superintendent Curran. If we could have page 12:52
6 1892 up on the screen. This is the report. If we
7 scroll down. Again, I don't intend to open the entire
8 report, but it says in the third last paragraph:
9

10 "The advice allegedly given by Garda Nicholas Keogh is 12:52
11 not appropriate in the circumstances and projects the
12 image of An Garda Síochána in an unfavourable light."
13

14 what did you interpret that to mean?

15 A. I suppose it's hard to interpret it, this is an 12:53
16 interpretation of someone else to the chief
17 superintendent, Inspector Farrell's wording, but
18 perhaps if you were to consider that information has
19 been divulged by a garda at the counter to a third
20 party which, if that were not to be the case, if that 12:53
21 were to be the case and it wasn't welcome to that third
22 party, that would be unfavourable, I would imagine. Or
23 it would be unprofessional.

24 399 Q. Okay. As far as you were concerned then when you went
25 out on the 30th of May to Olivia O'Neill, what was your 12:53
26 expectation that you were taking a statement in
27 relation to?

28 A. In relation to her knowledge of Garda corruption.

29 400 Q. Were you also interested in how it was that Garda Keogh

1 had supplied her information?

2 A. I suppose I was relying mainly on the report of Garda
3 Treacy. And as a trained interviewer and investigator,
4 it wouldn't be unprofessional or it wouldn't be part of
5 my training to assume that somebody may provide a 12:54
6 certain version of events. It is merely to establish
7 the facts. To establish the facts would include her
8 interaction with Garda Keogh, if there was such an
9 interaction, it would include any knowledge she would
10 have. I mean, I would assume nothing, challenge 12:54
11 everything, ask the questions and record a statement in
12 that fashion.

13 401 Q. Then I think you went to the last witness, Garda
14 Higgins?

15 A. That's correct, Chairman. 12:55

16 402 Q. Will you tell us about that?

17 A. As I said, having got the report from Garda Treacy, it
18 allowed me sufficient information to go and record a
19 statement from Olivia O'Neill. So I tasked Garda
20 Higgins to assist me on this. Normally when I am going 12:55
21 to seek a statement I would seek assistance in doing
22 that, bring someone with me. We travelled to the home
23 of Olivia O'Neill, I think he was more familiar with
24 the location of her home than I was at the time. She
25 wasn't present there. Garda Higgins entered the house 12:55
26 and spoke to I think one of the daughters, who informed
27 us that she was at her brother's house or not too far
28 away. We travelled down to where she was and spoke
29 with her down there, which was near the Dean Kelly

1 school, not too far away.

2 403 Q. Yes. And when you came upon her.

3 A. When we came upon her, I got out of the car and spoke
4 to her. I informed her that I wanted to seek to take a
5 statement from her in relation to the information she 12:56
6 had divulged to Garda Stephanie Treacy within Athlone
7 Garda Station on the 28th May.

8 404 Q. Did you know her previously?

9 A. I did, yes.

10 405 Q. And did she know you? 12:56

11 A. She did, yes. I suppose when I got out and spoke to
12 her, I introduced myself and I suppose acknowledged
13 that -- and hello or whatever words we choose to
14 interact with, and I explained my reason for being
15 there. 12:56

16 406 Q. Which was?

17 A. Which was to seek to take statement from her in
18 relation to the information that she divulged to Garda
19 Stephanie Treacy in Athlone Garda Station on the 28th
20 May. 12:57

21 407 Q. You appreciate her evidence is that she says that you
22 were there to take a statement in relation to Garda
23 Keogh?

24 A. No, that's not the case.

25 408 Q. Okay, just carry on then with the conversation? 12:57

26 A. So I repeated my request to her, and she wasn't
27 cooperative, in that she didn't consent to providing a
28 statement to me. I repeated it and that's where it --
29 she wouldn't give a statement.

1 409 Q. How long did your interaction with her last?
2 A. I would say it was quite brief, five to seven minutes,
3 five minutes.
4 410 Q. Did you tell her that it was important that she would
5 cooperate with you and make a statement? 12:57
6 A. My objective was to obtain a statement from her. I
7 outlined what I sought the statement in relation to. I
8 was courteous and patient with her and trying to
9 encourage her to cooperate with me to make a statement.
10 I asked her to sit into the car because it would afford 12:58
11 some privacy to allow that to happen. But she wouldn't
12 do that. She appeared, I suppose, not very cooperative
13 towards us and a little bit hesitant. And I encouraged
14 her, I repeated my request to her, that I was seeking
15 to take statement from her in relation to the 12:58
16 information she had divulged to Garda Stephanie Treacy
17 in Athlone on the 28th May. But she wouldn't do that.
18 She wouldn't provide a statement.
19 411 Q. And then what happened? Did you just drive off?
20 A. We just drove off, yes. 12:58
21 412 Q. Her account of what happened is at Day 119 of the
22 transcript, at page 78, Mr. Kavanagh, if we could
23 possibly have that up on the screen?
24 CHAIRMAN: I think we will leave it there,
25 Mr. Marrinan, and we will come back to it after lunch. 12:58
26 We will say two o'clock. Very good. Thank you very
27 much.
28
29

1 THE HEARING THEN ADJOURNED FOR LUNCH AND RESUMED AS
2 FOLLOWS.

3
4 413 Q. MR. MARRINAN: Inspector Curley, I had just got to the
5 stage where I was going to put to you what Olivia
6 O'Neill says in relation to this and her interaction
7 with you. We have page 79, Day 119 up on the screen.
8 Ms. O'Neill is being cross-examined by Mr. McGuinness.
9 If we scroll down to question 441 at the end of the
10 page. You see this is her account:

14:02

14:02

11
12 "No, about Nick Keogh. He said about Nick Keogh. He
13 said his name, Nick Keogh. I thought it was very odd,
14 a guard coming about another guard, like, it was
15 nothing to do with me, like."

14:03

16
17 All right? If we just scroll back up the line then, to
18 line 8.

19
20 "He wanted a statement. I didn't give a statement. I
21 told you I wouldn't get into the car."

14:03

22
23 I think that should be.

24
25 "I asked was I under arrest."

14:03

26
27 Did you ask her to get into the car?

28 A. I did, yes.

29 414 Q. Did she ask you was she under arrest?

1 A. No, she didn't.

2 415 Q. So she just refused to get into the car, is that right?

3 A. Yes.

4 416 Q. "They said no, and I said okay. So you know it was
5 only a small little car." 14:03
6
7 was it a small little car or was it the normal
8 detective car?

9 A. There were two detective cars assigned to detective
10 branch at the time, one was a Ford Focus and one was a 14:03
11 Ford Mondeo, both the same colour, navy blue. It was
12 either one of those cars, I can't remember which car it
13 was. I asked her to get into the car to afford her
14 some privacy because there were others on the footpath
15 at the time and it would allow a private discussion as 14:04
16 opposed to asking her with others standing in the
17 background.

18 417 Q. You see there, she is suggesting that you wanted a
19 statement about Garda Keogh. What do you say about
20 that? 14:04

21 A. I asked her, I wanted to record a statement from her in
22 relation to the information she divulged to Stephanie
23 Treacy, as received by her from Garda Keogh. So I did
24 mention Garda Keogh.

25 418 Q. But do you think you might have left her with the 14:04
26 impression that in fact you were focusing on Garda
27 Keogh?

28 A. No. The information was divulged to Stephanie Treacy.

29 419 Q. Clearly you weren't there to take a statement from her

1 in relation to the incident that she had gone to
2 Athlone Garda Station to report along with her
3 daughter, isn't that right?

4 A. That's right, Chairman.

5 420 Q. So it was clear and did you make it clear to her that 14:04
6 that's not a matter that you were investigating and
7 that you weren't going to take a statement in relation
8 to that?

9 A. The issue of this matter of assault didn't come up. I
10 didn't discuss that with her. It didn't come up. 14:05

11 421 Q. Are you sure about that?

12 A. Yes. I have no recollection of discussing anything in
13 relation to an assault investigation. It wasn't
14 something I was overly familiar with. It was merely to
15 seek information from her in relation to the 14:05
16 information which she divulged to Stephanie Treacy as
17 received from Garda Nick Keogh.

18 422 Q. Could it have been that she might have been mistakenly
19 left with the impression that you had told her that you
20 weren't investigating the incident and that you were 14:05
21 only there in relation to the information in relation
22 to Garda Keogh?

23 A. Sorry?

24 423 Q. Is it possible that you could have left her with the
25 impression that you weren't interested in the assault 14:05
26 on her daughter?

27 A. I wasn't interested in the assault on her daughter.

28 424 Q. Well that's clear, you weren't interested, and she says
29 that you weren't interested in that?

1 A. Yes.

2 425 Q. But she also says that you refused to take a statement
3 in relation to that?

4 A. That issue didn't come up.

5 426 Q. It didn't come up. Could you have left her with the 14:06
6 impression that your sole focus was on her interaction
7 with Garda Keogh and what Garda Keogh had said to her?

8 A. I left her with the impression -- or my intention was
9 to elicit a statement from her in relation to the
10 information that she had divulged to Garda Stephanie 14:06
11 Treacy as received from Garda Nick Keogh. That was my
12 intention. And I explained that to her. The issue of
13 an assault investigation concerning her daughter didn't
14 come up. She said to me that she couldn't really
15 remember what happened in the station that night at all 14:06
16 and she wouldn't provide a statement.

17 427 Q. If we just go to page 80 then and we scroll down to the
18 question at 445. It's a question:
19
20 "He made it very clear to you what he wanted." 14:07
21
22 And the answer is:
23
24 "No, he didn't, Nick Keogh, he wanted a statement about
25 it. He asked about Nick Keogh." 14:07
26
27 Then:
28
29 "Yes. But if you just --

1 A. No, he did not -- Nick Keogh, he just asked me to
2 make a statement about him. I keep telling you. I
3 cannot change my answer in a different way."
4

5 CHAIRMAN: And what is your question Mr. Marrinan? 14:07

6 428 Q. MR. MARRINAN: That's her account of it?

7 A. Yes.

8 429 Q. what do you say in relation to that?

9 A. I asked her to make a statement in relation to the
10 information she had divulged to Stephanie Treacy on the 14:07
11 28th May as received from Garda Keogh Nick Keogh. That
12 is what I was seeking the statement on and I explained
13 at that to her. Her reply was, she wouldn't give a
14 statement, she couldn't remember what happened in the
15 station that night at all. 14:07

16 CHAIRMAN: They seem to be similar, Mr. Marrinan.

17 MR. MARRINAN: To some extent, yes.

18 CHAIRMAN: In other words, it's not about the assault,
19 nothing to do with the assault, it's about the
20 information that allegedly originated with Garda Keogh. 14:08

21 MR. MARRINAN: Yes.

22 CHAIRMAN: So it's about Garda Keogh, if you like.

23 430 Q. MR. MARRINAN: well, she is suggesting that the focus
24 was a statement in relation to Garda Keogh. Your
25 account is, it was in relation to a statement in 14:08
26 relation to Garda Keogh, but in relation to the
27 information that had been imparted to her by Garda
28 Keogh.

29 A. It was in relation to the information that she imparted

1 to Garda Stephanie Treacy, and on the face of the
2 report that I had, it appeared that that information
3 came to her from Garda Nick Keogh. But in the process
4 of taking a witness statement from her, that may not
5 have transpired for the case. But I was assuming
6 nothing, I was going armed with this information. But
7 I did say to her as received from her by Garda Nick
8 Keogh. So I was going to elicit that information in
9 the course of the statement if she had been willing to
10 participate and provide a statement.

14:08

14:09

11 431 Q. In any event then if we can move on from that. You
12 wrote up a report in relation to that, isn't that
13 right?

14 A. That's correct.

15 432 Q. We will find that report in the material at 8690, it's
16 dated 30th May 2014.

14:09

17
18 "Information divulged by Olivia O'Neill to Garda
19 Stephanie Treacy at Athlone Garda Station."

14:09

20
21 Then you say:

22
23 "I note attached request to meet with Olivia O'Neill
24 and obtain a statement from her in relation to the
25 information she divulged to Garda Stephanie Treacy.

14:09

26
27 I wish to report that I met with Olivia O'Neill at
28 3:50pm today, 30th May 2014. I informed her that I was
29 conducting inquiries into the information that she had

1 divulged to Garda Stephanie Treacy as received from by
2 her from Garda Nick Keogh in Athlone Garda Station on
3 28th. . . "

4
5 That should be May. 14:10

6
7 "I explained to her that I wished to record a witness
8 statement from her outlining what she was told by Garda
9 Keogh. "

10
11 So the focus there seems to be on what she had been
12 told by Garda Keogh? 14:10

13 A. And in addition to how she divulged -- what information
14 she divulged to Garda Treacy.

15 433 Q. "She replied that she didn't wish to make any statement 14:10
16 and that she now couldn't really remember what was said
17 in the Garda station that might at all. Olivia O'Neill
18 declined to consent to the recording of a witness
19 statement from her despite being invited to do so. "

20
21 And then you sign off on that. Is there anything 14:10
22 further you wish to say in relation to that interaction
23 at that time with Olivia O'Neill that you think might
24 be of assistance to the Tribunal.

25 A. Following that interaction with her, I returned to the 14:11
26 station and I completed my report on that and I
27 e-mailed my report at 16:27, so within a half -- 40
28 minutes of that, I e-mailed a reported back to the
29 superintendent on the matter. That was the last

1 interaction I had in relation to that.

2 434 Q. We now move on to Liam McHugh, issue number 4. We
3 heard evidence from Garda Lyons this morning and also
4 from Garda Tom Higgins, which I will go through with
5 you. But in the first instance you received a report 14:12
6 from Garda Lyons, is that right?

7 A. That's correct, Chairman.

8 435 Q. That concerned an interaction between him and Liam
9 McHugh on Saturday night, the 31st May; isn't that
10 right? 14:12

11 A. That's correct, Chairman.

12 436 Q. Do you recall having a conversation with Garda Aidan
13 Lyons aside from the report that he sent to you?

14 A. Yes, Chairman.

15 437 Q. You didn't include it in your statement that you made 14:12
16 to the Tribunal, is this something that you recall
17 having been jogged by Sergeant Lyons' account in the
18 statement that he sent in to the Tribunal?

19 A. Well, Judge, Chairman, I didn't recall it until seeing
20 that. 14:12

21 438 Q. Yes.

22 A. But having seen that, I recalled it. Even if I had
23 considered it, I am not sure if I -- the bulk of what
24 was concerned in relation to what he told me was
25 contained in the report he provided to me. So a 14:13
26 conversation about a report, I'm not sure if I would
27 have included that. But either way, my memory was
28 jogged on it.

29 439 Q. When did this conversation take place?

1 A. It was either Sunday evening or Monday evening, I can't
2 be sure, of the bank holiday weekend.

3 440 Q. Will you just tell us what you recall him saying to
4 you?

5 A. Well, it was a brief conversation and in summary it was 14:13
6 a summary of what's contained in the report. I don't
7 recall any specifics in relation to it, but in general
8 it was that he had met Liam McHugh, who had reported to
9 him that Garda Nick Keogh had encouraged him to report
10 a matter which Liam McHugh said didn't happen. 14:13

11 441 Q. So it was clear from that conversation and clear to you
12 that what was being alleged was that Garda Keogh was
13 effectively coaching Liam McHugh, isn't that right?

14 A. Well, what was clear to me was this is what Liam McHugh
15 reported to Garda Aidan Lyons. 14:14

16 442 Q. Yes. You see, we have a different interpretation of
17 what's contained in Garda Lyons' report from his
18 superiors, who thought that there might actually have
19 been an incident, do you understand?

20 A. I understand. 14:14

21 443 Q. That in fact at some stage there may have been three
22 guards who took money from Liam McHugh. In actual fact
23 it goes further than that, because it ends up
24 ultimately in a report, and this isn't your fault, but
25 it ends up in a report by Mr. Debrun in relation to the 14:14
26 possibility that Garda Keogh was actually present and
27 therefore involved in it. So I just want to be clear
28 in relation to Sergeant Lyons' version of events in
29 relation to this. Because Chief Superintendent Curran

1 expressed surprise that Sergeant Lyons was now saying
2 something different than he interpreted from the
3 report. But your interpretation was the same as
4 Sergeant Lyons'?

5 A. Yes. 14:15

6 444 Q. At that time?

7 A. Yes, Chairman.

8 445 Q. Yes.

9 A. And on the face of it that was my interpretation from
10 the report as received, that it was quite clear on 14:15
11 that.

12 446 Q. In any event, if we turn to page 522 of the material.
13 That's the statement, and I don't intend to open it
14 again on the basis of your evidence, but that was the
15 report and you sent that on to the superintendent, is 14:15
16 that right?

17 A. Yes, to actually Inspector Nicholas Farrell, who was
18 the acting superintendent.

19 447 Q. Yes. Now, what did you make of it at the time yourself 14:16
20 in terms of a possible impact that this may have had on
21 Garda A's position, on the complaints that were being
22 then made by Garda Keogh and the fact that he was a
23 whistleblower? You were aware of all that, weren't
24 you?

25 A. I was aware of Garda Keogh's allegations. 14:16

26 448 Q. What impact did that have on you?

27 A. Sorry now, just the question again?

28 449 Q. That there was a suggestion that Garda Keogh was out on
29 the streets of Athlone coaching a witness. Did you

1 regard that as serious, potentially serious?

2 A. I regarded this as a matter which I was required and
3 obliged to escalate to my superiors. It wasn't a
4 matter which I was going to undertake to investigate
5 myself. It was a matter which I expected was going to 14:16
6 be assigned to somebody else to investigate. The
7 consequences of this or the seriousness of it, I mean
8 these were matters that were going to be pursued in
9 every possible way by superiors. That is what I would
10 expect would happen. 14:17

11 450 Q. Did you regard as it potentially serious?

12 A. Potentially serious, yes. Garda A is not referred to
13 in the report, I suppose that's one thing I would point
14 out.

15 451 Q. In any event, if we turn to page 524 of the material, 14:17
16 on the 9th June Superintendent McBrien writes to you
17 with regard to the e-mail from Garda Aidan Lyons dated
18 2nd June 2014:

19

20 "Please ascertain if Mr. McHugh is willing to make a 14:17
21 statement about this incident. Arrange to have such
22 statement if taken forthcoming."

23

24 Did you do anything arising out of that?

25 A. Yes. Well, prior to that report coming to me, I 14:18
26 advised Superintendent McBrien that I would not be the
27 most suitable person to be assigned to this task,
28 because I am from the same locality as Liam McHugh and
29 I know him, I suppose, outside the job.

1 452 Q. Do you recall when that conversation took place?
2 A. I understand that Superintendent McBrien was on leave
3 and returned sometime around the 5th or 6th June and it
4 was sometime between that and the 9th June, but I don't
5 recall the exact date. 14:18

6 453 Q. If we turn to page 525 of the material?
7 A. Sorry now, yes. Just arising out of this report,
8 having got this report, I was surprised to have got
9 this report, but I did undertake to complete the task
10 and I assigned the task to Garda Tom Higgins. 14:18

11 454 Q. This is a letter dated 23rd June 2014?
12 A. Sorry, that was a reminder, the 23rd June was a
13 reminder. So having got the report of the 9th June, I
14 assigned Garda Tom Higgins to complete the task of
15 taking the statement. 14:19

16 455 Q. What date did you do that on?
17 A. I would suspect it's the 9th June, the day I received
18 it.

19 456 Q. Did you do it in writing?
20 A. No, I didn't. 14:19

21 457 Q. Why not?
22 A. It was a straightforward task enough in my mind. I had
23 the report of Garda Aidan Lyons and I had this and I
24 sat down with him. I read over the report of Garda
25 Aidan Lyons with him and I said that we are seeking to 14:19
26 get a statement from Liam McHugh in relation to this
27 matter. And he undertook that do that. I informed him
28 that I was unsuitable to do this as I know Liam McHugh.

29 458 Q. If we go back to the letter of the 23rd June and we

1 just return to that conversation that you had with
2 Garda Higgins. This is a reminder:

3
4 "I refer to the above matter and previous
5 correspondence sent from this office on the 9th June. 14:19
6 Has a statement been taken from Mr. Liam McHugh? If a
7 statement has not been taken, please outline the
8 attempts which have been made to ascertain this
9 statement.

10 14:20

11 For your attention and report please."

12

13 So by that stage you say that had you assigned Garda
14 Higgins to take the statement?

15 A. Yes. 14:20

16 459 Q. How long after your interaction with Garda Higgins did
17 Garda O'Higgins Report back to you?

18 A. So he hadn't reported back to me up until the time I
19 received this important minder, and having received the
20 reminder I gave him a copy of the reminder and I said, 14:20
21 have you had any luck with getting the statement from
22 Liam McHugh yet, and he said, I haven't met him yet.

23 460 Q. What do you say to the evidence that you heard this
24 morning from Garda Higgins in relation to this?

25 A. I am quite clear in the task I assigned Garda Higgins. 14:20
26 It's not uncommon for me to assign detectives tasks of
27 taking statements and never before have I had a
28 situation where somebody misinterpreted a task being
29 assigned to take a statement, to misinterpret it to

1 seek a phone number or something like that. That has
2 never happened to me before. He undertook to take the
3 statement and reported back that he asked Liam McHugh
4 was he willing to provide a statement and Liam McHugh
5 said that he wouldn't at that time, that he would think 14:21
6 about it and maybe make himself available in the
7 future. So that's exactly what was reported back to
8 me. I cannot explain Garda Higgins' interpretation.
9 Perhaps it's the passage of time that he doesn't recall
10 the interaction, I don't know. 14:21

11 461 Q. He didn't report back to you in writing, isn't that
12 right?

13 A. That's right. So this task was assigned to me, and I
14 suppose it's a task that I would expect to be assigned
15 to a sergeant. So when I did my report in reply to 14:21
16 this, I was replying because the task was assigned to
17 me and I outlined why I didn't deal with it directly
18 myself, in that I had advised previously that it would
19 be unsuitable. Then I explained in the report how the
20 task was conducted, in the second paragraph, in 14:21
21 relation to Garda Higgins meeting with Liam McHugh.
22 And I specifically recall typing out that report and in
23 particular the second paragraph, and reading that over
24 to Garda Higgins, asking him to agree its accuracy.
25 And he did. 14:22

26 462 Q. You see, Garda Higgins says that he didn't do a report
27 because it ended up that all he was doing was giving
28 you a phone number or a piece of paper with a phone
29 number written on it. Wouldn't one normally expect to

1 see a report in relation to what you've accepted is
2 potentially a serious matter and the refusal of the
3 witness to make a statement to a member of An Garda
4 Síochána?

5 A. Well I considered it a very straightforward task. A 14:22
6 task that was assigned to me, that I in turn assigned
7 to Garda Higgins. He replied, he came back to me. I
8 verbally told him what I expected. He came and
9 reported to me the outcome of it and I reported back on
10 it. Fairly straightforward. I suppose usually in the 14:22
11 reporting back on it, he did say, the witness, it
12 wasn't a definitive no, I am definitely not going to
13 make a statement, he reported that he would think about
14 it and perhaps make himself available in the future.
15 So arising from that, when I reported on it, I reported 14:23
16 that I recommend that somebody else be tasked to
17 complete the matter and it specifically says on page
18 528 of the statement:

19
20 "Consequently I recommend in my report some other 14:23
21 member of sergeant or inspector rank be appointed to
22 complete this task."

23 463 Q. You went to see Olivia O'Neill, she refused to make a
24 statement and you report it in writing, isn't that
25 right? 14:23

26 A. Yes.

27 464 Q. Wouldn't one normally expect that you would request of
28 Garda Higgins that he would report back to you in
29 writing in relation to this significant matter?

1 A. The way it happened is the way he reported to me and I
2 undertook to complete a report myself, as it was a task
3 that was assigned to me and I was explaining how I went
4 about to do it. It wasn't a task -- it wasn't like an
5 investigation file that I would send out to somebody. 14:24
6 It was a specific task that I verbally assigned him to
7 do and it's not unusual for me to ask somebody to do a
8 task like that, to take a statement off somebody, see
9 is somebody willing to take a statement, and they
10 report back, and I reported back on it. Just on that, 14:24
11 the 23rd June, leading into the 9th July, when I
12 reported back on the matter, at that time the detective
13 branch was particularly busy arising out of a murder
14 investigation which occurred on the 20th June and Garda
15 Higgins was an integral part of that investigation 14:24
16 team. So perhaps that was one of the factors in my
17 mind when I decided to write the report myself. I
18 can't be sure. But it was that I was able to, able to
19 report back on it, it was quite swiftly, because I had
20 got a reminder. The way I operated generally is, I 14:25
21 like to be swift in how I go about my tasks. The
22 Olivia O'Neill matter, I received a request on the 30th
23 May and I complied with it immediately that day. This
24 one I received on the 9th June with a reminder on the
25 23rd and I was anxious that it would be replied to as 14:25
26 soon as possible. So when he came back, outlined to me
27 the interaction and the outcome of it, I replied to it
28 immediately.
29 465 Q. You see we have no documentary trail in relation to

1 this. It stops at the request to you to obtain a
2 statement and then we have a reminder that is sent from
3 the superintendent. We have 56 volumes of material
4 here and we have people who are requested to do reports
5 and they come back and they report in writing 14:25
6 invariably. But this is in fact the only incident that
7 we are looking into where there was ever a request of
8 somebody to do anything that wasn't in fact in writing.
9 So not only is the request not in writing of Garda
10 Higgins, but also his report isn't in writing. I am 14:25
11 just wondering why it is that that has happened in this
12 instant?

13 A. The request was to me to arrange to see was Liam McHugh
14 willing to make a statement. I outlined how I went
15 about the task, in that I assigned Garda Higgins to do 14:26
16 it, and I explained why I did that.

17 466 Q. Yes.

18 A. And I reported back on it. And that's the decision I
19 made at the time.

20 467 Q. Well, you see, I have to ask you these questions and 14:26
21 Garda Higgins may well, you know, take a view in
22 relation to this and say, well, the reason that it's
23 not in writing to me is because it was discussed with
24 Sergeant Curley and it was agreed that I wouldn't take
25 a statement because of my predicament and because I 14:26
26 knew all the parties. And second of all, that there
27 was nothing to report because all I was doing handing
28 back a piece of paper with a telephone number, which in
29 fact was the only thing that I was tasked to do. What

1 do you say in relation to that?

2 A. Yes, Chairman, I have heard that evidence and that
3 evidence doesn't comply with the task I was given. I
4 was given a task to see was Liam McHugh willing to make
5 a statement. And if Garda Higgins had said to me, I'm 14:27
6 not going to take a statement, I will see can I get a
7 phone number from him, that wasn't going to complete
8 the task that I was assigned to do. And the way I
9 operate, I operate a very efficient, professional
10 office, the way I operate would not allow for this, if 14:27
11 I see him, I might see can I get a phone number off
12 him. Because getting a phone number wasn't going to
13 address the task I was assigned. As I said, Liam
14 McHugh is from the same locality as I, if I did require
15 a phone number from Liam McHugh I would have the 14:27
16 resources within myself to obtain that phone number
17 without having to assign a member to do that. Pulse
18 would be my first port of call, but even outside that,
19 locally enquiries by me would have been able to
20 identify a current phone number for Liam McHugh. So I 14:27
21 didn't assign Garda Higgins to get Liam McHugh's phone
22 number.

23
24 when he came back to me on the 9th June -- or the 9th
25 July and reported the outcome of it, I reported it 14:27
26 exactly as he reported it to me. I typed out the
27 paragraph of the report when he was there, the report
28 in its entirety, but I read over the paragraph that was
29 relevant to his interaction with Liam McHugh and he

1 agreed that that was accurate, and I reported on the
2 matter.

3 468 Q. I am just wondering why it is you received a report
4 from sergeant Aidan Lyons in relation to his
5 interactions with Liam McHugh and all you did was
6 merely send that on to Inspector Farrell, who was then
7 acting for Superintendent Noreen McBrien, isn't that
8 right?

14:28

9 A. That's correct, Chairman.

10 469 Q. I am wondering why it is that you just didn't request a
11 report from Garda Higgins and similarly send that on to
12 your superiors?

14:28

13 A. Because I decided to reply to it there and then as he
14 returned to me because I was anxious it would be dealt
15 with. And at that time, the 9th July, we are in the
16 midst of murder investigation, where two suspects had
17 been identified out of three and one had fled the
18 jurisdiction. That was probably the number one
19 priority at that time. There was a violent, viscous
20 murder with one suspect on the loose. I dealt with it
21 as efficiently as I could at the time, reporting back
22 on the matter. I suppose in reporting back on the
23 matter, it appears that it, in my view, was a task that
24 was going to require further work and further
25 assignments that people needed to be assigned to,
26 revisiting Liam McHugh, as he said he would think about
27 it, possibly make himself available in the future.

14:28

14:29

14:29

28 470 Q. which might make it more important to have a
29 documentary trail, as would normally be the position in

1 An Garda Síochána, where there is a written request for
2 the report and then subsequently a report in writing
3 rather than just simply a verbal interaction?

4 A. But I reported back the interaction as was reported to
5 me by Garda Higgins. 14:29

6 471 Q. If we could go to page 808 then of the material. This
7 is a letter that is sent by inspector Minnock on the
8 8th July 2014. It's headed "Liam McHugh":

9
10 "With reference to the above, I believe the association 14:30
11 of Garda members both with Liam McHugh and the members
12 involved in the investigation, Garda Lyons, Garda A and
13 Garda Keogh, make it inappropriate for gardaí from
14 Athlone to interview Liam McHugh when colleagues are
15 under investigation. 14:30

16
17 I understand Detective Inspector Coppinger is the
18 external appointed officer to investigate this matter
19 and I feel he or his investigation team are the most
20 appropriate persons to interview Mr. McHugh. 14:30

21
22 I will obtain a mobile number for Liam McHugh, which
23 will assist the investigation team to arrange a meeting
24 with Mr. McHugh. "

25 14:30

26 Had inspector Minnock discussed this matter with you?

27 A. Yes. On the 8th July I spoke with inspector Minnock,
28 who had been away on leave for a period of time or away
29 on a course. He had been off anyway. And Inspector

1 Minnock is my, I suppose, line commander. So as part
2 of his portfolio within Athlone to oversee crimes and
3 investigations within the detective branch. So I would
4 have briefed him on matters that I suppose were ongoing
5 in detective branch at that time. I suppose more 14:31
6 specifically the murder investigation. But I did brief
7 him in relation to the matter involving Liam McHugh and
8 I outlined to him that -- as reported by Aidan Lyons
9 and how I advised Superintendent McBrien that I
10 wouldn't be the suitable person to do it and that I had 14:31
11 received task. I was merely bringing up to speed in
12 relation to different aspects of the inquiries and
13 investigations that were ongoing at the time.

14 472 Q. So it appears that at that stage your stance as
15 communicated Inspector Minnock was similar to Inspector 14:31
16 Minnock, really that this is too closely associated
17 with all members in Athlone Garda Station, but
18 particularly in relation to Garda Lyons, Garda A and
19 Garda Keogh and that it should be investigated
20 externally, is that right? 14:32

21 A. So when I said to Inspector Minnock that I didn't think
22 it was suitable for me to be assigned, I know Garda A
23 wasn't referred to in the report, but when I said that
24 to him, I got the impression from him that he didn't
25 think it was suitable even for me to be assigned, that 14:32
26 it wasn't suitable for anybody within the detective
27 branch to be assigned. That was the impression I got
28 from him.

29 473 Q. So it's clear, certainly by the 8th July, that you

1 hadn't assigned the task to Garda Higgins?

2 A. Sorry, say that again.

3 474 Q. It's clear that you hadn't assigned the task to Garda
4 Higgins and that there's no issue that he has reported
5 the matter back to you? 14:33

6 A. No, I had assigned the task to Garda Higgins. I
7 assigned the task to Garda Higgins on the 9th June,
8 when I received the report.

9 475 Q. But he couldn't have reported back to you because you
10 had a conversation with Inspector Aidan Minnock and he 14:33
11 sent a letter to the chief superintendent, which
12 appears to arrive out perhaps with the reminder sent on
13 the 23rd June that we've opened. And that's indicating
14 that in fact this request isn't appropriate, nobody
15 should interview? 14:33

16 A. I don't believe that Aidan Minnock's report arises from
17 the reminder of the 23rd June. I had received a
18 request from Superintendent McBrien to take a
19 statement, that request stood. I was endeavouring to
20 do that and I was merely bringing Inspector Minnock up 14:33
21 to speed on matters within the detective branch. From
22 my knowledge or information in relation to looking at
23 this report, it appears that's his view in relation to
24 matters.

25 476 Q. Right, okay. So you couldn't have reported that Garda 14:34
26 Higgins had come back to you and said that he wasn't
27 prepared to make a statement, because this effectively
28 is redundant, this letter?

29 A. Sorry, maybe I am misunderstanding your question.

1 Garda Higgins didn't report back to me until 9th July.
2 So maybe I'm misunderstanding your question.

3 477 Q. Okay. I am trying to isolate the actual date?
4 CHAIRMAN: There some confusion here as to chronology,
5 because I am lost. I thought 9th June, 23rd June, 14:34
6 what's agreed is that Garda Higgins came back to you,
7 the nature of the return is another day's work. But if
8 he came back on the 9th July, then this couldn't be
9 inconsistent, because it's the 8th July, is that right?
10 This conversation with Inspector Minnock happens on the 14:35
11 8th July, is that right?

12 A. That's correct.

13 478 Q. CHAIRMAN: You brief him on the 8th July?
14 A. That's correct, Chairman.

15 479 Q. CHAIRMAN: But if I am understanding, Garda Higgins had 14:35
16 not come back to you at this point?
17 A. That's correct, Chairman.

18 CHAIRMAN: So it's not inconsistent, Mr. Marrinan. Am
19 I missing something here? Why am I losing the plot
20 here? 14:35

21 MR. MARRINAN: I am not suggesting that it is
22 inconsistent. I am just fixing a date.

23 CHAIRMAN: I thought that's just what you did say.

24 MR. MARRINAN: Right. well, if I did I --

25 CHAIRMAN: Because you were challenging, actually you 14:35
26 specifically said -- I am sorry, Mr. Marrinan, I am
27 sorry for being pedantic, but I may be totally wrong as
28 well. what you said was that this letter was
29 redundant.

1 MR. MARRINAN: If Garda Higgins had come back prior to
2 that.
3 CHAIRMAN: But I thought he said Garda Higgins had not
4 come back prior to that.
5 MR. MARRINAN: well that's the evidence that -- 14:35
6 CHAIRMAN: That's fine.
7 MR. MARRINAN: You see this isn't documented.
8 CHAIRMAN: Anyway, sorry.
9 MR. MARRINAN: Yes.
10 CHAIRMAN: I am trying to follow and I am trying to 14:36
11 understand. Maybe somebody else can clarify it.
12 Anyway. what's the date of this letter that we are
13 looking at, 808.
14 MR. MARRINAN: The 8th July.
15 480 Q. CHAIRMAN: The letter from Inspector Minnock is the 14:36
16 8th.
17 A. Yes.
18 481 Q. CHAIRMAN: But Garda Higgins doesn't come back until
19 9th?
20 A. That's correct, Chairman. 14:36
21 CHAIRMAN: Okay.
22 MR. MURPHY: Chairman, perhaps I can assist. This
23 document probably has to be seen in sequence, page 527,
24 which is mentioned previously, which is the letter of
25 the 9th July. 14:36
26 CHAIRMAN: 527. Anyway, Mr. Marrinan can decide if he
27 wants to --
28 MR. MURPHY: That precedes the letter at 527, which is
29 the next day, and is the next in sequence.

1 CHAIRMAN: Very good. That is 527.

2 482 Q. MR. MARRINAN: We will move on to that now, because
3 having spoken on the 8th July to Inspector Minnock, you
4 then refer on the 9th July to a conversation with Liam
5 McHugh as reported by Aidan Lyons, 14:37
6
7 "I note receipt of attached correspondence, prior to
8 same being forwarded to me, I requested that I may not
9 be the most suitable person to pursue same as I am
10 personally known to Liam McHugh." 14:37
11
12 That was a conversation that you had with
13 Superintendent McBrien, is that right?

14 A. That's correct.

15 MR. MURPHY: Chairman, I am very sorry, would it assist 14:37
16 the Tribunal if that particular document 527 was put on
17 the screen while the witness is being asked.

18 MR. MARRINAN: Sorry, I thought it had been.

19 CHAIRMAN: We had it a minute ago.

20 MR. MARRINAN: Yes. 14:37
21 MR. MURPHY: Thank you, Chairman.

22 483 Q. MR. MARRINAN: "I had requested personnel within the
23 detective office to complete this task. I had tasked
24 Garda Tom Higgins with this role. Garda Tom Higgins
25 met with Liam McHugh and invited him to take a 14:37
26 statement in relation to this incident."
27
28 This is really why I have been asking the questions.

29 CHAIRMAN: Yes. This is where they are in

1 disagreement.

2 484 Q. MR. MARRINAN: You don't indicate in this report when
3 Garda Higgins met with Liam McHugh, isn't that right?

4 A. So the next line, the next paragraph is:

5
6 "Garda Higgins reported this situation to me following
7 his meeting with Liam McHugh."
8

9 And the report is dated the 9th July. So it was that
10 date, the day he came back into the station

11 485 Q. That's what you are telling us here.

12 A. Yes.

13 486 Q. But it's not in the body of the statement, or it's not
14 in the body of your statement?

15 A. That was my intention, to reflect that; that it
16 occurred on that day.

17 487 Q. Well, you may have said:

18
19 "I requested personnel and then Garda Tom Higgins met
20 with Liam McHugh today and invited him to make a
21 statement in relation to this incident. Liam McHugh
22 refused to consent to provide a witness statement at
23 that time but undertook to think about it and maybe
24 make himself available to provide such a statement in
25 the future."
26

27 But in any event, your case is that it was on the 9th
28 July, because Garda Higgins doesn't recall the date,
29 but your case is that it was the 9th July that Garda

1 Higgins had his interaction with Liam McHugh?
2 A. Yes.
3 488 Q. And reported to you. And that was after Inspector
4 Minnock sent the report to Superintendent McBrien?
5 A. Yes, Chairman. 14:39
6 489 Q. And it arose out of circumstances where you had given
7 the instruction earlier on to Garda Higgins and
8 fortuitously or not, as the case may be, he had met
9 with Liam McHugh on the day after Inspector Minnock
10 sent his report? 14:39
11 A. Yes.
12 490 Q. Is that right?
13 A. Yes, Chairman,.
14 491 Q. Is that a fair summary?
15 A. Coincidentally, it was the next day that Garda Higgins 14:39
16 reported back on the matter. He came back into the
17 office and said that he had just met Liam McHugh and
18 this is what he said.
19 492 Q. Then you go on to say:
20 14:39
21 "Garda Higgins reported the situation to me following
22 his meeting with Liam McHugh. Due to the fact that the
23 matter under inquiry relates to members within Athlone
24 Garda Station, I feel it may be prudent for a member
25 other than Athlone crime/drug office staff to pursue 14:40
26 Liam McHugh further for a statement on this matter.
27
28 Consequently I recommend that some other member of
29 sergeant or inspector rank be appointed to complete

1 this task."

2

3 And as far as you were concerned that was a completely
4 reasonable position to adopt in relation to the matter,
5 isn't that right?

14:40

6 A. Yes, Chairman.

7 493 Q. Yes. Now, what do you say in relation to Garda
8 Higgins' evidence in relation to the content of this
9 report? You say that after he reported the matter to
10 you that you were in a room with him, is that right?

14:40

11 A. Chairman, the detective office consists of, I suppose,
12 an office and my office is off it, the door is open
13 between the two offices, I have a computer and desk
14 within my office. It's not a very -- neither office is
15 a particularly big office. When he returned in to the
16 office he told me he had just met Liam McHugh and he
17 had asked him about providing a statement and Liam
18 McHugh told him that he didn't consent at that time but
19 he would think about it and maybe make himself
20 available in the future. So I commenced typing my
21 report at that time. As I completed the second
22 paragraph, I read it over to ensure that it was
23 accurate, to Garda Higgins. I called him over to the
24 door and I clearly recall outlining to him, is this a
25 correct interaction or record of the interaction
26 between you and him and he agreed it was and I
27 continued on with my report.

14:41

14:41

14:41

28 494 Q. He denies that but you say that it happened in any
29 event?

1 A. I have a very clear recollection, Chairman, because I
2 wasn't present for the interaction, so I wanted to be
3 clear in what actual interaction took place and that's
4 the reason I did it in that fashion. And as I said,
5 the murder investigation was number one priority at 14:42
6 that time and I was anxious to reply on this matter
7 because it had been with me since the 9th June at this
8 time, and this is a month, it's not the way I operate,
9 I am very efficient in how I deal with requests and
10 this request was going on a while and I received a 14:42
11 reminder on it and I was anxious to reply to it. Plus,
12 due to the nature of the reply, I expected it would be
13 further tasked, so I was anxious to send it back.

14 495 Q. Is there anything more you want to say in relation to
15 that issue? 14:42

16 A. No, Chairman.

17 496 Q. We will move on now to other issues that you are
18 involved in to a lesser or greater extent. Issue 9, in
19 relation to an investigation that was conducted and
20 arrests were to take place on 16th November 2015. You 14:43
21 have referred in your statement to the fact that you
22 advised Garda Keogh that these arrests were going to
23 take place. The reference is in volume 3 at 487. I
24 don't really intend to go there in relation to the
25 matter. I don't see that it's significant or adds 14:43
26 anything to it. Subsequently you wrote a letter to
27 Superintendent Murray, which is in volume 8, at 3010.
28 Again, I don't intend to go -- it relates to your
29 interactions with Garda Keogh and the reason why he

1 couldn't attend the arrests.

2

3 If we could then --

4 CHAIRMAN: The trailer case.

5 MR. MARRINAN: Pardon?

14:43

6 CHAIRMAN: The trailer case.

7 MR. MARRINAN: Yes.

8 497 Q. If we can then just move on in relation to the
9 reclassification of a robbery from the person, which is
10 PID 12207121. Now, you had a limited involvement in
11 relation to these matters, but could I just ask you
12 generally in relation to Superintendent Murray and the
13 regime that he put in place. I think that he brought
14 about quite a number of changes in relation to crime
15 reporting, PAF meetings and such matters that we have
16 gone through with Superintendent Murray, isn't that
17 right?

14:44

14:44

18 A. Yes, Chairman.

19 498 Q. Would you have seen the new regime that came into place
20 in March in 2015 as perhaps being more accountable,
21 perhaps stricter than it had previously been under
22 Superintendent McBrien?

14:45

23 A. More beneficial from, I suppose, a crime investigation
24 and a governance point of view, I would have thought.
25 In that all matters were properly pursued and followed
26 up on, particularly in relation to, I suppose,
27 detective branch. He a deep understanding of crime
28 investigation and the supports necessary to ensure that
29 crimes are properly investigated and followed up. In

14:45

1 doing, as he initiated a full-time incident room
2 coordinator to detective branch, which was a huge
3 benefit to preparing files in detective branch.

4 499 Q. No reflection on Superintendent McBrien's tenure in
5 relation to these matters and matters do evolve, but 14:45
6 did you find that it was perhaps placing a greater
7 burden on members or not?

8 A. I would have thought the opposite. I would have
9 thought that it allowed members to enjoy the supports
10 that were there at management level to assist in the 14:46
11 pursuit of crime investigations which they were
12 assigned to, that they weren't isolated, that there
13 were numerous support measures available to them to
14 ensure that crimes were fully followed up. From
15 speaking to members and from my knowledge, they were 14:46
16 quite satisfied with this matter, that it was a huge
17 support to them in how they went about their work. In
18 particular if they found themselves investigating
19 something which needed assistance, that they weren't
20 isolated, assistance would be provided to them. Or if 14:46
21 it was a matter that required, I suppose, more
22 expedient resources to be applied, that that would
23 happen without the member having to go and pursue that.

24 500 Q. If you could look at page 500 of the material, please.
25 This relates to robbery from a person. It's addressed 14:47
26 to Superintendent Murray. Have you got that?

27 A. Yes.

28 501 Q. You say:

29

1 "Please find attached statement from the injured party
2 in this case."

3
4 The injured party's statement is 502, we don't need it
5 up on the screen, just for the benefit of the parties. 14:47

6
7 "On 14th September 2015 I tasked Garda A to interview
8 the victim and he recorded the attached statement.
9 Garda A reported that the victim was reluctant to meet
10 with him, stating he didn't wish to pursue the matter. 14:48
11 I encouraged Garda A to record a statement from him,
12 which is attached.

13
14 In summary, the victim states that he was robbed by two
15 males who initially asked him for a cigarette. He 14:48
16 stated they --" it says hot but it's probably:

17
18 " -- hit and kicked him and stole €20 and some change
19 from his pocket. The victim states he does not wish to
20 pursue the complaint. 14:48

21
22 The witness statement as recorded is lacking in detail
23 regarding description of offenders. However, as the
24 victim is reluctant to cooperate, it is difficult to
25 envisage how a prosecution could be successful even if 14:48
26 a suspect could be identified.

27
28 I recommend consideration be given to recategorise this
29 incident due to the attitude of the victim."

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If we could just have the crime counting rules, page 8356 up on the screen. We have had this before. If we turn to paragraph 1.3, you will see it there:

14:49

"If the criteria to record are satisfied (reasonable probability and no credible evidence to the contrary) and the victim does not want the matter taken any further, a criminal offence should be recorded."

14:49

Now, we debated this with Superintendent Murray in relation to it, you were clearly of the view that the matter should be recategorised, is that right?

A. Okay. So, that investigation was first discussed by us on Monday, the 14th, at your PAF meeting.

14:49

502 Q. Yes.

A. And arising from that Garda A was tasked with it. Well, I tasked Garda A with recording a statement from the victim. Up to that point, in 2015 there had been four robberies in Athlone. So it was an unusual crime to my mind, two of them in relation to matters which are subject to the investigation in relation to a taxi driver, this inquiry in relation to a taxi driver, robbery. But I suppose it was something I would give some consideration to. So having received the statement back from Garda A, I had concerns regarding the matters, had the matters occurred as being reported. Those concerns were in relation to -- I suppose there was a number of concerns. Number one,

14:50

14:50

1 the victim describes a very violent robbery, yet the
2 injuries weren't consistent with the description as he
3 provided. There was no corroborative evidence in
4 relation to the matter. He was now in turn, in
5 relation to the theft of the €20, reporting some change 14:50
6 having been stolen. I had concerns in relation to the
7 location that the crime occurred, in that it wasn't the
8 normal route that from his address, from the town that
9 one would take home. And there was a discrepancy
10 around the time that the crime occurred. Initially it 14:51
11 was reported as having occurred between 2:30 and 3:30
12 and yet in his statement to Garda A he said it occurred
13 between 2:00am and 3:00am. Now this location where it
14 occurred is approximately three minutes from the town
15 centre. So there was no explanation surrounding the 14:51
16 discrepancy in the time that it he occurred. No
17 corroborative evidence. There was evidence that he was
18 intoxicated. I suppose on top of all that, he wasn't
19 willing to make a statement of complaint. So I suppose
20 the first factor is the inconsistencies and my concerns 14:51
21 were heightened by the fact that he wasn't willing to
22 make a complaint. He didn't provide a description in
23 the statement that Garda A was assigned to take from
24 him. So, all of those things I had some concerns in
25 relation to, believing that the incident occurred as 14:51
26 reported.

27 503 Q. We know that there was a description of both attackers
28 in the Pulse entry that had been made by Garda Keogh,
29 but did anybody think it prudent to talk to Garda

1 Keogh?

2 A. Well, I assigned Garda A to do it, he reported back to
3 me. I advised Superintendent Murray on that day when
4 Garda A reported back to me, with my report and I went
5 to Superintendent Murray with my report and a copy of 14:52
6 the statement and I outlined to him the concerns I had
7 regarding whether the incident occurred as reported,
8 with my recommendations. And my recommendations aren't
9 mainly based or solely based or in any way based on his
10 refusal to make a statement or complaint, they are 14:52
11 based on my failure to believe that the matter occurred
12 as reported. But they are merely recommendations. And
13 having discussed it with Superintendent Murray,
14 Superintendent Murray decided, having discussed it with
15 him, that we would seek somebody else to re-interview 14:52
16 the victim, see can we further the matter.

17 504 Q. Just come back to the question that I asked you?

18 A. I'm sorry, yes.

19 505 Q. Did anybody think that you would perhaps go to Garda
20 Keogh, and his colleague who was with him, I can't 14:53
21 remember his name, but his colleague who was with him
22 on the night when they came upon this person?

23 A. I understand that Garda Keogh was on a rest day, on
24 leave at that time and he wasn't available. But I
25 didn't consider that with Superintendent Murray. 14:53

26 506 Q. Pardon?

27 A. I didn't consider that with Superintendent Murray, that
28 somebody would be appointed.

29 507 Q. Was there any reason why you didn't go back to him and

1 ask him perhaps what was the demeanour of the person
2 like? How was it that he came to make a complaint?
3 what were the circumstances he came to make a
4 complaint? we understand that he had gotten into a
5 taxi and was on his way to the Garda station, which 14:53
6 might indicate that it was something substantial that
7 he was going to report. Did you not think of
8 contacting Garda Keogh, who had interactions with him,
9 talk about his demeanour, how he was on the night?

10 A. I wasn't aware that the victim had got into a taxi on 14:54
11 the night and come to the Garda station. If I was
12 aware of that, that would have been beneficial.

13 508 Q. Yes, but I am just saying that this is information that
14 Garda Keogh and he doesn't seem to have been consulted
15 in relation to the matter, I am just wondering why? 14:54

16 A. Well, I would expect that the interaction or the
17 details, the relevant details would have been included
18 in the report of Garda Keogh and on the Pulse incident.
19 The matters that I have highlighted I suppose aren't
20 referred to on that, including the use of a copper bar, 14:54
21 which the victim described being beaten with.

22 509 Q. So then I think that having written that to
23 Superintendent Murray, you had a further conversation
24 with Superintendent Murray and it was felt that perhaps
25 the statement that had been made to Garda A wasn't 14:54
26 adequate in the circumstances and you decided then that
27 you would get a report, a further report from Garda
28 John Divilly, isn't that right?

29 A. That's correct, Chairman.

1 510 Q. That's at page 498 of the materials.

2 A. Yes, Chairman.

3 511 Q. There were four questions that were posed, the reason
4 why he does not wish for this incident to be
5 investigated; better description of the offenders; what 14:55
6 injuries he received; and had he any alcohol consumed?
7 And the answers are set out there, the final paragraph:

8
9 "Garda informed the alleged injured party that it was
10 his choice if he did not want the matter to be 14:55
11 investigated but if he changed his mind to contact
12 Gardaí. Garda Divilly informed him that it would be
13 better for the investigation to start sooner. However,
14 the alleged injured party is adamant that he does not
15 wish the matter to be investigated." 14:55

16
17 You then further recommended to the superintendent, I
18 will just give you the reference number now, it's at
19 page 495, it's 16th September 2015. It's to
20 Superintendent Murray. You attach the report of Garda 14:56
21 Divilly and then in the final paragraph you say:

22
23 "The credibility of the victim has to be questioned.
24 It is not normal that a victim would refuse to
25 cooperate and pursue a robbery complaint. Consequently 14:56
26 I recommend this incident be recategorised to attention
27 and complaints following the outcome of the interviews
28 with the victim."
29

1 That was your position. We know that it was on that
2 recommendation and after Superintendent Murray
3 considering the matter that he reclassified to
4 attention and complaints, isn't that right?

5 A. Sorry, Chairman, just to clarify: The report, the task 14:57
6 of Garda Divilly, I suppose the best outcome we could
7 hope for that ideally with a revisit by somebody else
8 to a victim is perhaps they may have had a change of
9 mind and may have reported the matter by way of a
10 statement of complaint. But that didn't happen. That 14:57
11 sometimes happen with a different approach. But that
12 didn't happen. But I suppose what concerned me more
13 arising from the report of Garda Divilly is that the
14 description of the offenders changed from white Air Max
15 top and black tracksuit bottoms and a McKenzie top to a 14:57
16 black hoodie and a blue hoodie, so the description
17 changed again, which I suppose heightened my concerns
18 that I previously had. My report then to
19 Superintendent Murray, again recommended the matter be
20 recategorised, was based on -- when it refers to the 14:58
21 credibility, I didn't include all the rationale for my
22 report. Because the way Superintendent Murray operated
23 at that time was, any decisions relating to the
24 reclassification of crime or decisions surrounding how
25 matters would proceed from an investigative perspective 14:58
26 were all done collectively at PAF meetings. So, I knew
27 from the report that I was sending back that it would
28 lead to this matter being discussed openly at the PAF
29 meeting, which happened on the 23rd, where we all sat

1 around and discussed the matter at the end of the PAF
2 meeting and I outlined my concerns in relation to it
3 and why I felt it didn't fall within the crime counting
4 rules to be recorded as robbery, based on the concerns,
5 in that I didn't believe that the matter as reported 14:58
6 occurred as reported. And arising out of that three
7 decisions were made at the PAF meeting.

8 512 Q. Is there anything further you want to say in relation
9 to that issue?

10 A. Collectively when it was discussed at the PAF meeting, 14:59
11 there was a decision made to recategorise the matter to
12 attention and complaints. There was a decision made to
13 seek further information from the investigating guard
14 and a decision made to leave it on, I suppose, our
15 excel sheet, which basically would mean that the matter 14:59
16 -- or PAF sheet, which would mean the matter would be
17 reviewed further down the road. So ultimately as
18 detective sergeant in Athlone, I am quite familiar with
19 the crime as reported and if any information or
20 intelligence had occurred which was going to change my 14:59
21 view on that, this matter is something I would have
22 given attention to or was aware of it. It is a matter
23 which could be recategorised up towards again. The PAF
24 meeting is there as control measure to review incidents
25 of this nature and it performed very well and this is 14:59
26 an example of how it works.

27 513 Q. Now if we could move on to issue 15, please. Yes, this
28 concerned the stabbing of a taxi driver on 3rd August
29 2015. This arises out of the investigation of I think

1 two stabbings that occurred in or around about the same
2 time. It was an elderly taxi driver. You recall this,
3 yes?

4 A. Yes, Chairman.

5 514 Q. Garda Keogh has given evidence that he initially 15:00
6 responded to the call for assistance, we know that he
7 reported in the incident and gave details to be placed
8 on Pulse and that he may have seen some clothing, I
9 think it was, as part of the investigation. We know
10 that the Pulse entry was changed in relation to this on 15:01
11 4th August of 2015. We have a statement at page 6202,
12 from Garda Aisling Shankey Smith. If we have that on
13 the screen. You see there, if you go down to the third
14 paragraph, the last three lines:

15 15:01
16 "Investigating garda was updated from garda
17 registration number."

18
19 And it gives the number.

20 15:01
21 "Garda Nicholas Keogh."

22
23 And then to another number that is Garda Niall Cogavin.
24 And she says:

25 15:02
26 "I informed them that this was updated by garda --" and
27 then the registration number, which is yourself.

28 A. That's correct.

29 515 Q. Pardon?

1 A. Yes.

2 516 Q. Yes. Then if we look at the statement of Mr. Brian
3 Savage, who works as a contractor for ICT directorate
4 in Garda Headquarters, he asserts -- if we scroll down,
5 if we could have that up on the screen, 6203. In the 15:02
6 second last paragraph he says:
7
8 "I can confirm that the investigating member was
9 changed on 4th August 2015 therein on the Pulse front
10 end, there will be no evidence in the IOI list of 15:03
11 previous investigating members having held that role.
12 The information is only available from the audit data."
13
14 I will just come back to the question that I want to
15 ask you, but subsequently I think that there was a 15:03
16 successful prosecution in relation to this and a number
17 of the investigating gardaí received commendations,
18 isn't that right?
19 A. That's correct, Chairman.

20 517 Q. Now, in terms of what's been suggested in relation to 15:03
21 this, what's been suggested is that Garda Keogh was
22 deliberately airbrushed out of the investigation and
23 there is no record of him there and this was done with
24 a view to denying him a commendation that others
25 received. Now in general terms what would you have to 15:04
26 say to that?
27 A. So, first of all, Chairman, in relation to the updating
28 of the Pulse incident, if you go to page 534, that's
29 actually the Pulse narrative of the incident.

1 CHAIRMAN: 534, okay.
2 A. 534. Chairman, the third line from the bottom, I
3 outline updated pulse there, wrote in:

4
5 "Incident recategorised to robbery." 15:04

6
7 CHAIRMAN: Sorry let's have a look at it, sorry.
8 Thanks very much.

9 A. So the third line up from the bottom:
10 15:04

11 "Incident recategorised to robbery and Gardaí
12 Cogavin/Divilly assigned to investigate following
13 decision of daily PAF meeting."

14
15 So, Chairman, this matter would have been discussed in 15:05
16 the morning, it happened the night before, it was

17 discussed at the morning PAF meeting, and this
18 incident, detectives were assigned to investigate this
19 incident. And I updated Pulse to reflect that. An
20 unintentional consequence of doing that was that Garda 15:05

21 Keogh didn't appear on front end of it. He had been
22 down initially as the investigating member. It wasn't
23 to my knowledge that by replacing the investigating
24 member that the person wouldn't appear on the front end

25 of it. It was always -- or it was our training on 15:05
26 Pulse that nothing could be deleted from it. I
27 wouldn't have expected -- I thought he would
28 automatically be repopulated, I suppose, into the
29 incident as an assisting member. But that didn't

1 happen.

2 CHAIRMAN: Could you explain that for the uninitiated.

3 A. Yes, Chairman.

4 518 Q. CHAIRMAN: First of all we have Garda Keogh recorded as
5 the investigating member, is that correct? 15:05

6 A. That's correct, Chairman.

7 519 Q. CHAIRMAN: And that stands until it's changed?

8 A. Yes, Chairman.

9 520 Q. CHAIRMAN: So there's a PAF meeting, and now you want
10 to record the fact that two detectives have been 15:06
11 assigned. Am I getting it so far?

12 A. Yes, Chairman.

13 521 Q. CHAIRMAN: So how does it happen that Garda Keogh's
14 name is deleted?

15 A. Okay. 15:06

16 522 Q. CHAIRMAN: How does that happen?

17 A. Okay. So after the PAF meeting, I think it was done --
18 I think the time is actually given by Garda Shankey
19 Smith, that it happened around 12 midday or 12:09 or
20 something like that. So our PAF meetings were 12:30am. 15:06
21 So following that I would have opened up the incident
22 on my pulse screen and I would have updated it, whereby
23 Garda Keogh was listed as the investigating member I
24 would have put in Garda Cogavin reg number as the
25 investigating member. 15:06

26 523 Q. CHAIRMAN: Does that mean you took him out?

27 A. Sorry, Chairman. So that was the one action I do, I
28 press save when I put in Garda Cogavin as
29 investigating. And I updated the narrative to put in

1 that they had been assigned. The unintentional
2 consequence of that was that Garda Keogh doesn't appear
3 on the front end. I didn't actually do an action that
4 would press, we'll say, remove or delete.

5 524 Q. CHAIRMAN: I understand. Let's go back for a moment. 15:07
6 I am sorry to be tedious and pedantic about this?
7 A. That's okay.

8 525 Q. CHAIRMAN: The additional information that you put in
9 at the end.
10 A. Yes. 15:07

11 526 Q. CHAIRMAN: That didn't take out Garda Keogh?
12 A. No.

13 527 Q. CHAIRMAN: Okay. So we can acknowledge that that
14 happened as a result of the PAF meeting and leave it.
15 Somebody may wish to ask you about it, complain about 15:07
16 it, or whatever. But we for our purpose can leave it
17 for the moment. Okay.
18 A. Yes.

19 528 Q. CHAIRMAN: Peter, can we go up a tiny bit further
20 please. Up at the top. Okay, thank you very much. 15:07
21 Now, where do I have the investigating garda?
22 A. On the left-hand side, if you go down "injured party,
23 suspect" it goes down along.

24 529 Q. CHAIRMAN: "Connected with the associate..."
25 15:08
26 Blah-blah-blah. Investigating garda.
27 A. Yes.

28 530 Q. CHAIRMAN: So that originally read Garda Nicholas Keogh
29 number so and so, is that correct?

1 A. Yes.

2 531 Q. CHAIRMAN: So you put in Garda Niall Cogavin, am I
3 pronouncing that correctly?

4 A. Yes.

5 532 Q. CHAIRMAN: Okay. You put in Garda Cogavin and 15:08
6 assisting Garda John Divilly?

7 A. Yes.

8 533 Q. CHAIRMAN: Did you put that in?

9 A. Yes.

10 534 Q. CHAIRMAN: And Garda Dempsey? 15:08

11 A. No, I didn't put that in, just the first two, because
12 they were the two people assigned to detective branch.

13 535 Q. CHAIRMAN: Okay, Garda Cogavin and Divilly, they're the
14 two detectives?

15 A. Yes. 15:08

16 536 Q. CHAIRMAN: Okay. So Garda Dempsey, he was there
17 originally?

18 A. Yes.

19 537 Q. CHAIRMAN: And nothing happened to him?

20 A. No, Chairman. 15:08

21 538 Q. CHAIRMAN: So what happened to Garda Keogh?

22 A. So, Chairman, I suppose to explain it the best way I
23 can.

24 539 Q. CHAIRMAN: Yes.

25 A. They are the actions I did. I put in Garda Cogavin as 15:08
26 investigating member and I pressed save. I put in
27 Garda Divilly as assisting member and I pressed save.
28 I updated the narrative. I didn't do anything else in
29 relation to it. But by doing what I did, the

1 unintentional consequence of that is Garda Keogh falls
2 away from the front end of the scene as the
3 investigating member.

4 540 Q. CHAIRMAN: Okay.

5 A. My assumption at the time was that he would be 15:09
6 automatically repopulated in as assisting member. That
7 didn't happen.

8 541 Q. CHAIRMAN: Okay. So where we find Garda Dempsey, he
9 was safe enough because he was recorded as an assisting
10 member? 15:09

11 A. That's correct, Chairman.

12 542 Q. CHAIRMAN: So he remained. If I am understanding what
13 you are saying, if Garda Keogh had been recorded as an
14 assisting member, his name would have remained?

15 A. I suppose to clarify that, there's only one 15:09
16 investigating member on an incident.

17 543 Q. CHAIRMAN: I can understand that.

18 A. So there's loads of assisting and there is one
19 reporting.

20 544 Q. CHAIRMAN: Of course. 15:09

21 A. So by --

22 545 Q. CHAIRMAN: By changing the investigator?

23 A. Yes.

24 546 Q. CHAIRMAN: Or the reporter?

25 A. Yes. 15:10

26 547 Q. CHAIRMAN: In fact it deletes me?

27 A. Yes.

28 548 Q. CHAIRMAN: Is that right?

29 A. Yes, Chairman.

1 549 Q. CHAIRMAN: Okay, thank you. Sorry, I just want to be
2 clear in my own mind about that. Thank you very much.
3 A. Chairman, just for clarity, that was news to me too.
4 These questions were being asked initially.
5 CHAIRMAN: Thank you. 15:10

6 550 Q. MR. MARRINAN: It's an automatic process?
7 A. Yes.

8 551 Q. By updating it?
9 A. Yes.

10 552 Q. You would have to have gone back and reassigned him as 15:10
11 assisting member?
12 A. Yes.

13 553 Q. But you didn't believe at the time that his name had
14 been deleted from the record; isn't that right?
15 A. That's correct, Chairman. 15:10

16 554 Q. You had no reason to check that, to see had he popped
17 up elsewhere as assisting member?
18 A. I didn't, Chairman. The matter, I suppose, was under
19 investigation at this stage from detective branch, we
20 had a report from -- they had already been assigned, 15:10
21 were on route and were carrying out inquiries in
22 relation to it, and our victim had been home from
23 hospital, we were arranging to interview him and the
24 incident room was up and running in relation to it.
25 That investigation was ongoing. 15:10

26 555 Q. CHAIRMAN: So his name should have been there?
27 A. It should, he was an assisting member and his name
28 should have appeared on it.

29 556 Q. CHAIRMAN: I mean he had gone from being the

1 investigating officer, he gone from that, he been
2 replaced as that, but you say his name should have been
3 there?
4 A. He was an assisting garda on it.
5 557 Q. CHAIRMAN: Yes. 15:11
6 A. On the face of it, I expected that he would have been
7 repopulated as assisting member, and that didn't
8 happen.
9 558 Q. MR. MARRINAN: I think that you recommended some of the
10 members for commendations, isn't that right? 15:11
11 A. Yes, Chairman.
12 559 Q. You do that by filling out an EPW form, isn't that
13 right?
14 A. Yes, Chairman.
15 560 Q. If we could just have page 13450 on the screen, this is 15:11
16 a letter from the Chief State Solicitor's Office. At
17 paragraph 2 there, if you scroll down:
18
19 "The incident involving the stabbing of a taxi driver
20 on 23rd August 2015. As previously advised, this date 15:12
21 is incorrect, it should be 4th August 2015."
22
23 Then it refers to the Pulse incident. Then it sets out
24 the members who received commendations. We have nine
25 members who received commendations. By comparing them 15:12
26 as against the people who were on the Pulse entry, we
27 can see that all these members were involved in the
28 investigation side of it as opposed to being assisting
29 members at the scene, is that right?

1 A. Yes. Furthermore, there were 23 people named across
2 both Pulse incidents and 11 people recommended for a
3 commendation. But even with the 23 people named across
4 both incidents, there were further people involved in
5 investigating the incident, involved at various roles 15:12
6 across the incident. But the people that I included on
7 the EPW1, which I prepared, were people whom in my view
8 had performed beyond what I would consider the normal
9 course of their duty in the investigation of this crime
10 to bring it to a successful conclusion. And it was 15:13
11 their actions in line with the criteria set out in the
12 HQ circular on the matter, which is HQ circular 26/03,
13 it was their actions which in my view, the outstanding
14 police work, which entitled them to commendation. And
15 they were the people I included on it. 15:13

16 561 Q. Indeed. If Garda Keogh had remained there on the list
17 of people who were involved in the investigation as an
18 assisting member and his role had been to phone in and
19 report the matter for its entry on Pulse and then
20 secondly, to take possession of some articles of 15:13
21 clothing, would that have been a matter that you would
22 then have made a recommendation in relation to those
23 actions on his part?

24 A. No, Chairman. The criteria that I used -- first of
25 all, it's not based on who was recorded on Pulse as 15:14
26 reporting or investigating or assisting, it was the
27 actions of the particular people, the individual people
28 and what they did in relation to the investigation. I
29 was familiar with the investigation. I led it from the

1 start, from the morning that the first robbery was
2 reported and then later that evening, shortly after
3 5:00pm the second robbery was reported. Both teams
4 continued on operating together as an investigation
5 team. And it was my knowledge of how they performed 15:14
6 and I included, I suppose, in summary, on the EPW1 on
7 page 13456, where I summarise the actions of each
8 individual member. They mainly relate to the
9 investigative actions of them; identifying suspects;
10 Garda Cogavin identifies suspects; Garda Divilly 15:15
11 identifies suspects; Garda McMeeking arrests suspect;
12 Brian Kane arrests suspects; Yvonne Martin, sergeant,
13 executes search warrant, assists in investigation; Dave
14 Turner, file preparation. And in fairness to Garda
15 Turner, on the file preparation there was a 42 day 15:15
16 rule, I suppose, we need to comply where somebody is in
17 custody. And he did the file quite quickly on that and
18 he was complemented on that by Superintendent Murray.
19 I continue on. It's all people that were involved in
20 the investigation of it. And that's all done in line 15:15
21 with the criteria outlined in -- it's clearly outlined
22 on page 8010 in line with HQ circular 26/03. And it
23 gives examples of criteria. If we bring up page 8010.
24 At the bottom of that is examples of criteria and the
25 first two: 15:16
26
27 "Extreme personal risk, demonstration of particular
28 zeal."
29

1 If you go on to the next page, there's more bullet
2 points, but there is:

3
4 "Outstanding investigative work."

5
6 So in my view, these people whom I had selected on
7 this, it was for their outstanding investigative work.
8 This was a crime that brought an awful lot of anguish
9 to the community of Athlone, it had happened to elderly
10 people, and it brought a lot of comfort to the people
11 in Athlone that these people were before the courts
12 quite quickly. The incident happened on the 4th and by
13 Thursday they were in custody, charged, and a swift
14 prosecution followed, where it was disposed of in the
15 Circuit Court subsequently.

16
17 Garda Keogh dealt with the incident, was attended on
18 the night under the supervision of Sergeant Monaghan
19 and he put the incident on Pulse by phoning GISC. When
20 we reviewed it the following morning, we recategorised
21 it upwards to an offence of robbery. Incident
22 recategorised. So when I mentioned earlier, Chairman,
23 about, where I outlined Gardaí Cogavin and Divilly were
24 assigned to investigate it, it was also recategorised
25 at that time. It was initially on as an assault
26 incident and we upgraded it to a robbery, having
27 reviewed it at the PAF.

28 CHAIRMAN: That wouldn't be exceptional, I take it.

29 A. That's quite normal.

1 562 Q. CHAIRMAN: That you'd start off an assault and somebody
2 would say, well, actually it's a robbery.
3 A. Yes.

4 563 Q. CHAIRMAN: It's an assault on the person accompanied by
5 robbery? 15:17
6 A. And I suppose that's an example of what -- I would see
7 as the PAF meeting as being a great control measure in
8 relation to these, that are you starting off, that
9 things are addressed at a very early stage, and it was
10 updated at the PAF meeting. 15:17
11 CHAIRMAN: Okay.

12 564 Q. MR. MARRINAN: So the answer to my question whether you
13 would have given Garda Keogh a commendation or put him
14 forward for a commendation had you seen his name on the
15 list, the answer is no, you wouldn't have done so? 15:17
16 A. The answer is no. It wasn't how I based the people I
17 selected to be placed on the -- for commendation.

18 565 Q. Okay. If we can then move on from, is there anything
19 more you would like to say in relation to that?
20 A. I don't think so, Chairman. 15:18

21 566 Q. Just in relation to issue 17, which are complaints by
22 Garda Nicholas Keogh in relation to the criminal
23 investigation carried out by Assistant Commissioner Ó
24 Cualáin, had you any view in relation to the
25 investigation being in the initial stages conducted in 15:18
26 Athlone Garda Station?
27 A. Chairman, I suppose on a professional basis at that
28 time in Athlone, I was previously involved in, I
29 suppose, reporting wrongdoing and appointed to

1 investigate Garda wrongdoing. So I would have
2 preformed similar roles as to what the Galway
3 investigation team were performing. And I thought that
4 the way that they were going about their business was
5 quite normal, I didn't see anything unusual about it. 15:18
6 Nobody complained to me or I had no issue with that.
7 That's purely on a professional level. I suppose I
8 wasn't au fait with the scope of their investigation or
9 what they were doing, and I was quite happy not to be
10 au fait with it bar any particular task be assigned to 15:19
11 me. That's, I suppose, merely on a professional level.
12 On a personal level, Chairman, at that time I was
13 dealing with a lot of grief myself, my daughter had
14 died shortly before that from cancer. So I returned to
15 work a number of months before that. So it wasn't 15:19
16 something I had given a lot of consideration to.
17 Unless it came across my desk and it was a specific
18 task for me, it wasn't something that I addressed my
19 mind to.

20 567 Q. CHAIRMAN: You had enough on your plate. 15:19

21 A. I suppose, Chairman, yes.

22 MR. MARRINAN: I am sorry to hear that.

23 568 Q. CHAIRMAN: It did seem strange. I mean, we have heard
24 and you mentioned yourself about Mr. McHugh and
25 discomfort about people, you know, investigating 15:19
26 colleagues and so on and here were two colleagues,
27 obviously I have no view on the matter, but I know
28 Sergeant Haran said he thought it was -- odd wasn't the
29 word he used, but he wasn't happy with the fact that

1 two officers in the same station would have a major
2 investigation being carried out in the same
3 investigation. Now, not everybody might take that
4 view, but did it occur to you that that might be
5 strange or, as you say, did you have enough on your
6 plate that you weren't going to start worrying about
7 matters of procedures that nobody complained to you
8 about.

15:20

9 A. I am sorry, Chairman. I don't understand fully the
10 question.

15:20

11 569 Q. CHAIRMAN: Sergeant Haran, as I understand, expressed
12 unease at the fact that the major corruption
13 investigation instigated by the protected disclosure
14 was being carried on, the investigation, the interviews
15 and so on were taking place in Athlone Garda Station,
16 in circumstances where the two officers principally
17 involved were attached to Athlone Garda Station. We
18 know that Garda Keogh has spoken about this. But did
19 you have a view about that? Did it occur to you or did
20 it strike you as being something that was odd or
21 desirable or undesirable?

15:20

15:21

22 A. As I said, Chairman, I suppose the best way I can put
23 it is, I thought it was quite normal in how they went
24 about their work. They were professional, they were
25 courteous. And having been involved in similar roles
26 myself as an investigator, I have gone to Garda
27 stations in similar circumstances and met with the
28 people and how -- I suppose the question I'm going to
29 say is, how else would you do it, bar going make an

15:21

1 appointment to meet the people.

2 570 Q. CHAIRMAN: It didn't occur to you that it was
3 unprofessional. Nothing occurred to you, it didn't
4 strike you as being inadvisable, let me put it that
5 way, I'm trying to use as neutral and as low key a 15:22
6 word, but that didn't strike you as being an
7 inappropriate way of doing it?

8 A. Chairman, I suppose part and parcel of the job of a
9 policeman is, you know, every now and again there are
10 investigations and complaints, and that's the way that 15:22
11 they are dealt with, people meet an appointment to meet
12 with you to take an statement from you. I certainly
13 didn't see anything other than it being normal how they
14 went about their work, they were professional.

15 CHAIRMAN: Okay, that's all I wanted to ask, thank you 15:22
16 very much. That's what you were asking.

17 571 Q. MR. MARRINAN: I think in early June, on the 10th June
18 Superintendent McBrien contacted you and asked you to
19 have a word with Garda A, because she had received a
20 report from Garda Greene that Garda A had been asking 15:22
21 questions about the investigation team, isn't that
22 right?

23 A. That's correct, Chairman.

24 572 Q. And you did that?

25 A. Yes. 15:22

26 573 Q. You had a word with him?

27 A. Yes, Chairman.

28 574 Q. That's the sort of problem that maybe gets thrown up by
29 investigating a matter in the local Garda station where

1 these alleged events occurred?

2 A. I suppose Superintendent McBrien asked me to advise
3 Garda A not to be making enquiries in relation to it.
4 I don't think I was privy to the source of her report.
5 I advised him of that. I remember that 10th June there 15:23
6 was prisoners in custody that day in relation to a
7 petrol bombing. That particular time in June, even
8 before the murder investigation, from the 31st May
9 onwards, from mid/early May there was a lot of serious
10 incidents under investigation in Athlone, being led and 15:23
11 pursued by detective branch, which included Garda A and
12 Garda Lyons and other members. I suppose I was more
13 conscious or very conscious about my roles and
14 responsibility in leading my investigation team in that
15 fashion, which I would consider as a welcome, I 15:23
16 suppose, distraction to whatever matters were going on
17 and I didn't concentrate on anything to do with any
18 investigation going on outside of that.

19 575 Q. Just one final matter. If we could we have page 554 up
20 on the screen. This concerns a request on 17th June 15:24
21 2014 from Superintendent Noreen McBrien, where she
22 points out:

23
24 "During the course of an interview I had with Garda
25 Nicholas Keogh on this date he expressed concern that 15:24
26 Garda A is carrying an official weapon bearing in mind
27 the amount of pressure that he could come under as a
28 result of the current investigation being carried out
29 by Detective Superintendent Mulcahy.

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Please report what weapons Garda A has access to. In addition, as his direct supervisor, can you monitor the situation regarding Garda A's wellbeing and if you believe there is a foundation for Garda Keogh's concern. If there is any change in Garda A's wellbeing that causes concern, especially regarding his access to weapons, please bring it to my attention."

15:24

She says:

15:25

"I have met with Garda A and outlined to him the welfare supports available to him. Please ensure that you also do this."

15:25

I think at 553 you respond to that, in September, on 22nd September 2014:

"I note the attached report.

15:25

Garda A does not have an official issue firearm. He does however have access to the station issue firearms, which include four Smith & Wesson revolvers."

There is no need to go into that.

15:25

"I have no concerns at this time regarding Garda A's wellbeing. I will continue to monitor Garda A and should I have any concerns I will report same

1 i mmedi ately. "

2
3 And then you point out that you have contacted Garda A
4 and explained the welfare supports available to him.
5 But as far as you were concerned there was no issue in 15:26
6 relation to Garda's access to a firearm, isn't that
7 right?

8 A. So the initial request came from Superintendent McBrien
9 dated the 17th June, so I believe that I didn't get it
10 on the 17th, I got it shortly afterwards. So the 20th 15:26
11 June was the date of the murder investigation and Garda
12 A was an integral part of the investigation team for
13 the murder investigation team. But I verbally advised
14 Superintendent McBrien in relation to what firearms
15 Garda A has access to, and I monitored it then 15:26
16 throughout the summer and I replied on 22nd September
17 '14 that I didn't have any concerns regarding him. As
18 I said, having worked closely with him during the
19 summer on tasks surrounding the investigation, I didn't
20 have any concerns in relation to him. I advised in 15:27
21 relation to welfare supports and I was quite satisfied
22 that he was okay in relation to having access to
23 firearms.

24 576 Q. Thank you. Inspector, I think that that's the extent
25 of your involvement over the issues, isn't that right? 15:27

26 A. I think so, Chairman.

27 MR. MARRINAN: Yes. would you answer any questions
28 please.

1 END OF EXAMINATION

2
3 CHAIRMAN: Now, yes, Mr. O'Brien.

4 MR. O'BRIEN: Thank you, Chairman.

5 CHAIRMAN: Are you the person. 15:27

6
7 INSPECTOR EAMON CURLEY WAS CROSS-EXAMINED BY MR.

8 O'BRIEN, AS FOLLOWS:

9
10 577 Q. MR. O'BRIEN: Sergeant Curley, just to go back to the 15:27
11 Liam McHugh issue, if we can please. I think you
12 described earlier in your evidence that you agreed that
13 it was a potentially serious issue when it was brought
14 to your attention by Garda Lyons, is that correct?

15 A. Yes, Chairman. 15:27

16 578 Q. I just want to just go back to the conversation and
17 your recollection of the conversation that had you with
18 Garda Lyons. I think Garda Lyons told the Chairman
19 that he brought the matter to your attention and that
20 he informed you of the conversation that he had with 15:27
21 Liam McHugh, is that right?

22 A. Yes, Chairman.

23 579 Q. Did you make a note of that discussion?

24 A. No, Chairman.

25 580 Q. why was that? 15:28

26 A. Because I asked him for a report on the matter and I
27 would deal with it arising out of the report.

28 581 Q. So do I take it that Garda Lyons had informed you that
29 he was going to report to you in writing and you were

1 going to rely on the content of that report to report
2 it up the chain?

3 A. Yes, Chairman.

4 582 Q. I see. Is that normal practice for you? So when
5 potentially serious matters are brought to your
6 attention, that you wouldn't make a note yourself of
7 it?

15:28

8 A. The matter was going to be contained within the report
9 which I received, so I asked him to report and he
10 forwarded on the report. I wouldn't normally make a
11 report in relation to a matter I am going to get a
12 report on.

15:28

13 583 Q. If we could just turn to the report again, please.
14 It's at page 657 of volume 3, Mr. Kavanagh. If we
15 scroll down to the next page, please, just to the
16 bottom of it. Just there. Thank you. Do I take it --
17 if you look at the third paragraph there, that's a
18 description of what Garda Lyons says was said to him by
19 Mr. McHugh. Do I take it that your concern was that
20 the allegation that was being made here was an
21 allegation of coaching against Garda Keogh and that you
22 weren't concerned with the content of the statement
23 that's in the inverted commas in that paragraph? So if
24 you look, where it says:

15:29

25
26 "The bald guard came over to me..."

15:29

27
28 And so on

29 A. Yes.

1 584 Q. Were you concerned with that statement, or did you
2 rubbish it?

3 A. Concerned? I'm sorry, which part are you referring to
4 there?

5 585 Q. The third paragraph there? 15:30

6 A. Yes.

7 586 Q. "The bald guard came over to me..."

8 A. "...the other day and I asked him could I remember the
9 time I was searched by three guards and €800 was taken
10 stolen from me and spent drinking in the Castle pub." 15:30

11

12 Yes.

13 587 Q. Were you concerned with the truth of that statement or
14 did you rubbish it, did you say, I don't believe this?

15 A. So when I get this report from Garda Lyons, which is a 15:30
16 summary of what he had, I suppose, verbally advised me
17 and prior to sending it to me, it's a matter which I
18 was obliged to escalate up to my superiors. Now
19 there's numerous interpretations of how you are going
20 to go about what you are going to consider in relation 15:30
21 to this, but I suppose my main consideration was: This
22 is something that I am going to escalate to my
23 superiors. If I was the person assigned to investigate
24 this, I would have considered all of the, I suppose,
25 evidence but number one, the way I go about 15:30
26 investigations is to follow the facts and I suppose
27 take the evidence -- follow the evidence and deal with
28 the facts as they present themselves to me, and as it
29 presented to me on that, is that Garda Keogh is

1 reporting -- or Liam McHugh is reporting that Garda
2 Keogh is reporting to report something which Liam
3 McHugh says didn't happen.

4 588 Q. I see, so the escalation, if we pause there?
5 A. Yes. 15:31

6 589 Q. Just for clarity. Your escalation of this matter is on
7 the basis of the alleged coaching of Mr. McHugh by
8 Garda Keogh?

9 A. No. My escalation of the matter is on the report in
10 its entirety. I mean, I am not, I suppose, oblivious 15:31
11 to the fact that somebody else could take a different
12 interpretation or if I was assigned to investigate
13 this, I would look at all the possibilities, but at the
14 same time I'm going to, I suppose, deal with it as it
15 appears on the face of it. And on the face of it, Liam 15:31
16 McHugh said that the incident didn't happen.

17 590 Q. Okay.
18 A. I suppose an interview with Liam McHugh may prove
19 differently, an interview with somebody else may prove
20 differently or the Guards -- but you just follow the 15:31
21 evidence, you assign people to task, to follow the
22 evidence.

23 591 Q. That being the case then, did you have any discussion
24 with Garda Lyons about the other persons that are
25 mentioned; "I was searched by three guards and €800 was 15:32
26 stolen", did you say to Garda Lyons at any stage, did
27 Mr. McHugh identify who they people are?

28 A. Liam McHugh said to Garda Lyons that it didn't happen.

29 592 Q. But you are saying there's a number of different

1 interpretations and I am just trying to get to the
2 bottom of which one you were focused on?

3 A. So one of the interpretations, you are saying on the
4 face of it, it appears that Liam McHugh said it didn't
5 happen, but if you are asking me did I consider that it 15:32
6 did actually happen.

7 593 Q. Yes?

8 A. And there were actually guards involved and who were
9 these guards, well I would see that as jumping two
10 steps ahead. I mean, the man says it didn't happen, 15:32
11 Garda Lyons reported it to me and it was for an
12 investigator appointed somewhere to pursue those lines
13 of inquiry. But you followed the evidence, you don't
14 pick a particular route or line of inquiry and say, we
15 will go off in this direction and we will see who these 15:32
16 three guards where. On the face of it Liam McHugh said
17 it didn't happen.

18 594 Q. If you move then to the last paragraph, did you
19 question Garda Lyons at all about Garda Lyons
20 volunteering Garda Keogh as being the bald guard? 15:33

21 A. I didn't.

22 595 Q. Did you say to him, where Garda Lyons says, if you look
23 to the last paragraph?

24 A. Yes.

25 596 Q. So this is Garda Keogh to Mr. McHugh: 15:33
26
27 "I asked him if he was referring to Garda Nick Keogh
28 and he confirmed that he was."
29

1 Did you ever say to Garda Lyons, did you consider it
2 possible that it was somebody else or why did you
3 volunteer Garda Keogh as this person?

4 A. No, I just forwarded up the matter. This is the
5 questions I was asked and I forwarded up the matter. 15:33
6 And perhaps that is something someone somewhere else
7 could decide to ask Garda Lyons if they were
8 investigated. For example, if Liam McHugh had said, I
9 didn't meet Garda Nick Keogh at all, this was a
10 misinterpretation in some way, shape or form. You 15:33
11 know, I suppose you follow the evidence, this is what
12 he said, this is the manner in which he said it. I
13 suppose you can interpret it, I presume you are
14 interpreting that that was a leading question, perhaps
15 you can interpret it that way. But that's what he 15:34
16 said. why did he ask him? why did he volunteer that
17 name? I don't know, that's what he said.

18 597 Q. A potentially serious issue, as you said a moment ago,
19 why did you not advise Garda Lyons to enter it onto
20 Pulse, or do it yourself? 15:34

21 A. Okay. So, I suppose, a number of possibilities here.
22 From time to time as a detective sergeant I would come
23 into possession of information and intelligence and
24 regarding, I suppose, Garda activities, crime
25 investigation, they're not always matters which would 15:34
26 immediately result in the creation of a Pulse incident.
27 They may be matters that require escalation and
28 consideration by my superiors and that's across an
29 array of matters and this was one of those matters.

1 This wasn't a matter that I considered I would create a
2 Pulse incident on. For me to create a Pulse incident
3 on this, if I was to take it on face value, I think I
4 would be jumping the gun without more enquiries being
5 done on it. It's not something that I would do as a 15:34
6 detective sergeant in relation to putting on someone as
7 reporting, as a suspect or as an offender. You know,
8 it's not something I would do at that time. This would
9 be something that I would need consultation on with my
10 superiors. I escalated it to my superiors and they 15:35
11 were the people who were going to make a decision on
12 this.

13 598 Q. In terms of your discussion with Sergeant Lyons in
14 relation to this issue, why is there no reference to
15 that discussion in your statement to the Tribunal? 15:35

16 A. Well, I suppose as is mentioned earlier, I didn't
17 recall it until my memory was jogged. And if I had
18 recalled it, I am not sure if I would have put it in
19 because it still relates to -- it was only a summary of
20 the report. When I got the e-mail from Garda Lyons, it 15:35
21 was a summary of what he said to me. Perhaps if he had
22 said to me something different and I got the report and
23 the e-mail was entirely different to what he said to
24 me, I would say, there is some issue here, I may go
25 back to it. But I didn't do it. That's what happened. 15:35

26 599 Q. What I am trying to -- I mean, it's an important issue
27 and in terms of completeness for the Tribunal's
28 investigation into all of these matters, I am just
29 concerned as to why or asking you why you wouldn't give

1 a full account of what occurred. So a conversation
2 with Garda Lyons, which subsequently transpired him
3 sending a report by e-mail, there seems to be a gap
4 there, would you agree with?

5 A. No, Chairman, I would talk to Garda Lyons, the staff I 15:36
6 was working with on a daily basis numerous times, and
7 he advised me in relation to a report he was about to
8 send me or going to send, our interaction, and he was
9 going to send a report on it. I welcomed the, I
10 suppose, prior knowledge, because if you just got the 15:36
11 e-mail and you had no prior notice of it, you might be
12 a bit surprised. But he advised me that this is what
13 happened, I am going to send you a report and e-mail,
14 send up the report and I will deal with it from there.

15 600 Q. I think it's common case, we know that the report is 15:36
16 sent to you by e-mail on 2nd June 2014, you in turn
17 send it up the chain to Inspector Farrell and he on the
18 3rd sends it on for the attention of Chief
19 Superintendent Curran, isn't that correct?

20 A. Yes. 15:37

21 601 Q. So would you agree then or were you aware at the time
22 that this is the second incident that's gone up to the
23 chain to Chief Superintendent Curran regarding Nicholas
24 Garda Keogh in a very short period of time?

25 A. Yes, Chairman. 15:37

26 602 Q. So it puts Garda Keogh on Chief Superintendent Curran's
27 radar, so to speak, in terms of incidents that are
28 relating to him within the station?

29 A. Okay.

1 603 Q. Isn't that correct?
2 A. I don't really know how to answer that. Two reports
3 were sent up to Chief Superintendent Curran, one was
4 relating to Olivia O'Neill and one was relating to Liam
5 MCHugh. 15:37

6 604 Q. And I think the position is that Chief Superintendent
7 Curran then directs a statement be taken from -- that
8 efforts are made to obtain a statement from Mr. MCHugh
9 and that comes down through the chain through
10 Superintendent McBrien, isn't that right? Indeed, on 15:37
11 the 9th June you were asked by Superintendent McBrien
12 to take that statement, to take a statement or try and
13 take a statement from Mr. MCHugh?
14 A. Yes, Chairman.

15 605 Q. Did you have any conversation with Superintendent 15:38
16 McBrien in relation to this issue?
17 A. Yes, Chairman. I advised her that I might not be the
18 most suitable person to take that statement from Liam
19 MCHugh because I know him.

20 606 Q. In relation to the substance of the allegation, did you 15:38
21 discuss that?
22 A. No, Chairman.

23 607 Q. And were you aware that Superintendent McBrien met
24 Garda Keogh as well on the 9th June, were you aware of
25 that? 15:38
26 A. No, Chairman.

27 608 Q. I see. I think you told us then that you tasked Garda
28 Higgins on the 9th June with taking a statement from
29 Mr. MCHugh?

1 A. Yes, Chairman. Upon receipt of the request to take a
2 statement, I tasked Garda Higgins. I presume it was
3 the 9th June because that's the date I got it.

4 609 Q. Now, you used words earlier on in your evidence, you
5 said that Garda Higgins undertook to do this? 15:38

6 A. Yes.

7 610 Q. Will you accept that there is, I suppose, a significant
8 conflict of evidence between yourself and Garda Higgins
9 as to what has transpired?

10 A. Yes, it appears there is. Over the years, I am a 15:39
11 sergeant since 2004, and in all the years I have been a
12 sergeant and I have assigned people to complete tasks
13 and take statements, never before have I encountered a
14 situation where a detective or a guard misunderstood a
15 task that I assigned them to do to that level. 15:39

16 611 Q. Well, if Garda Higgins's evidence to the Tribunal is
17 correct, to the Chairman is correct, he advised you
18 initially within you asked him to take the statement
19 that he didn't feel comfortable doing so, would you
20 accept that? 15:39

21 A. No, Chairman.

22 612 Q. Well, would you accept that that is what he is saying
23 to the Chairman?

24 A. Yes, Chairman, yes.

25 613 Q. Wouldn't that explain why there is a delay in dealing 15:39
26 with this issue from the 9th June to the 23rd June,
27 when you get a reminder from Superintendent McBrien?

28 A. My interpretation of the reason for the delay was he
29 couldn't find Liam McHugh. When I got the reminder, I

1 asked him and he said, no, I haven't met him yet, I
2 haven't found him yet.

3 614 Q. why is that not contained in your statement?
4 A. I reply in my statement in relation to receiving the
5 reminder and replying back on the matter, each 15:40
6 interaction I had with him.

7 615 Q. well, it seems from Garda Higgins' statement that you
8 had one meeting in relation to this?
9 A. The second interaction was when I received the
10 reminder. I specifically asked, look, any update on 15:40
11 meeting Liam McHugh and he said, I haven't met him yet.

12 616 Q. You are saying to the Chairman that there is two
13 meetings between yourself and Garda hinges?
14 A. I wouldn't call it a meeting, the second one was an
15 interaction. 15:40

16 617 Q. Call it an interaction then?
17 A. Yes.

18 618 Q. well why is the second interaction not dealt with
19 anywhere in your statement?
20 A. I presume I said in my statement I received a reminder 15:40
21 or got a reminder.

22 619 Q. Matters move on then to the 8th July and I think you
23 spoke to Inspector Minnock in relation to this issue,
24 isn't that right?
25 A. Yes, Chairman. 15:41

26 620 Q. Do I understand you to tell the Chairman that that
27 conversation took place on the 8th July?
28 A. Yes, Chairman. Yes, Chairman, yes.

29 621 Q. Was that in the course of you, I suppose, catching up

1 with Inspector Minnock when he returned from leave, I
2 think that's what you told us?

3 A. Yes. As I said, he's my line commander as such and I
4 was briefing him on various aspects that occurred
5 during his time off. 15:41

6 622 Q. There is no mention whatsoever in your statement of any
7 conversation between yourself and Inspector Minnock
8 regarding this McHugh allegation?

9 A. That's correct, Chairman.

10 623 Q. And why is that? 15:41

11 A. Because I would talk to Inspector Minnock numerous
12 times every day and I would update him in relation to
13 all aspects of what's going on I suppose in the live
14 environment in relation to investigations within the
15 detective branch, because he was my line commander as 15:42
16 such and it was important for me to keep him up-to-date
17 in relation to how I was going on my task and complying
18 with my roles and responsibilities as detective
19 sergeant.

20 624 Q. Did you take a note of the conversation or make a note 15:42
21 anywhere of your conversation with Inspector Minnock?

22 A. No, Chairman. I would talk to Inspector Minnock
23 numerous times every day while he was in Athlone for
24 that reason, as I have outlined. In relation to
25 numerous investigations I would have updated him, the 15:42
26 particular emphasis at the time, that was the 8th July,
27 was the murder investigation and one of the suspects
28 had fled the jurisdiction, or that's what we suspected
29 at that time, but he was certainly at large, and that

1 was the kernel of what we were pursuing and following
2 up at that time.

3 625 Q. I see. So in relation to the Liam McHugh incident, you
4 have a conversation with Garda Lyons of which you have
5 no note, you don't make any reference to the 15:42
6 conversation in your statement to the Tribunal. You
7 then move on a month, you have a conversation with
8 Inspector Minnock, you don't make a contemporaneous
9 note of that and you don't make any reference to the
10 conversation in your statement to the Tribunal, isn't 15:43
11 that the position?

12 A. That's correct, Chairman.

13 626 Q. We move on then and we see that you write on 9th July
14 of 2014, this is the letter, it's at page 527, and you
15 report to Superintendent McBrien. If we could just 15:43
16 open that letter, please. Can I ask you first of all,
17 why is there no reference whatsoever to any times or
18 dates in which yourself and Garda Higgins had, as you
19 call them, interactions in relation to this issue?

20 A. Well, the paper trail goes from the 9th June and that's 15:43
21 the day I assigned him to do it and the remainder of the
22 23rd, and this is the reply back. And I suppose the
23 dates and times, Garda Higgins reported this to me
24 following his meeting with Liam McHugh, which I
25 interpreted to -- that the reader would interpret that 15:44
26 it happened on that day. Perhaps I should have been
27 more clear on that, to say that today at 2:00pm he
28 returned to the office and reported this to me. That's
29 what I did. As I said, at this particular time the

1 detective branch was extremely busy in relation to the
2 murder investigation, which was the number one priority
3 at this time.

4 627 Q. The first enter sense there:

5
6 "I note receipt of the attached correspondence." 15:44

7
8 Is that you acknowledging the reminder letter of the
9 23rd June?

10 A. So it would have been -- no, it would have been 15:44
11 relating to them all, the report of Aidan Lyons, the
12 initial report from Superintendent McBrien assigning me
13 to task and the reminder.

14 628 Q. I see. So it's the full body of correspondence as it 15:45
15 stood at the time?

16 A. Yes.

17 629 Q. We know you say you weren't the most suitable person.
18 You tasked Garda Tom Higgins with the role, that he met
19 with Mr. McHugh and invited him to provide a statement.
20 In relation to the incident Liam McHugh refused to 15:45
21 consent to provide a witness statement at the time,
22 undertook to think about it and maybe make himself
23 available to provide such a statement in the future.
24 I am suggesting to you that that is wholly inaccurate
25 and incorrect, that statement 15:45

26 A. So this second paragraph of this report is exactly what
27 Garda Higgins reported to me, and I reported it having
28 -- I prepared it and I read it over to Garda Higgins to
29 ensure its accuracy.

1 CHAIRMAN: I understand, we have been over this a fair
2 amount of times now already. Why are you suggesting
3 that it's totally wrong, Mr. O'Brien? Why are you
4 suggesting it's is totally wrong?

5 630 Q. MR. O'BRIEN: Just based on Garda -- sorry, if Garda 15:45
6 Higgins' evidence is correct, I --

7 CHAIRMAN: So if Garda Higgins is right, that's totally
8 wrong, if you are right, Garda Higgins is totally
9 wrong.

10 631 Q. MR. O'BRIEN: You say that you typed the report in the 15:46
11 presence of Garda Higgins, why is there no reference to
12 that in your statement to the Tribunal?

13 A. I didn't deem that part relevant when I typed my
14 report, where I was when I typed it. It's not
15 something I would do. 15:46

16 632 Q. Ultimately then, if Garda Higgins' position is correct,
17 nobody ever has asked Liam McHugh to make a statement
18 in relation to this incident, isn't that right?

19 A. Yes. But I was given a particular task to do and I
20 replied as what he told me. Why would I put in 15:46
21 anything different other than what he told me? Why
22 would I not report exactly he told me? If Garda
23 Higgins had come back to me and said, or initially said
24 I'm not taking the statement, I would have reported
25 that. If he said to me, here's a phone number, I am 15:46
26 not taking a statement, I would have reported that.
27 This is what he reported back to me. I can't put it
28 any clearer than that, this is exactly what occurred.

29 633 Q. I see. But the position, the position as it stands

1 then, is that, as we know, no statement was ever taken
2 from Mr. McHugh; isn't that right?

3 A. It appears so, yes.

4 634 Q. And it's been put to Garda Lyons earlier on and I am
5 putting it to you now, that it is Garda Keogh's case 15:47
6 that this is fabrication, isn't that right?

7 A. If you want to go to page --

8 635 Q. Yes or no, is that correct?

9 A. Sorry?

10 636 Q. You accept that that's Garda Keogh's case? 15:47
11 A. Sorry, can you ask the question again please?

12 637 Q. That this incident is a fabrication, you accept that
13 that's Garda Keogh's case?

14 A. It appears that that's what he's stating. But in
15 relation to my report, that you are saying that nobody 15:47
16 ever asked Liam McHugh for a statement. On page 528 of
17 my report I recommend that some other member of
18 sergeant or inspector rank be appointed to complete
19 this task. Because based on the reply of Liam McHugh I
20 didn't see this task as completed. 15:47

21 638 Q. To the best of your knowledge or as far as you
22 understand, did anybody else take that statement from
23 Liam McHugh?

24 A. No.

25 639 Q. I see. So what I am suggesting to you is, if there is 15:47
26 no statement, will you accept if there is no statement
27 the matter can't go any further? It can't be pushed
28 any further. If Mr. McHugh is not willing to make
29 statement in relation to this, it goes no further up

1 the chain of command or otherwise?
2 A. I don't fully understand the question.
3 640 Q. Well let's say, for an investigation then, for the
4 investigation to go further, Mr. McHugh would have had
5 to make a complaint, isn't that right? Or sorry, make 15:48
6 a statement. If there was to be an investigation,
7 either into an allegation of coaching?
8 A. Yes.
9 641 Q. Or into the substance of what is contained in the
10 inverted commas about the bald guard and so on, there 15:48
11 would have to be a statement from Mr. McHugh; isn't
12 that right?
13 A. Yes, a number of avenues of inquiry would have to be
14 pursued, starting with him.
15 642 Q. And the fact that there was no statement meant that 15:48
16 this allegation went no further, isn't that correct?
17 A. Well, I reported up the reply and I am not fully au
18 fait with exactly what happened from there on.
19 643 Q. So if Garda Keogh is correct and it is a fabrication, 15:49
20 then it couldn't be further investigated, isn't that
21 right, it stopped at that point?
22 A. It appears to have stopped at that point.
23 644 Q. And it went no further?
24 A. I'm not sure what happened after I reported it up on
25 the 9th July. I didn't have any more involvement in 15:49
26 this.
27 645 Q. Can I just ask you one further question then, this is
28 in relation to the robbery from the person, as it has
29 been referred to, and your letter that's at page 495 of

1 the materials?

2 A. Yes.

3 646 Q. You will see that the incident -- you have said, just
4 in the second paragraph there:

5

15:50

6 "The credibility of the victim has to be questioned as
7 it's not normal that a victim would refuse to cooperate
8 and pursue a robbery complaint."

9

10 You have given evidence that you were concerned about 15:50
11 other matters earlier on, such as the absence of a
12 description of the assailants, the use of a copper bar
13 and so on. Why is none of that contained in your
14 letter, none of those concerns?

15 A. Chairman, when I refer to credibility, I didn't go into 15:50
16 the rationale surrounding the credibility in full
17 because the rationale surrounding that was a matter
18 which was going to be discussed at the PAF meeting.

19 That's how Superintendent Murray operated, that
20 decisions surrounding recategorisation of pursuing of 15:50

21 investigating matters would be discussed collectively
22 and openly by everybody. And if it was a matter, when

23 discussed at the PAF meeting, and I outlined my
24 concerns, that I was disagreed with and the decision

25 was made to leave it on as a robbery, that would have 15:50
26 happened, but it was an open discussion and that was

27 the decision that was made surrounding it. So I didn't
28 include the entire rationale of my issues surrounding

29 the credibility of the victim because it was going to

1 lead to a discussion at a PAF meeting. My
2 recommendation was going to lead to this being
3 discussed at a PAF meeting.

4 647 Q. But for reclassification purposes, essentially what I
5 am suggesting to you, the reason that you were putting 15:51
6 forward was the victim's refusal to cooperate and
7 nothing else?

8 A. On the face of my report it would appear that way, but
9 the reason for the credibility -- I mentioned
10 credibility and the reasons that I have concerns around 15:51
11 credibility is I didn't -- the version of events being
12 offered by the victim to me didn't appear to be
13 reliable or plausible or consistent, in that there were
14 a number of concerns around it, which I have outlined,
15 in relation to consistency and new information and 15:52
16 these were the matters that were brought forward to the
17 PAF meeting and I advised Superintendent Murray of.
18 And it wasn't solely on the fact that he wouldn't make
19 a statement. But it was one of the factors that I did
20 consider, because it wasn't doing anything to address 15:52
21 concerns I had if he'd made a statement and outlined,
22 well, this is the time and this is the reason
23 surrounding that, I didn't mention the bar because --
24 but because, I suppose, that was one of the factors
25 that he wasn't doing anything to address the concerns 15:52
26 which I had raised.

27 MR. O'BRIEN: I don't have any further questions,
28 Chairman.

29 CHAIRMAN: Thanks very much. Now, where do I go from

1 here?
2 MR. POWER: I suppose here might be a good place,
3 Chairman. I represent Garda Higgins.
4 CHAIRMAN: Thank you very much, Mr. Power.
5 MR. POWER: I don't know whether the Chairman wants 15:52
6 to -- I suppose I do have quite a few questions, it's
7 up to the --
8 CHAIRMAN: Take your time. No problem. We will finish
9 this afternoon. I mean we will finish with this
10 witness this afternoon, but take your time. If you 15:52
11 need a break, let me know you need a break, but
12 otherwise we will proceed to the end and then we will
13 stop. Thank you very much.
14
15 INSPECTOR EAMON CURLEY WAS THEN CROSS-EXAMINED BY 15:53
16 MR. POWER, AS FOLLOWS:
17 648 Q. MR. POWER: Thank you. So you received a report from
18 Garda Aidan Lyons detailing a conversation he had with
19 Liam McHugh. You received that report in a formal
20 sense on the 2nd June 2014, isn't that correct? 15:53
21 A. That's correct, Chairman.
22 649 Q. And you passed that then on up the line, isn't that
23 right?
24 A. That's correct, Chairman.
25 650 Q. And you received, you were directed by the district 15:53
26 officer in Athlone to ascertain if a statement could be
27 taken, isn't that right?
28 A. That's correct, Chairman.
29 651 Q. And that was on the 9th June, is that right?

1 A. Yes, Chairman.

2 652 Q. So it's clear, I think, from Garda Aidan Lyons' report
3 either that there's very serious allegations being made
4 against Garda Keogh or there are very serious
5 allegations being made against three unnamed members of 15:53
6 Athlone Garda Station, isn't that fair to say? One of
7 those things must be the case; either Garda Keogh was
8 coaching Mr. McHugh or there are serious allegations
9 against three unnamed members of Athlone Garda Station,
10 I think that is fair to say? 15:54

11 A. As I said previously, on the face of it it appears that
12 the Liam McHugh report, this was the interaction he had
13 with Garda Nick Keogh and Liam McHugh said it didn't
14 happen. If it did happen, and if you are not to
15 believe that it did happen, if it did happen the second 15:54
16 situation which I have described arises

17 653 Q. Exactly. It is one or the other. It is either serious
18 allegations against the three members or an allegation
19 against Garda Keogh, is that fair?

20 A. That's if you jump a step ahead and say it didn't, 15:54
21 disagree with Mr. McHugh.

22 654 Q. I am sorry?

23 A. That is if you jump a step ahead and say that Liam
24 McHugh was wrong in saying that it didn't happen.

25 655 Q. Oh yes, but if you think McHugh is right and it didn't 15:54
26 happen, then there is an allegation against Garda
27 Keogh, I think that is fair to say?

28 A. Yes.

29 656 Q. Yes. So one way or the other there are serious

1 allegations against Gardaí in Athlone Garda Station?

2 A. Yes, Chairman. Gardaí, yeah.

3 657 Q. So I think is it fair to say as a matter of general
4 principle Gardaí in one Garda station shouldn't
5 investigate each other in respect of serious 15:55
6 allegations or indeed any allegation?

7 A. That's why I would escalate it, you know. I wasn't an
8 investigator of it, so somebody else was going to be
9 appointed to investigate it up, to investigate the
10 matter. 15:55

11 658 Q. Yes. And that's because there's a practice in the
12 Gardaí, and again I think you said you carried out this
13 role as an investigator at some stage in the past, that
14 there is a practice in the Gardaí whereby Gardaí in one
15 Garda station don't investigate each other, is that 15:55
16 correct?

17 A. I wouldn't consider the role of taking a statement as
18 being the investigator. It is certainly a role in the
19 investigation but you're not the investigator. It is a
20 specific task to record a statement and report it back 15:55
21 up. And the investigator then, whoever is making a
22 decisions surrounding that, would decide other avenues
23 to pursue.

24 659 Q. You wouldn't ask Mr. McHugh for a statement because you
25 knew him? 15:56

26 A. Yes.

27 660 Q. Can you just tell the Tribunal how well did you know
28 Mr. McHugh?

29 A. From the same locality, Chairman. I know him all my

1 life.

2 CHAIRMAN: Outside the job you said, because you came
3 from the townland, parish or area.

4 A. Small townland, Chairman. He's a man in his 60s but I
5 would have known him all my life. 15:56

6 CHAIRMAN: That is what you told us.

7 661 Q. MR. POWER: I am not suggesting there is anything
8 unusual about this, the reason that you felt you
9 couldn't take the statement was because you felt you
10 would be seen as not being impartial or it would be 15:56
11 improper for you because you were from the same area,
12 is that correct?

13 A. Chairman, any, I suppose, specific tasks that I would
14 be assigned, I would always -- I suppose, when I was a
15 garda I would be more inclined to be involved in taking 15:56
16 statements and investigating crimes, and if there was
17 somebody I knew or had personal knowledge of outside
18 the job I would seek to --

19 CHAIRMAN: It would be embarrassing all round.

20 A. Well, it would be embarrassing and also, Chairman, just 15:56
21 for independence and impartiality it is better not to
22 be the person who --

23 CHAIRMAN: I mean, a barrister wouldn't like to be
24 prosecuting somebody he knew from the same townland or
25 whatever it is. By and large, one would prefer not to 15:57
26 be doing it. So there is nothing sinister about that.

27 662 Q. MR. POWER: No, no. In fact, I am suggesting that the
28 proper thing to do is not to do that if you feel there
29 would be any suggestion of partiality on your behalf.

1 CHAIRMAN: You don't have to have a reason of conflict
2 of interest to explain a social embarrassment that
3 might arise, and you're looking at it from a different
4 point of view, partiality. And I am saying that it is
5 perfectly ordinary for people to be embarrassed about 15:57
6 it and to say that wouldn't be exactly right.
7 MR. POWER: Certainly.
8 CHAIRMAN: You don't have to find a category of legal
9 objection that might give rise to a judicial review, in
10 other words. 15:57
11 MR. POWER: No. It can simply be that you know someone
12 personally.
13 CHAIRMAN: Embarrassing.
14 MR. POWER: Yes, and it would be embarrassing. And
15 doesn't it stand to reason -- 15:57
16 CHAIRMAN: I'm sorry, forgive me. Carry on.
17 663 Q. MR. POWER: Does it not stand to reason that exactly
18 the same criteria would apply in respect of Garda
19 Higgins being asked to take a statement that concerned
20 allegations, serious allegations of misconduct against 15:58
21 members of a Garda station in Athlone, gardaí that he
22 may have known well, may have known personally?
23 A. Well, I had been tasked to do it -- I mean, before
24 being tasked to do it, I advised Superintendent McBrien
25 that I would be unsuitable due to my personal knowledge 15:58
26 of him. Having been being assigned it then, I assigned
27 it further onwards. I hadn't considered that portion
28 of it, but I had been assigned a task which I was
29 obliged to comply with. The order stood, that I was to

1 see was this person willing to supply a statement.
2 From my knowledge Garda Higgins didn't know him
3 personally and I assigned him to do the task and he
4 undertook to do it.

5 664 Q. And you didn't think there was anything unusual or 15:58
6 incorrect in asking Garda Higgins to take a statement
7 which would necessarily have dealt with allegations of
8 misconduct by members of Athlone Garda Station, you
9 didn't think there was anything unusual about that?

10 A. Well, up until the point that, I suppose, I had spoken 15:59
11 to Inspecor Minnock on it. And Inspecor Minnock, I got
12 the impression, having spoken to him on the 8th July,
13 that he was of the impression that irregardless of my
14 personal knowledge of Liam McHugh that he shouldn't
15 even have come to me regardless of my personal 15:59
16 knowledge of him. I suppose it was at that point that
17 I considered the inappropriateness of somebody assigned
18 to drugs or detective branch being assigned to do it at
19 all. And that is why I reported back on it. But up to
20 that point -- 15:59

21 665 Q. Can I ask --

22 A. Yes.

23 666 Q. -- did you understand the reason behind those
24 reservations that Inspecor Minnock had?

25 A. Independence and impartiality. I understand, yes. 15:59

26 667 Q. Yes. I think there was a team from Galway, Inspector
27 Coppinger and two detective sergeants, already
28 investigating issues in Athlone Garda Station, is that
29 fair?

1 A. There was a Galway investigation unit which I had no
2 knowledge of the scope of.

3 668 Q. No, but you were aware it was in existence?

4 A. Yes, I was aware it was in existence.

5 669 Q. And again, the reason for the Galway team being brought 16:00
6 in was for reasons of impartiality, isn't that fair to
7 say?

8 A. I suppose, yes, Chairman.

9 670 Q. So wouldn't it stand to reason that Garda Higgins could 16:00
10 have concerns that it wouldn't be appropriate for him
11 to take a statement, that it might be more appropriate
12 for the Galway team to do so?

13 A. But I had been assigned to do this task. The only
14 people available to me to complete this task are people
15 under my control and I assigned him onwards to do it. 16:00

16 671 Q. But could you see why Garda Higgins might have a
17 concern about your?

18 A. If Garda Higgins, when I assigned him to do it,
19 explained to me that he wouldn't do it or couldn't do
20 it or didn't want to do it perhaps I would have 16:00
21 considered a different route, but that's not what
22 happened. He undertook to do it. But I do see your
23 point.

24 672 Q. Yes. And you understand that in fact Garda Higgins is 16:00
25 saying that is exactly what he did do?

26 A. I understand that he is saying that.

27 673 Q. Yes. Can I ask you to look at it is appendix A to your
28 statement, it's page 527. Yes, that is your report
29 which you sent to Superintendent McBrien, isn't that

1 right?

2 A. Yes, Chairman.

3 674 Q. Yes. And I think you say in that, going down just to
4 the end of the statement, I think the very end, you say
5 your ultimate recommendation is that some other member 16:01
6 of sergeant or inspector rank be appointed to complete
7 this task?

8 A. Yes.

9 675 Q. Can I ask why you have suggested sergeant or inspector
10 rank? And in doing so, can I suggest an answer; that 16:01
11 it is because it is inappropriate for a garda to
12 investigate a garda, someone of a higher rank is
13 usually appointed to do so?

14 A. So I suppose what was in my mind in relation to this,
15 Chairman, was: In the past I had been assigned as a 16:01
16 sergeant to carry out inquiries in neighbouring
17 districts and to carry out inquiries. So that is what
18 was in my mind. That perhaps somebody from Mullingar
19 may be assigned to do this role or the sergeant or
20 inspector in Mullingar. That is what was in my mind. 16:02

21 676 Q. Would it be usual that if a garda was being
22 investigated that someone of a higher rank would
23 investigate, a sergeant or inspector, that is why you
24 suggested it?

25 A. Yeah, I wouldn't have made a recommendation to assign 16:02
26 another member of garda rank to do that.

27 677 Q. No.

28 A. Yes. But I was assigned to do it, I explained why I
29 couldn't do it, and I sought the resources that are

1 available to me to complete the task.

2 678 Q. Can I say then, is it not odd that you selected Garda
3 Higgins to take the statement given that he was a garda
4 and he was in the same station as the gardaí against
5 whom the complaints were being made in Garda Lyons' 16:02
6 report?

7 A. The staff and resources I had available to me were only
8 the gardaí under my control. I didn't have access to
9 people outside of the detective branch. These were the
10 people, these were the resources available to me to 16:03
11 assign tasks to. I was given a task, I was unsuitable
12 to complete myself and I chose one of my resources to
13 complete the task. That is the order I had received
14 and passed down and in turn reassigned.

15 679 Q. Unfortunately you haven't recorded the date when you 16:03
16 asked Garda Higgins to complete this task, isn't that
17 correct?

18 A. From recollection, it was on the date I received the
19 correspondence, which is dated the 9th June.

20 680 Q. It may or may not be that date then, is that correct? 16:03
21 A. It was either that day or the day after. It was on
22 receipt of that correspondence.

23 681 Q. I see. So at a very early stage?
24 A. Yeah. Immediately upon receipt of it.

25 682 Q. And you received a reminder on the 23rd I think, wasn't 16:03
26 it?

27 A. Yes.

28 683 Q. On the 23rd June, is that right?
29 A. Yes, Chairman.

1 684 Q. why didn't you reply and say, well, I have tasked Garda
2 Higgins with getting a statement?
3 A. I suppose I was hoping that the matter would be
4 concluded and I would be able to reply with a
5 conclusion, which would hopefully be the statement 16:03
6 or...
7 685 Q. Can I suggest to you that it was because you mightn't
8 have tasked him to do so?
9 A. That is not the case, Chairman.
10 686 Q. Can I suggest to you it's because he may have refused 16:04
11 to do so?
12 A. That is not the case, Chairman.
13 687 Q. Can I refer you to Volume 4, page 808, it's a letter
14 from Inspector Aidan Minnock to Superintendent McBrien,
15 dated 8th July 2014. We have already seen it. 16:04
16 A. Yes, Chairman.
17 688 Q. So I think this letter was written following a
18 discussion you had with Inspecor Minnock, is that
19 correct?
20 A. It appears so, Chairman, yes. 16:04
21 689 Q. Yes. And I think you had, you had met Inspecor Minnock
22 and you had said that you met him and discussed
23 investigations that were ongoing in Athlone Garda
24 Station, isn't that correct?
25 A. Yes, Chairman. 16:04
26 690 Q. And I think Inspecor Minnock, is it fair to say, made
27 his view very clear to you, that he thought it wasn't
28 appropriate for members of Gardaí in Athlone Garda
29 Station to investigate themselves in effect, is that

1 fair to say?

2 A. I wouldn't say that he made the position very clear to
3 me, Judge, Chairman. I advised him of the task and how
4 I received it and how I was unsuitable and I got the
5 impression from him that even I wasn't suitable to be 16:05
6 appointed to the task notwithstanding that I knew Liam
7 MCHugh given that it was detective branch. I wouldn't
8 say that he was clear to me, but that was the
9 impression I got, from recollection.

10 691 Q. And you didn't mention Garda Higgins at all to Inspecor 16:05
11 Minnock, isn't that correct?

12 A. No, Chairman.

13 692 Q. Doesn't that seem odd? If you had tasked him to get a
14 statement and you were updating Inspecor Minnock on
15 what steps were occurring in the investigation, would 16:05
16 you not have told him, well, I have Garda Tom Higgins
17 tasked to do it?

18 A. Well, I had assigned Garda Higgins, I had received a
19 task, I was updating him on the task I had received.
20 This matter didn't come up as to how I was, I suppose, 16:05
21 endeavouring to complete it. If it had come up, if he
22 had asked me I would have told him.

23 693 Q. It certainly wasn't the case, you're saying that it
24 wasn't the case then that Garda Higgins had simply
25 said, look, I don't feel comfortable doing this, I will 16:06
26 get a phone number?

27 A. No. No, Chairman.

28 694 Q. No?

29 A. If that had happened I would have said that, if that

1 was the case.

2 695 Q. And does it not seem unusual then that Inspector Minnock
3 in the very last line of that letter in front of you
4 says:
5
6 "I will obtain a mobile number for Liam McHugh if it
7 will assist the investigating team to arrange a
8 meeting with Mr. McHugh."
9
10 Could that not be because he was at a meeting with you 16:06
11 and as you understood it you were getting a phone
12 number and you were getting a phone number through
13 Garda Tom Higgins?
14 A. I have no idea why Inspector Minnock included the
15 reference to getting a phone number. Perhaps it's a 16:06
16 logical conclusion to his recommendation, that in order
17 to make it happen that he will see could he get a phone
18 number.
19 696 Q. Could I suggest another reason? Could I suggest it is
20 because Tom Higgins is correct in what he says, and 16:06
21 that is all that he was going to do, was get a phone
22 number? Can I ask you logically would that fit?
23 A. That's not the case, Chairman
24 697 Q. But can I ask logically would it fit?
25 A. No, Chairman. 16:07
26 698 Q. You don't think it would logically fit?
27 A. No, Chairman. It is a mere coincidence that Inspector
28 Minnock refers to a phone number. I don't know, I
29 didn't refer to seeking a phone number for Mr. McHugh,

1 I didn't inform Inspector Minnock of that and I don't
2 know why he decided to report on that.

3 699 Q. Can I ask, at this stage, as far as you're concerned,
4 were these still all your tasks to complete, these were
5 your tasks to complete? 16:07

6 A. Task. One task.

7 700 Q. One task.

8 A. Yes.

9 701 Q. You didn't hand it over to the inspector?

10 A. No, I did not. 16:07

11 702 Q. Can I refer you to Inspector Minnock's statement, I
12 think it's page 687, volume 4. And if it could be
13 scrolled down. If you pause there, thank you. Do you
14 see the last paragraph that is on the screen?

15 A. Yes. 16:08

16 703 Q. Do you see midway through that paragraph:
17
18 "Detective Sergeant Curley and I discussed the report
19 submitted by Garda Aidan Lyons."

20 A. Yes. 16:08

21 704 Q. "Detective Sergeant Curley outlined that he was asked
22 to take a statement from Liam McHugh but due to the
23 fact that he knew Liam McHugh he felt he was not the
24 appropriate person to take the statement."

25 A. Yes. 16:08

26 705 Q. "I agreed with D/Sergeant Curley. I asked that he
27 return the file to me and I would write on the file to
28 Superintendent McBrien. Having examined the file, I
29 felt the entire matter would best be explored as part

1 of the then Assistant Commissioner Ó Cualáin's
2 investigation into Garda Keogh's disclosure."
3
4 well, is that not you handing over the file to Inspector
5 Minnock? 16:08

6 A. No, I didn't return the file to Inspector Minnock.

7 706 Q. No. So he asked you that you would return the file to
8 him and you didn't do it, is that right?

9 A. I didn't do that. I don't recall him asking me to
10 return the file to him. And I didn't return the file 16:09
11 to him.

12 707 Q. Is he incorrect then in his recollection in the
13 statement?

14 A. It would appear so, from my recollection. I didn't ask
15 him. I had been assigned a task. I just tasked Garda 16:09
16 Higgins with it. It remained with me and I replied to
17 it on the 9th July.

18 708 Q. I see.

19 A. I can't explain that.

20 709 Q. But didn't Aidan Minnock reply on the 8th July -- 16:09

21 A. Yes.

22 710 Q. -- with the reference to a phone number?

23 A. Yes.

24 711 Q. Yes. So, he is mistaken in his statement, Garda
25 Higgins is mistaken in his statement and you are 16:09
26 correct, is that what you are telling the Tribunal?

27 A. I am correct in what I am saying.

28 712 Q. And Inspector Minnock is mistaken and Garda Higgins is
29 mistaken?

1 A. Perhaps Inspector Minnock may be able to elaborate on
2 that aspect of it. I didn't ask Inspecor Minnock -- I
3 didn't return a file to Inspecor Minnock, I don't
4 recall being asked to return a file to Inspecor
5 Minnock. And if I was, the task as assigned still 16:09
6 remained with me. It was tasked to me by
7 Superintendent McBrien and it remained with me. And I
8 replied to Superintendent McBrien. If it was a case
9 that --

10 713 Q. And you are saying Inspecor Minnock is mistaken when he 16:10
11 says you handed him the file?

12 A. Yes, yes. If Inspecor Minnock said to me don't finish
13 the task or whatever, I would have returned the file,
14 wrote back on it. It was assigned to me from
15 Superintendent McBrien, and that's the person I 16:10
16 assigned it -- replied it back to.

17 714 Q. Were you aware that Inspecor Minnock had replied on the
18 8th July when you made your reply on the 9th?

19 A. No, I wasn't aware of Inspector Minnock's report of the
20 8th. 16:10

21 715 Q. I think, inspector, Superintendent McBrien agreed
22 ultimately with Inspecor Minnock and she says with you,
23 that someone outside Athlone should approach Mr. MCHugh
24 to take a statement. She does that in her letter of
25 the 9th July. That is page 3977. Just a record, I 16:10
26 don't know if that needs to be brought up. So Inspecor
27 Minnock was to arrange a meeting, is it fair to say, as
28 he understood it between Inspector Coppinger of the
29 Galway team with Liam MCHugh and that is according to

1 Superintendent McBrien?

2 A. I don't know anything about that. I replied on the 9th
3 July and I had no more dealings with the matter.

4 716 Q. Do you see the letter there in front of you? Do you
5 see the, I think it's the second last paragraph, the 16:11
6 larger paragraph:
7

8 "I have considered and agree with Inspector Minnock and
9 Detective Sergeant Curley's view that in the light of
10 your investigation it might be more appropriate and 16:11
11 impartial if someone from outside this district
12 approached Mr. McHugh to ascertain if he is willing to
13 make a statement."

14 A. Yes, I see that, yes.

15 717 Q. And it says Inspector Coppinger will be contacted by 16:11
16 Inspector Minnock and Inspector Minnock will arrange such
17 a meeting?

18 A. Yes.

19 718 Q. So, does it seem that Superintendent McBrien is of the
20 view that it's Inspector Minnock's task then? 16:11

21 A. Well, I reported back with my recommendation that some
22 other sergeant and inspector do it. And it appears
23 that Inspector Minnock got word of a report of a similar
24 matter the day before.

25 719 Q. Do you still think Inspector Minnock was mistaken in 16:12
26 views that you handed him over the file?

27 A. I did not hand over him the view. I didn't give him
28 the file. I wrote back on the file to Superintendent
29 McBrien on the 9th July and Superintendent McBrien

1 received it following my writing over, because she
2 acknowledges here recommendations of Detective Sergeant
3 Curley.

4 720 Q. I see it. I know she has received your reply of the
5 9th July. Even leaving aside the issue of whether he
6 physically took over any file, did he take over the
7 task?

16:12

8 A. No. No. The task still stood as directed to me from
9 Superintendent McBrien.

10 721 Q. I think we are all crystal clear that there is no
11 report from Garda Higgins in relation to taking a
12 statement from Mr. McHugh. And I have to suggest to
13 you that is because he didn't try and take one, he was
14 simply getting a mobile phone number?

16:12

15 A. My report is exactly what, contains exactly the
16 interaction that he informed me that he had with Liam
17 McHugh.

16:13

18 722 Q. Can I deal with one final issue? I think you said in
19 the course of your evidence today and I suppose it
20 seemed a little unusual to me that you recall six years
21 on that when you typed your report on the 9th July
22 Garda Higgins stood by and watched you do that and then
23 you read out one paragraph of that report and asked him
24 if he thought that was correct. Is that a fair summary
25 of your evidence?

16:13

26 A. I wouldn't say he stood by and watched me type it. I
27 typed the report in one room --

28 CHAIRMAN: In one room. He was in another room. We
29 have to be accurate as far as we can. You called him

1 over --

2 A. Yes.

3 723 Q. CHAIRMAN: -- and read the paragraph over to him is my
4 recollection?

5 A. Yes. 16:14

6 724 Q. CHAIRMAN: But the essence is the same?

7 A. And the reason I remember that is because I was
8 reporting on an interaction that I wasn't present for.
9 It was Garda Higgins and Liam McHugh. And I was
10 reporting that interaction to ensure it was accurate 16:14
11 and he agreed it was accurate.

12 725 Q. MR. POWER: And I think you were asked why you didn't
13 record that in your statement to the Tribunal and I
14 think your answer was effectively because you didn't
15 think it was important, isn't that right? 16:14

16 A. I reported on the matter, it's in my report. Maybe I
17 am misunderstanding the question.

18 726 Q. I will ask the question again. So you didn't record
19 the fact that you checked what you had written with
20 Garda Higgins, you didn't record that fact in your 16:14
21 statement, and when asked why you didn't record it in
22 your statement to the Tribunal you said the reason was
23 because you didn't feel it was important; isn't that
24 right?

25 A. But isn't it obvious from my report that I would have 16:14
26 to have checked with what Garda Higgins to me for me to
27 write the report? That I didn't -- sorry, maybe I am
28 misunderstanding you.

29 727 Q. Can I ask the question again? Do you accept that it is

1 your evidence to the Tribunal that you gave earlier,
2 the reason you didn't record the fact, as you say it,
3 that you checked your report of the 9th July with Garda
4 Higgins, the reason you didn't record that fact and you
5 did this checking exercise with Garda Higgins in your 16:15
6 statement, was because you didn't feel that checking
7 exercise was important?

8 A. Well, I don't recall using the word important. But I
9 didn't, I suppose, assume that it was necessary to go
10 into that level of detail that I had recorded that 16:15
11 second paragraph and read it over to him and agreed it
12 was correct.

13 728 Q. So it is fair to say it is not something you gave any
14 great weight to?

15 A. My report was the interaction of what he told me. 16:15

16 729 Q. I have to suggest to you it is odd that all these years
17 later you seem to remember very clearly that you
18 checked it with Garda Higgins. I suggest to you that
19 didn't happen, you didn't check it with Garda Higgins?

20 A. It did happen. I recall it quite clearly. I was 16:15
21 standing at the doorway of my office and I read it over
22 to him and he agreed it was an accurate reflection of
23 the interaction.

24 730 Q. That is not recorded in your statement to the Tribunal?

25 A. No. But it is what happened. 16:16

26 MR. POWER: Thank you very much.

27 CHAIRMAN: Thanks very much. who else? Yes

28 Mr. Murphy.

29

1 INSPECTOR CURLEY WAS THEN QUESTIONED BY MR. MURPHY, AS
2 FOLLOWS

3 731 Q. MR. MURPHY: Just dealing with the last questions,
4 please, inspector. When did you first become aware of
5 the fact that Sergeant Higgins was giving a version of 16:16
6 events which collided with yours?

7 A. On receiving his statement.

8 732 Q. When did you receive his statement?

9 A. Sometime before Christmas I saw it, it same in the
10 disclosure. 16:16

11 733 Q. Prior to that date did you have any idea there was a
12 dispute between you and he in relation to this matter?

13 A. No, Chairman.

14 734 Q. In terms of the approach towards the document, at page
15 527, please, if that can be placed on the screen, could 16:16
16 I just draw your attention please to the first
17 sentence:

18
19 "I note the receipt of the attached correspondence."

20 A. Yes, Chairman. 16:16

21 735 Q. Could you indicate to the Tribunal what that
22 correspondence would have entailed? This is the letter
23 to Superintendent McBrien.

24 A. It was the first direction of Superintendent McBrien to
25 record to see was Liam McHugh willing to make a 16:17
26 statement, which was page 524. And the second one,
27 correspondence, piece of correspondence is page 525
28 which is the reminder.

29 CHAIRMAN: Was that the same day?

1 A. No.

2 736 Q. CHAIRMAN: The first one, 9th July was --

3 A. So I am replying on the 9th July, when I say "I note
4 receipt of attached correspondence" I am referring to
5 the initial request to -- 16:17

6 737 Q. CHAIRMAN: And then we have the 23rd?

7 A. And the reminder and the copy of the report from Garda
8 Aidan Lyons.

9 738 Q. MR. MURPHY: So is it fair to say that is the trail of
10 all relevant correspondence of the task you have been 16:17
11 asked to carry out?

12 A. Yes, Chairman.

13 739 Q. And then secondly, in terms of this document, I think
14 the position is, can you agree with me that you
15 indicate there in that report, which is to 16:17
16 Superintendent McBrien, the task that you gave to Garda
17 Higgins?

18 A. Yes, Chairman.

19 740 Q. And is it your evidence that that task is as correctly
20 described in the course of paragraph 2 of that letter? 16:18

21 A. Yes.

22 741 Q. And insofar as the subsequent correspondence that you
23 have been shown from Superintendent McBrien is
24 concerned, it was referred to in recent questioning,
25 it's clear that she received your report and replicated 16:18
26 this detail in the report that went up?

27 A. Yes, Chairman.

28 742 Q. And in terms of your evidence concerning the way in
29 which you prepared this statement, are you crystal

1 clear that what you did is as you described in your
2 evidence to date?

3 A. Yes, Chairman.

4 743 Q. And in terms of the statement that has come in from
5 Garda Higgins, it was dated 5th December 2019, were you 16:18
6 aware at any stage of any controversy between you and
7 he in relation to these matters?

8 A. No, Chairman.

9 744 Q. Now in terms of the other issue in the case, can I very
10 briefly move back to more specific areas? 16:18

11 CHAIRMAN: Yes.

12 745 Q. MR. MURPHY: First of all, in relation to issue number
13 3. This relates to your meetings with Ms. O'Neill and
14 the attempt to obtain a statement or to enquire whether
15 she would make a statement. Can I ask you to confirm 16:18
16 to the Tribunal was there only one attempt by you to
17 ask Ms. O'Neill to make a statement?

18 A. Yes, Chairman.

19 746 Q. It has been suggested elsewhere that perhaps there were
20 many, are those suggestions true or false? 16:19

21 A. False, regarding me anyway. I only approached her
22 once.

23 CHAIRMAN: I thought Ms. O'Neill said there was only
24 one.

25 MR. MURPHY: I thought there was an accusation at an 16:19
26 earlier stage --

27 CHAIRMAN: Garda Keogh thought there were other ones.
28 Correct me if I am wrong. I see Mr. Kelly is looking a
29 bit puzzled and it is going back a bit, but I thought

1 Ms. O'Neill confirmed there was only one visit --
2 MR. MURPHY: That's correct.
3 CHAIRMAN: -- in relation to the Garda Keogh aspect of
4 the matter.
5 MR. MURPHY: Yes. 16:19
6 CHAIRMAN: Subject to checking, Mr. Kelly, and I will
7 be delighted to be put wrong but that is my
8 understanding.
9 MR. KELLY: So far as I am concerned I cross-examined
10 on the basis it was one. 16:19
11 CHAIRMAN: Yes. But it had been suggested, Mr. Kelly,
12 I am sorry to be tedious, I think Garda Keogh had
13 suggested or believed that there had been a number of
14 attempts to persuade Olivia O'Neill to make a statement
15 criticising him, so to speak. But that is not 16:20
16 important. We're all agreed there was one. I am just
17 reassuring --
18 MR. KELLY: Exactly. I don't want to have a
19 postmortem. We are agreed that there was one. There
20 may also well have been one, she had mentioned to him 16:20
21 that someone had approached her to make a statement.
22 CHAIRMAN: Thanks very much.
23 MR. MURPHY: Thank you.
24 CHAIRMAN: I think we're all clear.
25 MR. MURPHY: Thank you, Chairman. 16:20
26 747 Q. Could I ask you please to be shown page 519. This is a
27 document 30/5/2014 --
28 A. Yes.
29 748 Q. -- which has been opened to you previously.

1 A. Yes.

2 749 Q. And it refers to that particular meeting?

3 A. Yes.

4 750 Q. First of all, can I just ask you to confirm, in page
5 519, in the second paragraph it is recorded as follows: 16:21
6
7 "She --"
8
9 That is Ms. O'Neill.
10 16:21
11 "-- replied that she didn't wish to make any statement
12 and that she now couldn't really remember what was said
13 in the Garda station that night at all."
14 A. Yes.

15 751 Q. Are you sure that those are the words she spoke to you? 16:21

16 A. That is exactly what she said, Chairman. I wrote that
17 report. Returned to the station and replied by --
18 CHAIRMAN: 16:28 --

19 A. Yes.

20 CHAIRMAN: -- as it happened, as opposed to 15:15 when 16:21
21 you met her.

22 752 Q. MR. MURPHY: Just a final question on issue number 3.
23 Again it has been suggested in the course of her
24 evidence, by Ms. O'Neill, that perhaps the atmosphere
25 wasn't very nice and that your attitude was not very 16:21
26 nice towards her. Can you indicate to the Chairman in
27 what demeanour you approached Ms. O'Neill?

28 A. Chairman, most of my career I have been -- 15 years out
29 of the 24 years I have been a detective and the vast

1 majority of the time as a detective is taking
2 statements and interviewing witnesses. So my objective
3 going out to Ms. O'Neill was to record a statement from
4 her and in doing so being courteous and polite and
5 establishing a rapport and initial positive interaction 16:21
6 was my approach.

7 CHAIRMAN: But she didn't want to make a statement. I
8 mean the situation was very clear. Ms. O'Neill did not
9 want to get involved in making a statement.

10 A. Yes, Chairman. 16:22

11 CHAIRMAN: That was pretty clear and she made that
12 pretty clear at early stage.

13 753 Q. MR. MURPHY: Moving on to issue number 9, a number of
14 brief questions on that. That relates to the robbery
15 incident on the 13/9/2015. I think the position in 16:22
16 evidence is that Garda A saw the alleged victim on the
17 14/9/2015, is that correct?

18 A. Yes, Chairman.

19 754 Q. I think we also know from document NK page 232,
20 please -- scroll down please. If we go back. Pausing 16:22
21 there. Just in the middle of that page, if you hold it
22 there, thank you, that is Garda Keogh's note that was
23 collated as part of the work of the Tribunal and he
24 confirms, I think you will agree, that he returned to
25 work on the 19/9/2015? 16:23

26 A. Yes.

27 755 Q. And he had been effectively off duty then from the
28 30th?

29 CHAIRMAN: He had rest days and leave coming up. There

1 was a gap of about six days.

2 756 Q. MR. MURPHY: Yes. So during that time effectively you
3 understood he was on leave, isn't that correct?

4 A. Yes, I understood he was on leave from work. Because
5 on the initial report he submitted he reports himself 16:23
6 on page 512, Garda Keogh is going into rest days and
7 has two days annual leave booked and is next due to
8 work on the 19/9. That was the report he submitted on
9 the 13/9.

10 757 Q. And then if I move forward briefly to the question of 16:23
11 commendations in connection with matters you have given
12 evidence concerning the fact that there were 23 members
13 involved in the investigation and that 11 were singled
14 out for praise?

15 A. Well, I wouldn't even say 23, I would say it was far 16:24
16 more than 23. There was 23 people named across both
17 Pulse records but I know anecdotally from members and
18 from my recollection and from statements that there
19 were people who were involved in the investigation who
20 weren't included on the Pulse incidents, which is not 16:24
21 unusual either. But I didn't rely on the criteria of
22 who was named on Pulse when selecting people for
23 commendations or recommendations as per the EPW1.

24 758 Q. Again I ask you in relation to this question, is it
25 your case that there was no intent on your part to 16:24
26 target or hurt or damage Garda Keogh by what you did in
27 connection with those recommendations?

28 A. Certainly, Chairman, I have never had an adverse
29 interaction in any way, shape or form with Garda Keogh.

1 And I was in Athlone for probably the entirety of the
2 time that he was there.

3 CHAIRMAN: Okay.

4 A. I never had any adverse interaction with him.

5 CHAIRMAN: Very good. Thank you very much. 16:24

6 759 Q. MR. MURPHY: Finally, it's been suggested by my
7 friend's question, a number of them, that there is some
8 absolute rule that one member of An Garda Síochána
9 cannot investigate another member of An Garda Síochána
10 in the same station. I have to suggest to you that 16:25
11 that is not correct and that there is not such absolute
12 rule laid down in the protocol that you're aware of.

13 A. I can't recall or refer to a particular rule, but --

14 760 Q. No. Would you agree with me that in fact the language
15 used in all of the correspondence by you and by others 16:25
16 when it came to looking at this issue is that it was
17 prudent perhaps not to proceed because of the
18 particular circumstances of the case?

19 A. Yes. But when you use the word investigate, maybe
20 investigating is the person who is dictating how the 16:25
21 whole investigation is going as opposed to a person
22 that is assigned a particular task within the
23 investigation. And in the investigations I have been
24 involved in, in the past guards have been assigned to
25 assist in investigation into probably garda wrongdoing 16:25
26 in relation to other guards. That has happened.

27 761 Q. Would you agree there is no absolute rule precluding
28 that type of minimal role from taking place?

29 A. No, that has happened in the past.

1 762 Q. And would you also agree with me that in your evidence
2 to date, in this case, what you have indicated are
3 reasons such as personal connection, local townland,
4 personal association, these are the words which you use
5 in the correspondence which you wrote leading to your 16:26
6 recommendation that others should look into these
7 matters?
8 A. Yes, Chairman.
9 MR. MURPHY: Thank you very much.
10 CHAIRMAN: Thanks very much. Mr. Marrinan? 16:26
11 MR. MARRINAN: Nothing arising.
12 MS. O'ROURKE: I wonder, Chairman --
13 CHAIRMAN: Sorry, Ms. O'Rourke.
14 MS. O'ROURKE: I wonder if I could clarify one
15 particular matter that arose out of Mr. O'Brien's 16:26
16 cross-examination.
17 CHAIRMAN: Of course.
18
19 INSPECTOR CURLEY WAS THEN CROSS-EXAMINED BY
20 MS. O'ROURKE, AS FOLLOWS: 16:26
21 763 Q. MS. O'ROURKE: Inspector Curley Mit was put to you on
22 behalf of Mr. O'Brien that the report that you received
23 from --
24 CHAIRMAN: Could you speak a tiny bit more directly in
25 the microphone? 16:26
26 MS. O'ROURKE: Apologies.
27 CHAIRMAN: Thank you very much.
28 764 Q. MS. O'ROURKE: It has been put to you on behalf of
29 Garda Keogh that the report that Garda Lyons had

1 submitted to you was fabricated and I think this issue
2 arose on Day 100 of Garda Keogh's evidence, when he
3 said that he had a suspicion or a belief that the
4 conversation between Garda Lyons and Mr. McHugh didn't
5 take place. At the same time I think Garda Keogh 16:27
6 indicated that Garda Lyons was a clean pair of hands.
7 But I want to put to you, arising out of the course of
8 events Garda Lyons submitted this report to you on the
9 2nd June and I put it to you that it was submitted in
10 good faith, do you accept that that is so? 16:27

11 A. A hundred percent, Chairman, yes, I do accept it was
12 submitted in good faith. I had no reason not to doubt
13 his veracity as reported by Garda Lyons.

14 MS. O'ROURKE: Thank you very much.

15
16 INSPECTOR CURLEY WAS THEN QUESTIONED BY THE CHAIRMAN,
17 AS FOLLOWS:

18 765 Q. CHAIRMAN: Thank you very much. Can you help me on
19 something. We have, Garda Lyons'
20 encounter/conversation with Mr. McHugh is the 31st May 16:27
21 2014, as he reports. He mentions that to you, you
22 think the next day, the Sunday, or possibly the Monday.
23 One of those days. So it happens on a Saturday night.
24 And he says that. Okay. And you report the matter
25 forwards and upwards for the reasons that you have 16:28
26 described. So Superintendent McBrien comes back on the
27 9th June to say please arrange to take a statement.
28 And if I have this sequence correctly, you say that
29 your evidence is that you ordered, tasked Garda Higgins

1 with the job, do this, showing him the statement so
2 everybody knew what was required. And we know there is
3 a big difference between his understanding and his
4 evidence of what he had said and what he intended to do
5 and so on. But nothing happens. And the next thing, 16:29
6 the 23rd June you get a reminder. Had you spoken to
7 him as you can recall in the meantime? Had you said
8 how are things going? Have you met -- or what?

9 A. No, Chairman, I didn't speak with him in relation to
10 that matter until I got the reminder. 16:29

11 766 Q. CHAIRMAN: Until?

12 A. Until I got the reminder on the 23rd June.

13 767 Q. CHAIRMAN: Yes. On the 23rd?

14 A. Yes, Chairman.

15 768 Q. CHAIRMAN: Okay. So you then speak to him on the 23rd 16:29
16 and he says, look, I didn't see him or whatever it was,
17 is that right?

18 A. Yes.

19 769 Q. CHAIRMAN: So now, eventually you say on the 9th July
20 Garda Higgins comes back, he reports to you what has 16:29
21 happened as you recall and you write it down, type it
22 in the station, call him, and get him to check and so
23 on. But the day before you had a meeting with Inspeccor
24 Minnock, who is your line manager, so to speak.

25 A. Yes. 16:30

26 770 Q. CHAIRMAN: And he has been away, is that right? So he
27 needed to be filled in and briefed on what is going on?

28 A. Yes. Everything. All the current investigations and
29 in the main the murder investigation.

1 771 Q. CHAIRMAN: And was the murder the big thing at the
2 time?
3 A. Yes.

4 772 Q. CHAIRMAN: So clearly he is going to be -- and possibly
5 a suspect absconding? 16:30
6 A. Yes.

7 773 Q. CHAIRMAN: And so, there is a lot of things. It's not
8 everything to do with Garda Keogh and the Liam McHugh
9 incident?
10 A. I suppose on the Liam McHugh incident, it was a fairly 16:30
11 straightforward matter really. It was an assignment to
12 see was he willing to make a statement. I tasked it
13 out.

14 774 Q. CHAIRMAN: Yes. I understand. So that is not
15 something -- you have done what you needed to do in 16:30
16 that regard and you are not burdening him or reporting
17 him or filling him in with any of that stuff about what
18 is happening with Liam McHugh. Is that correct?
19 A. Bring him up to speed on the fact that it was assigned
20 to me and I did advise him that I was unsuitable to do 16:31
21 it.

22 775 Q. CHAIRMAN: But there is a conversation about it,
23 because he writes off to the superintendent on the 8th,
24 isn't that right?
25 A. That's right. 16:31

26 776 Q. CHAIRMAN: On the day of this thing he writes off. And
27 as it happens, and here's what I want to ask you, it's
28 curious that he mentions the mobile phone number as it
29 happens?

1 A. Yes.

2 777 Q. CHAIRMAN: which we now know is what Garda Higgins
3 said, you say that is just a coincidence, just happened
4 like that.

5 A. I can't explain that, Chairman. That is his report. 16:31
6 He refers to the phone number. I didn't refer to a
7 phone number when I was speaking to him.

8 778 Q. CHAIRMAN: That is what I was going to ask you really,
9 was there talk about a phone or how to contact Liam
10 McHugh or anything of that kind? 16:32

11 A. No. Chairman. And I suppose what I took from our
12 meeting was more so that when I outlined to him that I
13 wasn't suitable for the task to be assigned to me
14 because I knew him, I got the impression from him in
15 actual fact I don't think it's suitable for detective 16:32
16 branch at all to be assigned that particular task.

17 779 Q. CHAIRMAN: or Athlone to be looking after it at all?

18 A. I suppose specifically maybe detective branch I got
19 from him.

20 780 Q. CHAIRMAN: Okay. 16:32

21 A. That was the impression I got from him. The exact word
22 he used I don't know.

23 781 Q. CHAIRMAN: So there was no conversation, you didn't
24 have any conversation about mobile phones or numbers of
25 that kind? 16:32

26 A. No.

27 782 Q. CHAIRMAN: But this was presumably something that
28 occurred to him after, not knowing that actually this
29 was going to be ultimately years later we were going to

1 be discussing this in a major way?

2 A. Yes Chairman.

3 CHAIRMAN: Okay. Does anybody want to ask anything
4 arising out of my endeavours to get things clear in my
5 own head? Okay. Thank you very much. Very good. 16:32
6 Thank you very much indeed, inspector.

7

8 THE WITNESS THEN WITHDREW

9

10 CHAIRMAN: Mr. Murphy, you are looking as if you want 16:33
11 to say something.

12 MR. MURPHY: Just for clarification, can I ask whether
13 it is intended to proceed with the list as advertised
14 to today's date tomorrow?

15 MR. MARRINAN: Yes, that is the intention. 16:33

16 CHAIRMAN: Why wouldn't we, Mr. Murphy?

17 MS. McGRATH: I think in fairness to Mr. Murphy there
18 was some rejigging of the list yesterday.

19 CHAIRMAN: Thanks very much.

20 MS. McGRATH: Certainly the next person on the list is 16:33
21 Detective Sergeant Yvonne Martin and she will be the
22 first witness in the morning and thereafter I think we
23 will be assuming the original list as circulated before
24 Christmas, but I can e-mail all counsel in the next
25 hour. 16:33

26 CHAIRMAN: And keep in touch with Ms. McGrath.
27 Ms. McGrath, is it appropriate if I give people an
28 indication of the rough schedule of where we are going,
29 is that appropriate? What we have in mind, we will do

1 weeks on and a week off and we are anticipating ending
2 the hearings on the 6th March. We will want to give an
3 opportunity to people to make submissions and we are
4 conscious of the fact that we would try to give some
5 three weeks perhaps with an opportunity for a very 16:34
6 brief one-day sitting at which people could make oral
7 submissions, but we would expect written submissions
8 from relevant parties. Assume you that you will have
9 from let's say the first week, the end of the first
10 week of March, if it trickles on a little bit later 16:34
11 well and good, but we would expect around mid April, is
12 that right, around mid April will be the deadline for
13 receipt of submissions and we would be planning
14 sometime around the 20th April, perhaps, is that
15 right -- 16:35

16 MS. McGRATH: Yes, Chairman.

17 CHAIRMAN: -- around that, for entertaining
18 submissions. But they will be very brief, because they
19 will be oral and everybody will have them in writing.
20 So the only thing we will be needing is some comments 16:35
21 in response to others. And then the intention will be
22 to publish the report in June.

23 MR. MURPHY: Thank you very much, Chairman.

24 CHAIRMAN: Thanks very much.

25

26 THE HEARING THEN ADJOURNED UNTIL WEDNESDAY, 22ND
27 JANUARY 2020 AT 10:30AM

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