

TRIBUNAL OF INQUIRY INTO PROTECTED DISCLOSURES MADE UNDER
THE PROTECTED DISCLOSURES ACT 2014 AND CERTAIN OTHER
MATTERS FOLLOWING RESOLUTIONS PASSED BY DÁIL ÉIREANN AND
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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 FRIDAY, 24TH JANUARY 2020 - DAY 131

131

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 FRIDAY, 24TH
2 JANUARY 2020:

3
4 CHAIRMAN: Good morning.

5 MS. McGRATH: Good morning, Chairman. The first 10:31
6 witness this morning is Garda Olivia Kelly. Her
7 statement is at 3640 of the brief, Chairman.

8 CHAIRMAN: Thank you very much.
9

10 GARDA OLIVIA KELLY, HAVING BEEN SWORN, WAS 10:32
11 DIRECTLY-EXAMINED BY MS. McGRATH, AS FOLLOWS:

12
13 THE WITNESS: Garda Olivia Kelly.

14 CHAIRMAN: Thanks very much. Good morning, Garda.
15 Now, Ms. McGrath. 10:32

16 1 Q. MS. McGRATH: Good morning, Garda Kelly. Garda Kelly,
17 I think as you are aware, the issues in respect of
18 which we just require evidence this morning is issue
19 12, which is the alleged misrecording of sick leave for
20 Garda Keogh, okay? 10:32

21 A. Yes.

22 2 Q. Now, I think looking at your statement, you came to
23 Athlone in April 2013, isn't that right?

24 A. Yes, that's correct.

25 3 Q. And you would have been in Athlone Garda Station from 10:32
26 that date to when Garda Keogh went on long-term sick
27 leave?

28 A. That's correct.

29 4 Q. In December 2015, is that right?

1 A. Yes.

2 5 Q. Okay. Now, you say in your statement that you became
3 the district clerk about a year and a half later, on
4 1st December 2014?

5 A. That's correct. 10:33

6 6 Q. After arriving in Athlone, isn't that right?

7 A. Yes.

8 7 Q. Now, we will come to that in a minute and your role as
9 a district clerk, but I just want to ask you about
10 Garda Keogh and any dealings you had with him or how 10:33
11 well you might have known him during your time there?

12 A. I wouldn't have known him very well. I was new to the
13 station and after arriving in the station in 2013, I
14 went on maternity leave. So when I came back, I was
15 still relatively new and I didn't know a lot of people 10:33
16 in the station. I only recall one conversation ever
17 with Garda Keogh and maybe even two meetings with him,
18 but I didn't know him.

19 8 Q. And would you have been familiar or known about his
20 role in a protected disclosure in May 2014? 10:33

21 A. Yeah, I would have been aware that he had made one, but
22 it was never a conversation I had or discussed with
23 anyone. I was just aware.

24 9 Q. Okay. Now, as you say, you were the district clerk in
25 Athlone from 1st December 2014. First of all, before 10:33
26 we go into the sickness recording and all of that,
27 would you just outline to the Chairman what the role of
28 the district clerk is in the station?

29 A. So, it's just the superintendent's clerk. I worked in

1 the district office. Myself and -- as the garda clerk
2 and I had three civilians with me in the office. All
3 the correspondence would have come through the
4 sergeant's office into our office, where it was just
5 recorded on the correspondence register and essentially 10:34
6 left for the superintendents and inspectors to receive
7 their post. I also did the e-mails on the selection
8 mailbox and a number of other roles, just like firearms
9 and just other little bits like that, so...

10 10 Q. Okay. Now, you say in your statement that one of your 10:34
11 role in particular was to look after the sick leave or
12 sick absence of Garda members in Athlone Garda Station
13 and recording of that absence, isn't that right?

14 A. That's correct.

15 11 Q. Okay. We know from the evidence that we have heard 10:34
16 that, as you say, you came on board in that role in
17 December 2014, and you would have been recording his
18 absence then until the following December in 2015, is
19 that right?

20 A. That's correct, yes. 10:35

21 12 Q. Okay. Now, one of the ways in which you did this, and
22 the Chairman has already seen this, is you used the
23 SAMS system?

24 A. That's correct.

25 13 Q. Isn't that right? Standing for sickness absence 10:35
26 management system, is that right?

27 A. Yes.

28 14 Q. Okay. Now, can I just ask you, just on a general level
29 about SAMS, when we heard from Chief Superintendent

1 Murray, he said it was a very confidential system,
2 primarily owned by HRM. Can you just explain that to
3 the Chairman?

4 A. Well, as far as I'm aware I was the only one that used
5 to have access to SAMS and it was mainly me that put it 10:35
6 on. There was one other girl trained but I know that
7 she didn't use it. So essentially I was the only one
8 in Athlone using it. HRM were able to log onto SAMS
9 and were able to check, say, how many days a member was
10 out or there was tabs on it, whether they had medical 10:36
11 certs submitted, you were able to tick them. So they
12 were able to monitor it that way as well.

13 15 Q. Can I ask you is, it a passport protected system then?
14 A. Yes.

15 16 Q. In the sense you have to -- 10:36
16 A. I have to log on with my own password, yeah.

17 17 Q. Okay. Did anybody else in Athlone have that password
18 for SAMS to your knowledge?
19 A. No.

20 18 Q. Okay. Now, you say in your statement with regard to 10:36
21 the recordings on SAMS, you say that no member was
22 treated differently in relation to how matters were
23 recorded, is that right?
24 A. That's correct, everyone was the same.

25 19 Q. Okay. I think that is as regard the process that you 10:36
26 followed?
27 A. Absolutely, yes.

28 20 Q. Okay. Now, can I just ask you, again we are just
29 talking generally about the SAMS system, were there

1 guidelines, official guidelines, can I ask you, for how
2 you would record illness on SAMS?

3 A. Well there is a SAMS document, just basically it kind
4 of outlines when a person reaches 28 days then they
5 have to be referred to HRM to the CMO. There's 10:37
6 guidelines like that. But not specifically as to how
7 to record an illness. On the SR1 form you can see, in
8 bold in black writing in the middle, it outlines that
9 every illness must go on as ordinary illness.

10 21 Q. Okay. I just want to ask do you know where -- first of 10:37
11 all, actually, the easiest thing to do is, if I open an
12 SR1 and you can point out the section you're talking
13 about. Just by way of example, page 9340, please,
14 Mr. Kavanagh: If you go just to the middle of the page
15 there please. I think, Garda Kelly, is that the 10:38
16 paragraph you're talking about?

17 A. Yes.

18 22 Q. That's in the middle?

19 A. It's in black, bold writing, yes.

20 23 Q. Just explain your understanding of that? 10:38

21 A. So it says that every absence must be categorised as
22 ordinary illness until such a time as a certificate in
23 accordance with Code 11.37 has been issued. There
24 would be an investigation done into it and then the
25 chief would decide and he or she would issue the Code 10:38
26 11.37. And once that was received, then it would allow
27 you to change the SAMS recording to an injury on duty
28 or critical illness, whichever the case may be. But
29 all illnesses or every member reporting on duty --

1 whether it was injury on duty or not, they have to be
2 initially recorded as ordinary illness.

3 24 Q. Okay. Can I just ask you about the reference there to
4 a certificate, are those certificates signed by the
5 chief superintendent or the CMO? Can you maybe explain 10:38
6 to the Chairman?

7 A. The Code 11.37 is signed by the chief superintendent.

8 25 Q. What would it look like? What would it normally read
9 or look like?

10 A. It is just headed paper from the chief superintendent's 10:39
11 office and it basically just says that it was through
12 no willful neglect of the member themselves, that they
13 were injured on duty, and that's just taking it from,
14 say, a member that was injured on duty.

15 26 Q. Okay. Now if we just stay with the SR1s there. Some 10:39
16 of these have been opened to the Chairman already in
17 evidence already and I think you would have been here
18 in the early courses of October for the evidence and
19 you would have heard these being opened and spoken
20 about, isn't that right? 10:39

21 A. That's correct, yeah.

22 27 Q. Now, if you look at the SR1s and even, for example, the
23 one in front of us for 1st March 2015, you see there
24 under "ordinary illness" the box that's ticked or
25 referenced is "other" and it says "work related 10:39
26 stress", isn't that right?

27 A. That's correct, yes.

28 28 Q. Now, I think they varied in the manner in which they
29 were filled in, isn't that right?

1 A. That's correct, yes.

2 29 Q. I think some of them in respect of Garda Keogh said
3 "reason not provided" or, for example, if we open 9328,
4 you see there that particular member in charge has
5 ticked the "occupational injury" side of the form and 10:40
6 it's ticked there "occupational illness arising from
7 duty work related stress"?

8 A. That's correct.

9 30 Q. Okay. So I think, would you agree, that the SR1 forms
10 that were being signed in respect of Garda Keogh were 10:40
11 not consistent in the manner in which they were
12 arriving at your desk?

13 A. That's correct.

14 31 Q. Okay. Now, can I ask you then, we know, and we will go
15 into SAMS in a moment, that there's no drop down for 10:40
16 work related stress. I want to come to that
17 separately. But, can I just ask you about the lack of
18 consistency in the SR1s, did you notice that yourself?

19 A. I suppose just once I hadn't received the 11.37, you
20 would see different things, different reasons that were 10:41
21 on them, but when I knew the 11.37 hadn't been
22 received, then I automatically knew it had to be
23 ordinary illness, because that's what it states on the
24 SR1 form.

25 32 Q. Okay. Can I ask you, would you ever have discussed 10:41
26 these SR1s or brought them to anybody's attention or
27 just highlighted what was coming in on them and whether
28 or not something needed to be done?

29 A. I don't recall highlighting anything on them. Usually

1 they would come in from the guard in the public office
2 to the sergeant in charge's office and if there is
3 anything amiss on them or that requires further
4 attention, they it would usually go back out from the
5 sergeant in charge's office.

10:41

6 33 Q. Okay. And would you ever, for example, have
7 highlighted the difference in the forms to your
8 district officer, Chief Superintendent Murray?

9 A. I don't recall.

10 34 Q. Okay. Now, can I just ask you to look at SAMS then
11 itself. Again, we would have looked at this briefly
12 earlier on in the evidence of Garda Keogh. If I can
13 just ask Mr. Kavanagh to open up 11789. Again, very
14 helpfully, they have been provided in a manner which
15 shows how the drop downs work. So if you put in
16 "ordinary illness" as I think was inserted in respect
17 of Garda Keogh, in the next page you get your options?

10:42

18 A. That's correct, yes. The "ordinary illness" populates
19 itself because that's what every illness has to go down
20 as initially, so it just happens to autopopulate once
21 you create a sickness absence.

10:42

10:42

22 35 Q. Okay. If we go on to the next page, 11790, it shows
23 you your options then. Now, the first one there is
24 "flu/viral" and just again, can we speak generally for
25 a moment, we will look at Garda Keogh's SAMS record in
26 a moment, but just to speak generally, you have the
27 option of "mental health", I think you said in your
28 statement that you didn't select that for Garda Keogh,
29 isn't that right?

10:43

1 A. That's correct.

2 36 Q. Can you tell the Chairman why you didn't select that
3 for Garda Keogh?

4 A. Well just personally, I didn't think -- it wasn't on
5 his medical certs. It said work related stress, not 10:43
6 mental health. So I didn't select it. There was a
7 sigma around mental health and personally didn't
8 associate work related stress with mental health.

9 37 Q. Okay. And you didn't use the "not provided" box or
10 "other - please specify" for Garda Keogh? 10:43

11 A. It was a possibility, it is there, but like the
12 "ordinary illness" auto populates "flu/viral" also auto
13 populates. And because I had done it so often, it had
14 auto populated all the previous times, I think it was
15 18 times in total that he had gone sick and I had 10:44
16 created those and I just didn't alternate, it auto
17 populates to "flu/viral" so I left it as "flu/viral".

18 38 Q. Okay. Can I ask you, you mentioned a moment ago that
19 in to place a work related stress category on SAMS, you
20 wait for the certificate under Code 11.37; is that 10:44
21 right?

22 A. That's correct.

23 39 Q. Okay. Can I ask you then whether or not, and I am
24 talking about a hypothetical situation, where you get
25 the certificate in signed by the chief superintendent 10:44
26 under Code 11.37, where would you put the "work related
27 stress"? would you put it under "occupational
28 illness"?

29 A. It would be, yes.

1 40 Q. So if you go to 11794. 11794, which I think is the
2 next page, Mr. Kavanagh. Yes. So, in situations where
3 you have received certificates in relation to work
4 related stress, where do you enter the record on SAMS?
5 A. I would change it from "ordinary illness" to that 10:45
6 "occupational injury/ illness arising from duty". In
7 my experience it's mainly been physical injury that a
8 guard would experience from a prisoner or... So it
9 would depend on the guard or the injury. It's usually
10 malicious, on duty. 10:45

11 41 Q. Just if there is work related stress specified on the
12 Code 11.37?
13 A. I'm not sure, because this is the first case of work
14 related stress that I've dealt with and I didn't
15 receive the 11.37, so I had no reason to change it. 10:46

16 42 Q. So have you ever entered work related stress on a SAMS
17 in Athlone?
18 A. No.

19 43 Q. Okay. Can I ask you then, the role of the medical
20 certificate in what you are doing, we know that the 10:46
21 medical certificates for Garda Keogh, and again if we
22 can just look at them, page 421. This is just a record
23 of the sick notes that were coming in. So it is 421,
24 please, Mr. Kavanagh. If you just scroll down there.
25 Now, you see in December you were on board on the 1st 10:46
26 December, isn't that right, in this district clerk
27 role?
28 A. That's correct.

29 44 Q. So we see the sick notes coming in. Again, if you keep

1 scrolling, Mr. Kavanagh, please, you see "work related
2 stress" recorded. Can I ask you about the role of
3 those certificates? Again, they come in to you, is
4 that right?

5 A. They do come in to me, yeah. With a normal member who 10:47
6 wouldn't have much, say, sick, what I would do is,
7 we'd just hold the medical certificates, they don't go
8 anywhere. But when a member is approaching half pay,
9 which is at essentially 92 days, then HR will -- they
10 expect us to send up or scan and e-mail up the medical 10:47
11 certs. So as far as I am aware, from what I can
12 recall, from even when I started in the district
13 office, I think Garda Keogh was pay affected at that
14 stage. Because as far as I can remember I was always
15 faxing or scanning his medical certs up to HR. 10:47

16 45 Q. I think that's after 92 days; is that right?

17 A. After 92 days, yes.

18 46 Q. So HRM were seeing these?

19 A. They were seeing them essentially from just after I
20 started in the district office. 10:47

21 47 Q. Okay. Has anybody else seen them, the medical
22 certificates when they come in? Would the district
23 officer have any knowledge of the medical certs coming
24 in for a member?

25 A. Like he wouldn't essentially see them straight off 10:48
26 hand. I would file them away. Now when referring them
27 to the CMO, the district officer would complete the
28 form, a referral, and he would attach the cert, well I
29 would attach the cert and he would see it and we would

1 send it up to HR.

2 48 Q. Okay. So whilst you're logging the medical certs on
3 SAMS, is that right, you log them on SAMS?

4 A. That's correct.

5 49 Q. While SAMS, as you say, is password protected and 10:48
6 confidential and you are dealing with it, the medical
7 certs may be seen by your superior officers?

8 A. A physical medical cert can be seen, yes. In Garda
9 Keogh's case, he would drop the medical certs or post
10 them into the station and the sergeant in charge's 10:48
11 office would actually receive them first and open them
12 and then hand them into me and that's when I would
13 record it on SAMS.

14 50 Q. Would you have provided Garda Keogh's medical certs to
15 Superintendent Murray during that period? Do you 10:49
16 remember providing him with the certificates or
17 speaking with him about them at any stage?

18 A. I don't really recall. I know when he did up the
19 report to the chief superintendent Westmeath when
20 referring Garda Keogh to the CMO, he would have seen 10:49
21 the medical certs then.

22 51 Q. Okay. Now, can I ask you about another form. Again,
23 Superintendent Murray was asked about these forms, the
24 D5 forms?

25 A. Yes. 10:49

26 52 Q. Can I ask you about those?

27 A. Yes.

28 53 Q. Now, the D5 forms, and again just by way of example,
29 9308, please, Mr. Kavanagh. So it's 9308. Now, can

1 you just tell us a little bit about the role of the D5
2 forms? Is that your writing, for example, on that
3 form?

4 A. My writing, yes, is at the bottom of that form.

5 54 Q. who fills in the columns on the left? 10:50

6 A. The columns on the left are filled in by me.

7 55 Q. Okay.

8 A. From SAMS. So they're done every couple of months,
9 they're updated. Because we have to update everybody's
10 in the district at the same time, so we update them and 10:50
11 just basically, you're taking the information from SAMS
12 and inputting it on the D5.

13 56 Q. Okay. If you just scroll down a little bit, do you see
14 the column on the very right, which is recording, now
15 it's difficult to read from the screen, it says 10:50
16 "remarks, include name of doctor, cause of illness,
17 nature of special cause or reason for suspension or
18 date of injury on duty if applicable", do you see that
19 column there?

20 A. Yes. 10:50

21 57 Q. I think number 17 is at the top of it. who populates
22 that?

23 A. I would at times. Now, I know in this one you can see
24 different writing on it, so it would have been -- I
25 know at one stage our finance officer used to give 10:50
26 us -- used to help out in the district office and she
27 would just populate them onto the form.

28 58 Q. Okay. And that writing is "stress" there at the
29 bottom?

1 A. That says "stress", yes.

2 59 Q. Is that your writing as well?

3 A. No, that's not my writing. I think at that stage down
4 there at the bottom, that would be someone that took
5 over from me when I was on maternity leave. 10:51

6 60 Q. Okay. And if you see 9307, which is the previous page
7 there, Mr. Kavanagh. And again, this is all from April
8 to August 2015, this D5 form, again recording on the
9 right-hand side the certificates?

10 A. Yes. 10:51

11 61 Q. Did you populate that form?

12 A. Yes.

13 62 Q. Okay. Now, these D5 forms, where are they filed and
14 who has access to these?

15 A. So they're in the district office. They're just in a 10:52
16 filing cabinet set behind me. We have a little kind of
17 tambour unit, they're in alphabetical order, they're
18 not in the member's personal file and they're all
19 together. Essentially every members' D5 for the
20 district is all together in alphabetical order. 10:52

21 63 Q. And are these signed off by the district officer?

22 A. No.

23 64 Q. Would the district officer have any role in maintaining
24 the D5?

25 A. No. 10:52

26 65 Q. Okay. Now, can I ask you in particular to move on to
27 24th May 2016, please, Garda Kelly. Sorry, it's 23rd
28 May 2016. I just want to make sure I have the correct
29 date.

1 A. Yes.

2 66 Q. Yes, 23rd May 2016. I think you deal with this in your
3 statement. This was the date I think that you changed
4 the drop down on SAMS from "flu/viral" to "mental
5 health" for Garda Keogh; is that right? 10:53

6 A. That's correct.

7 67 Q. Can you tell me or tell the Chairman please how that
8 came back?

9 A. So I was in the office and I took a phone call from Ms.
10 Clare Egan from HR sick section and she just told me 10:53
11 that basically Garda Keogh's illness was wrongly
12 categorised and that he was being pay effected and that
13 he was liaising with the Commissioner, from what I can
14 remember of the phone call, and she told me that the
15 correct category was "mental health". So I changed it 10:53
16 as a result of her telling me to change it. From her
17 working in HR, in the sick section in particular, she
18 is well experienced from working there and I am sure
19 she is dealing with it every day. So I just -- when I
20 was told to change it, I changed it. 10:53

21 68 Q. Okay. Can you tell the Chairman what happened next
22 then?

23 A. So I changed that, I went home and I received a phone
24 call from Superintendent Murray and I just told him
25 what had happened and who had phoned me and -- 10:54

26 69 Q. Well, if you can just start at the beginning, you
27 received a phone call from the superintendent?

28 A. Yes.

29 70 Q. Can you give as much detail about that as you can?

1 A. He just asked me did I change the SAMS, the category on
2 SAMS. I told him I did and he just probably asked why,
3 I can't really recall the full phone call. But I had
4 told him then that I had been speaking to Clare Egan
5 from HR sick section and that was pretty much it, he 10:54
6 just said, we'll report it in the morning. I went in
7 the next morning and I did up a report and he sent it
8 on to the chief superintendent in westmeath.

9 71 Q. Okay.

10 A. That was it. 10:54

11 72 Q. Now, did you know how he became aware that it had been
12 changed?

13 A. No.

14 73 Q. Did you get any indication as to how he was aware it
15 had been changed? 10:55

16 A. I can't recall. I don't know.

17 74 Q. Can I just ask Mr. Kavanagh to open up page 3094 of the
18 book? This is the statement of Superintendent Murray
19 on this issue. So it's 3094. Do you see there at
20 1316? 10:55

21 A. Yes.

22 75 Q. So he says he had no role in recording sick leave for
23 anybody, including Garda Keogh.

24 A. That's correct.

25 76 Q. "I never entered data onto the system absence 10:55
26 management system."
27
28 Again?

29 A. That's correct.

1 77 Q. That's correct.

2

3

"The district clerk in Athlone performed that role.

4

This became an issue in May 2016 and I was anxious to

5

bottom it out and the district clerk was able to do

10:55

6

that very quickly."

7

8

Now, that might suggest that the superintendent played

9

a role in the changing of --

10

A. No, absolutely not, no. It was me that was solely

10:56

11

responsible for SAMS.

12

78 Q. Okay. Can I ask you finally to look at document 11737.

13

Now, this is the absence report for Garda Keogh. We

14

have been speaking about the entries and I think you

15

have given very clear evidence as to the manner in

10:56

16

which you were filling out SAMS. Can I just ask you

17

about the last entry there, 26th December 2015, Garda

18

Keogh. It's recorded as "mental health". Can I just

19

clarify something, in the sense that I understand from

20

your statement that once you open the entry it remains

10:56

21

open until there's a resumption of duty, is that right?

22

A. That's correct.

23

79 Q. So according to An Garda Síochána records, or this

24

particular record at least, am I correct to say that

25

Garda Keogh is currently recorded as on sick leave,

10:57

26

ordinary illness, mental health, is that right?

27

A. That's correct.

28

80 Q. That entry currently remains open on SAMS?

29

A. That's correct.

1 81 Q. Now, can I ask you then, we have heard evidence or
2 certainly e-mails were opened previously, which you may
3 or may not be aware of, relating to a discussion of
4 Garda Keogh being on administrative leave, do you have
5 any knowledge of that or can you assist in relation to 10:57
6 that?

7 A. No.

8 82 Q. Is it your evidence that as far as you're concerned in
9 recording sick leave, that remains the position for
10 Garda Keogh, "ordinary illness, mental health"? 10:57

11 A. That's correct.

12 MS. McGRATH: Can I ask you to answer any questions
13 please, Garda Keogh.

14

15 END OF EXAMINATION 10:57

16

17 CHAIRMAN: Thanks very much. Now, yes, Mr. Kelly.
18 Ms. Mulligan, yes.

19

20 GARDA OLIVIA KELLY WAS CROSS-EXAMINED BY MS. MULLIGAN, 10:57
21 AS FOLLOWS:

22

23 83 Q. MS. MULLIGAN: Good morning, Garda Kelly. I don't have
24 very much for you. Can I just clarify one or two
25 things. In relation to your role, you report to the 10:58
26 district officer; is that right?

27 A. That's correct.

28 84 Q. In terms of your role, do you also work with the
29 sergeants as well or as a district clerk do you have

1 several roles?

2 A. Well, I am in the district office, so, as I said, the
3 sergeant's office is a separate office to mine, but for
4 medical certs, say, the sergeant would bring them into
5 our office and I would record it on SAMS, so I would 10:58
6 have dealings with the super and the sergeants.

7 85 Q. Okay. So you do have dealing with the sergeants and
8 the superintendent but your direct line to whom you are
9 responsible to, that is the superintendent, is that
10 right? 10:58

11 A. That's correct, yes.

12 86 Q. Can you just for my sake, in terms of how any absence
13 occurs in An Garda Síochána, as you understand it, so
14 someone has to notify their sergeant that they are
15 taking time off for sick leave, isn't that right? 10:59

16 A. That's correct.

17 87 Q. Then that starts a process. Can you just confirm to me
18 what that process is? So you open an absence on SAMS,
19 is that right?

20 A. That's correct, yes. Once I received the SR1 form from 10:59
21 the sergeant's office, then I create an entry on SAMS.

22 88 Q. Just so I am clear, the sergeant, is that the sergeant
23 who presumably was in charge at the time that somebody
24 reports the illness, is that right?

25 A. Yes, the sergeant in charge of the station that day or 10:59
26 the working sergeant that morning or to whom the
27 illness was reported to.

28 89 Q. Okay. So it's a non-specified person, it's not fixed
29 per se, does that make sense?

1 A. No.

2 90 Q. So I have reported sick, you have gotten the SR1 form,
3 that opens the process of SAMS and when you open the
4 process for SAMS presumably you have only -- you
5 haven't got a medical cert at that time when the SR1 10:59
6 comes in, at the very first instance, is that right?

7 A. That's correct.

8 91 Q. Presumably normally people come back with the medical
9 cert when they come back to work?

10 A. That's correct. 11:00

11 92 Q. So on that basis you would open the SAMS report form in
12 an ordinary illness category. If you were given very
13 specific information, for example if there had been a
14 previous, I think it was referred to as SR7 form, and
15 were told that this is a repeated absence on that 11:00
16 basis, would you log it as ordinary illness or would
17 you log it as the occupational injury?

18 A. No, every illness goes down as "ordinary illness".

19 93 Q. Even where it has already been certified as
20 occupational injury? 11:00

21 A. Yes, because it is the chief that makes that final
22 decision with the Code 11.37.

23 94 Q. Okay. Just so I am absolutely clear about this. In
24 the ordinary course everyone goes in as "ordinary
25 illness" irrespective -- 11:00

26 A. That's correct.

27 95 Q. -- of what we know on the larger file?

28 A. That's correct.

29 96 Q. Okay. would that change then only if there's an SR7?

1 A. Well, there it's the SR1 resumption form. There is no
2 SR7.

3 97 Q. Sorry, is the SR7 not where you described to the
4 Chairman about where there is an occupational injury or
5 something certified by -- 11:01

6 A. Code 11.37.

7 98 Q. Sorry, my apologies. The Code 11.37?

8 A. So if the Code 11.37 is received, I can go in then and
9 change it on the SAMS.

10 99 Q. So you can go in then and change it on SAMS? 11:01

11 A. That's correct.

12 100 Q. But only with --

13 A. Only with Code 11.37.

14 101 Q. And that's not the superintendent, that's the chief
15 superintendent? 11:01

16 A. The chief superintendent.

17 102 Q. You may not know the answer to the question, and if you
18 don't that is fine, because it might be for the chief
19 superintendent, but does that normally directly from
20 the chief superintendent's office or is it done with -- 11:01

21 you know the way sometime Superintendent Murray might
22 do things on behalf of Chief Superintendent wheatley?

23 A. No.

24 103 Q. Is it always on her --

25 A. No, it has to be chief superintendent. 11:02

26 104 Q. So it's her headed note paper, basically, is what I am
27 trying to understand?

28 A. Yeah, the chief superintendent's headed paper and it
29 comes from their office in hard copy, yes.

1 105 Q. That's fine. Can I just confirm, in terms of the
2 extension of your role, you're the district clerk and
3 am I right in saying, I have seen your name on a view
4 of the PAF meeting notes; is that right?

5 A. That's correct. I would attend the meeting in the 11:02
6 morning and just record who was at the meeting, if
7 anything came up I may have to send an e-mail, if there
8 was a serious crime overnight I would construct a
9 report on the crime to the chief superintendent's
10 office, just to let them know. And also at the 11:02
11 meeting, at the end they discuss -- the sergeant in
12 charge discusses resources, so I would record who was
13 absent or who was out sick for that day.

14 106 Q. Okay. In terms of any queries that you have, if you do
15 have them, do you go to the superintendent or do you go 11:02
16 to HR, in terms of anything sickness related?

17 A. Well, if I have queries, there has been times where I
18 would ring HR directly to the sickness section and they
19 would advise me.

20 107 Q. Would you also go to your superintendent? 11:03
21 A. Em, I don't recall going to him with many questions
22 about sick. I would just ring HR sick section
23 themselves, yeah.

24 108 Q. Okay. Just to confirm, in terms of who you would deal
25 with in the sick section in HR, would that be Clare 11:03
26 Egan?

27 A. Not always.

28 109 Q. No.
29 A. There's a few girls working there and it's really

1 whoever picks up the phone, I would just ask the
2 question.

3 110 Q. Okay. And just off the top of your head, is there any
4 other additional person other than Clare Egan that you
5 discussed Nicholas Keogh with? 11:03

6 A. No.

7 111 Q. Not to the best of your knowledge?

8 A. No.

9 112 Q. Just because Ms. McGrath asked you about a guideline in
10 relation to, I suppose, the management and systems of 11:03
11 SAMS, you did say that there were guidelines, is that
12 right?

13 A. There's a SAMS document and it essentially shows you
14 just, I suppose, how to use SAMS and I know it mentions
15 that on the 28 days that a person is to be referred to 11:04
16 the CMO, but it's just a guideline document really.

17 113 Q. Okay. Just on that note of referring after 28 days,
18 because that's something that did arise in this case,
19 can I confirm, does that normally come from you or does
20 that -- I suppose the starting point for that, does 11:04
21 that come from HR directly?

22 A. Yeah. In the majority of cases HR initiate it, and
23 then in some cases, it just depends, if we know a
24 member has been injured on duty, we might initiate it.
25 So it just depends on the case. 11:04

26 114 Q. Okay. So is it fair to say that both parties do look
27 after it, depending on the individual circumstances?

28 A. Exactly, yes.

29 115 Q. You just gave the example of an accident, it's a very

1 good example, it being clear to you that somebody might
2 still be in the hospital and therefore you know they
3 are going to go past the 28 days?
4 A. Yes.
5 116 Q. So you might, for want of a better word, be on top of 11:05
6 that?
7 A. Well that's it, yeah. And if we felt that they were
8 injured, say, at a football match or were having
9 injured, then we mightn't just refer them at the 28
10 days, because they may not be able to drive or may be 11:05
11 just recovering from surgery. So it really depends on
12 each case?
13 117 Q. There is a notification post 28 days, that also goes to
14 the member, is that right, it goes to the guard as
15 well? 11:05
16 A. Well, the referral themselves just goes straight to HR
17 from, say, the district office, or superintendent's up
18 to the chief superintendent and on to HR and then HR
19 will come back with a date for the member to see the
20 CMO. 11:05
21 118 Q. The CMO.
22 A. And then that's when we notify the member then through
23 their sergeant of the date.
24 119 Q. Okay. Just in terms of beyond that point, presumably
25 you don't have any non-executive role? 11:06
26 A. No.
27 120 Q. It's purely functional, is that fair?
28 A. Yeah, that's correct.
29 121 Q. Okay. Sorry I just have one or two very short

1 questions. In relation to -- I think you were very
2 clear, you arrived in Athlone in 2013, is that correct?
3 A. That's correct, April 2013.
4 122 Q. April 2013. You then went on maternity leave?
5 A. That's correct. 11:06
6 123 Q. And then came back, can you remember when in 2014 you
7 came back?
8 A. I'm not too sure. It could have been maybe -- I'm not
9 too sure, he was born in January '13, so six months
10 later. 11:06
11 124 Q. Give or take?
12 A. Give or take, yeah.
13 125 Q. Did you then go on second maternity leave?
14 A. I went on second maternity leave while as district
15 clerk in 2017. 11:07
16 126 Q. The only relevant time from our point of view is 2015
17 to 2015, give or take?
18 A. No, that was the only time then.
19 127 Q. Can you just recall who looked after the -- when you
20 are on holidays, who looks after the SAMS system and
21 absence management? 11:07
22 A. Well, if I was just taking brief holiday, nobody would,
23 as in I would just do it when I came back.
24 128 Q. Yes. Okay.
25 A. But I wouldn't have started in the district office 11:07
26 until after I was on maternity leave, when I returned
27 on the -- I started on 1st January 2014.
28 129 Q. Okay, perfect, no issue with that. Just, Mr. Kavanagh,
29 if I could have a little look at page 11794 again,

1 please. I have a very quick question about this, the
2 categorisation in relation to "injury on duty". When
3 you find out -- Chief Superintendent Wheatley gives you
4 the notification that it is an injury on duty and you
5 have gotten that document, as I understand it, time 11:08
6 stops running effectively, your 92 days that you have
7 stop. But there also might be a period of backdating
8 required. So say, for example, you categorised for 28
9 days that somebody is off and that's ordinary illness
10 and those numbers are going up, but then 28 days later 11:08
11 you get the letter from Chief Superintendent Wheatley
12 saying, no, this is actually an injury on duty, who
13 does that?

14 A. So it would be me. Once we get the thing to say to
15 classify it as injury on duty, I go back in and edit 11:08
16 the document essentially and change it to injury on
17 duty. So the initial start date from when that member
18 went sick, it would be injury on duty, essentially.

19 130 Q. Just that editing facility, where is that editing
20 facility? 11:09

21 A. It's on the main screen. So essentially it's an open
22 record and when you log in, when I log in, you go into
23 the open absence on the screen and it just allows you
24 to change or to add stuff to it.

25 131 Q. Okay. It's tricky because we don't have the computer
26 system in front of us, it's not on this page, is that
27 right? 11:09

28 A. That's the main page.

29 132 Q. That is the main page?

1 A. Yeah, so it would be on the main screen because there
2 is only one screen.

3 133 Q. Okay. You can't see that edit page there, is that
4 right?

5 A. We're in the screen there, so it would be the page 11:09
6 before that. You would have to go into the open
7 absence and then you are essentially into the screen.

8 134 Q. Just so I am absolutely clear about this, the SR1 form
9 comes in, you open the SAMS record of the absence,
10 those days are accumulating for however many days, 11:10
11 until we get --

12 A. The resumption.

13 135 Q. It could be past 100 days if we are doing a work
14 related stress investigation, for example, and then you
15 get the letter from Chief Superintendent Wheatley or it 11:10
16 might have been Chief Superintendent Curran at the
17 time, and it says this person is categorised as an
18 occupational injury and therefore we have to change
19 numbers back. You go into the SAMS locally, not HR?

20 A. No, I go in and literally it's just the reason, you can 11:10
21 see it there "reason: Occupational" you're only
22 changing the reason tab.

23 136 Q. Yeah.

24 A. You don't touch dates or anything, you just change the
25 reason and then it will just change the category of it. 11:10

26 137 Q. Then just so that I am absolutely clear about this, the
27 time running point, which is what I am asking about,
28 does that automatically correct itself?

29 A. It does. You see it's changing it from the very start,

1 from when that member went sick.

2 138 Q. So, in particular in relation to Garda Keogh's case,
3 when he goes back to -- I think he goes on
4 administrative pay. Did you edit that and make that
5 change or how was that done? 11:11

6 A. No, that's through HR.

7 139 Q. So that was done through HR?

8 A. Yes.

9 140 Q. So as a general rule, you would do it?

10 A. I would only create the absence and if I was told to 11:11
11 change it, as in if the Code 11.37 was received, I
12 would change the reason but I wouldn't touch anything
13 else.

14 141 Q. Okay.

15 A. It's just with the accumulative days, it automatically 11:11
16 goes to half pay at 92 days and that's for every
17 member.

18 142 Q. That is what I am trying to understand practically. In
19 terms of Garda Keogh's case it deviated slightly
20 because he is a different case, his time isn't running 11:12
21 at 92 days and past the 92 days because he's not on TRR
22 income, he's on regular pay, isn't that right?

23 A. Well he's down as "ordinary illness" so essentially he
24 should be pay affected but I think because HR have
25 sorted that out for him, he's not any more. 11:12

26 143 Q. Yes. So my question is then, that was done by HR?

27 A. That was done through HR only, I had nothing to do with
28 that.

29 144 Q. So as we currently stand, Garda Kelly, you are

1 recording the illness, Garda Keogh would continue to be
2 pay affected?

3 A. That's correct yeah.

4 145 Q. But --

5 A. The only time I changed it was on 23rd May '16, when 11:12
6 Clare Egan told me to change it to "mental health" and
7 that is the last I have touched of the SAMS for Garda
8 Keogh.

9 146 Q. For Garda Keogh?

10 A. Yeah. 11:12

11 147 Q. So there is a separate, I suppose, page somewhere else
12 that you haven't seen probably, in HR, that would
13 explain how his pay is being affected?

14 A. I am sure there probably -- I don't know, I'm not
15 up-to-date with HR. 11:13

16 148 Q. That's fine. But it has nothing to do with you?

17 A. No.

18 149 Q. Is the short answer. You haven't changed the system --

19 A. No.

20 150 Q. -- in Athlone locally? 11:13

21 A. No.

22 151 Q. So Garda Keogh continues to provide certificates in
23 relation to his absence to you, is that correct?

24 A. That's correct, yeah. And they're still scanned up to
25 HR. 11:13

26 152 Q. You scan them up, but you haven't amended --

27 A. No, we don't.

28 153 Q. You haven't touched or changed the current SAMS system
29 and approach?

1 A. No, no.

2 154 Q. Okay. All right. Can I ask you just very briefly ask
3 you about the conversation that you had with
4 Superintendent Murray in May of 2016. Just in relation
5 to the -- so Clare Egan contacted you to change the 11:13
6 categorisation of illness for Garda Keogh to mental
7 health?

8 A. Yes.

9 155 Q. Can I just ask you, was the same day the phone call was
10 made? 11:14

11 A. Yes.

12 156 Q. Were you at home or were you in the office?

13 A. From what I recall, I was at home.

14 157 Q. When you received the call?

15 A. Yes. 11:14

16 158 Q. Would that happen on a regular basis, would
17 Superintendent Murray ring you at home very often?

18 A. No. No.

19 159 Q. Has it ever happened before?

20 A. Not that I can recall of. 11:14

21 160 Q. Was it a short conversation?

22 A. Yeah, it was, yeah.

23 161 Q. Just to be clear, he asked you why you had changed --

24 A. Yeah, the illness reason and I told him that Clare Egan
25 had rang me from HR and she had told me to change it 11:14
26 and that I had changed it. And that was pretty much
27 it. He just said he would look for a report off me,
28 which I provided him with the following morning.

29 162 Q. I think you agreed with Ms. McGrath when she said the

1 SAMS system is confidential and that essentially you're
2 the only person who has access to the system?

3 A. Yeah, that's correct.

4 163 Q. Did you ask -- I presume you didn't ask Superintendent
5 Murray how he knew that information? 11:15

6 A. No. He may have told me who told him, but I just don't
7 recall at the minute.

8 164 Q. You don't recall?

9 A. No.

10 165 Q. Just if I can ask Ms. McGrath, she opened a D5 form, I 11:15
11 missed the reference pointed, I would be grateful to my
12 Friend?

13 MS. McGRATH: 9308, Chairman, and 9307 were opened.

14 166 Q. MS. MULLIGAN: Can I just ask, this document, is this
15 processed by you? 11:15

16 A. It is processed by me. Now, as I said, the other
17 writing there would have been Catriona Quirk, who has
18 passed away since. When I go onto SAMS, she might just
19 fill in the form for me, just to give me a helping
20 hand, because there's a lot of members in the district. 11:16
21 So it's just a matter of her writing in the form or me
22 writing on the form from -- I would log in to SAMS on
23 my number and read it out to her and she would jog it
24 down, just to help with the form.

25 167 Q. Just to be clear, what's the purpose of the D5 form on 11:16
26 top of SAMS?

27 A. It's just another document. I mean there's no real
28 need for it. But HR do look for it when you refer
29 somebody to the CMO, they look for the D5 hard copy,

1 but I'm not too sure, you would have to ask HR.
2 168 Q. Specifically, from your point of view it's a paper
3 version of SAMS?
4 A. It's an extra -- yes, exactly, it's a paper version of
5 SAMS, yeah. 11:16
6 169 Q. Just so I am clear, it's not for anyone else?
7 A. No.
8 170 Q. Is it something that is kept by you or where is it kept
9 in the station?
10 A. It's just behind me essentially. 11:16
11 171 Q. Behind you?
12 A. Yeah.
13 172 Q. I presume that is not locked?
14 A. No, it's not locked, no. The office itself is locked
15 every evening, but the D5s aren't locked. 11:17
16 MS. MULLIGAN: No further questions. Thank you very
17 much.
18
19 END OF EXAMINATION
20 11:17
21 CHAIRMAN: Very good. Yes, Mr. McGuinness.
22
23 GARDA OLIVIA KELLY WAS EXAMINED BY MR. DONAL
24 McGUINNESS, AS FOLLOWS:
25 11:17
26 173 Q. MR. DONAL McGUINNESS: I have just one question, Garda
27 Kelly. In relation to the form SR1, there is a stock
28 of these forms kept at the main desk; isn't that
29 correct?

1 A. That's correct.

2 174 Q. It would be a common enough job for the person who is
3 in charge of the main desk to complete the form and be
4 familiar with the form?

5 A. Yes, that's correct.

11:17

6

7 END OF EXAMINATION

8

9 CHAIRMAN: Anybody else? Very good. Thank you very
10 much.

11:17

11 MS. McGRATH: Nothing arising, Chairman. Thank you,
12 Garda Kelly.

13 CHAIRMAN: Thank you very much and you are free to go
14 now. Thank you very much.

15

11:17

16 THE WITNESS THEN WITHDREW

17

18 MR. McGUINESS: The next witness, Chairman, is
19 Sergeant Cormac Moylan.

20 CHAIRMAN: Good morning sergeant, thank you.

11:18

21

22 SERGEANT CORMAC MOYLAN, HAVING BEEN SWORN, WAS
23 DIRECTLY-EXAMINED BY MR. McGUINESS, AS FOLLOWS:

24

25 THE WITNESS: Sergeant Cormac Moylan.

11:18

26 175 Q. MR. McGUINESS: Sergeant Moylan, I think you're
27 attached to Athlone Garda Station at present?

28 A. That's correct, yes.

29 176 Q. I think you were originally attested as a member of the

1 force on 29th July 1996?

2 A. I joined An Garda Síochána, went into Templemore in
3 July 1996 and I was attested about 13 months later, in
4 1997.

5 177 Q. I beg your pardon. 11:18

6 A. Yeah.

7 178 Q. Where did you serve as a member first?

8 A. My training station was Fitzgibbon Street Garda Station
9 in Dublin, I then was posted to Whitehall station, from
10 there I went to Santry station. I then came in here to 11:19
11 Dublin Castle, where I spent five years in the traffic,
12 the traffic unit. From there I went to Templemore, to
13 the Garda college, where I was an instructor for three
14 and a half years, during which time I was promoted.
15 And I left there in April 2009 and went to Athlone. 11:19

16 179 Q. I think you were promoted during the time in the
17 college to the rank of sergeant?

18 A. That's correct, yes.

19 180 Q. What were you instructing on during your three and a
20 half or four years in the college? 11:19

21 A. Legal and policing studies, but primarily I was the
22 road traffic instructor.

23 181 Q. Yes. I think you moved then to Athlone in 2009 and you
24 were there for approximately seven years and then you
25 went to Kilbeggan for a short while? 11:19

26 A. Well, I am still technically attached to Athlone Garda
27 Station. In 2015 I was asked to take care of Kilbeggan
28 Garda station. I then moved into Moate, into the
29 traffic corps and since last November now I moved back

1 to Kilbeggan Garda station. So I have kind of taken on
2 other responsibilities but I suppose technically I am
3 still attached to Athlone Garda Station.

4 182 Q. Certainly when you went to Athlone as a sergeant,
5 particularly maybe from 2014 onwards, what were your 11:20
6 duties there and in particular any interactions with
7 Garda Keogh?

8 A. Yeah. In December 2014 -- when I moved to Athlone
9 first I was attached to unit B. In December 2014 I
10 moved units and I moved across to unit C, which was 11:20
11 Garda Keogh's unit.

12 183 Q. Yes.

13 A. There was a realigning of sergeants in different units.
14 So I moved units. I was on that unit until July 2015,
15 at which stage then I moved out to Kilbeggan. 11:20

16 184 Q. Yes. So you had a closer working relationship with him
17 during that period, really from December '14 to July
18 '15?

19 A. Correct.

20 185 Q. Obviously you became aware of the fact that he made a 11:21
21 protected disclosure in May of 2014?

22 A. That's correct, yeah. And I have thought about this,
23 Judge, just in relation to when I knew about it. I
24 know it was in the public media, but I do remember I
25 met Nick and I find it very hard to pin it to a 11:21
26 calendar when I knew about the protected disclosure,
27 because he said something to me around that time, it
28 could have been after, it could have been before, about
29 that he was making a protected disclosure and he had to

1 make it by way -- it was the Ming Flanagan, he said to
2 me, but that Ming wouldn't take the complaint unless he
3 made it by affidavit or something. Now I find it hard
4 to pin that. Now that could have been a month or two
5 either side of that, but, yes. 11:21

6 186 Q. Yes. Do you have a recollection of discussing the
7 content of it or the intended content of it --

8 A. No.

9 187 Q. -- at any stage with him?

10 A. No, just a chat, I suppose. I would have -- he was an 11:21
11 Offaly man, I was an Offaly man, so when I'd meet him
12 in the station, you know, we would have had an informal
13 sort of, you know, how are things, how are you getting
14 on, you know, a bit of chat. Any time I met him when I
15 was in Athlone, we would have always got on well or had 11:22
16 a good working relationship, you know.

17 188 Q. In terms of what occurred in the station, did you
18 become aware that he had been allowed to address his
19 view about his protected disclosure in a general way?

20 A. No. I actually hadn't heard that at the time. It was 11:22
21 probably years afterwards I think maybe that I heard
22 about that. I wasn't on that unit at that time.

23 189 Q. Yes. Now the first four issues that the Tribunal is
24 concerned with is the creation of a Pulse entry by him
25 on the 18th May, the making of a Pulse check also and 11:22
26 his interactions with Olivia O'Neill and Liam McHugh.
27 You had no involvement in any of those matters, is that
28 correct?

29 A. No, I actually never had involvement with Olivia

1 O'Neill. I had involvement with Liam McHugh. I would
2 have known Liam McHugh around the town. I think every
3 guard in Athlone would have known Liam McHugh. I find
4 it hard to say that people couldn't find him, he's easy
5 enough to find. 11:23

6 190 Q. Yes. Certainly the events that the Tribunal is
7 concerned with, Garda Lyons' report and any action
8 taken on foot of that, were you involved in any way in
9 any of that?

10 A. No. I had no hand, act or part in any of it. 11:23

11 191 Q. In relation to the issue of supervision,
12 microsupervision or excessive supervision, three
13 sergeants being put on him, you explain in your
14 statement at paragraph 3.3, which is at page 606, if we
15 just look at that. You had an involvement obviously 11:23
16 which increased in AGSI, isn't that correct?

17 A. That's correct. In April of 2020 I took up the role on
18 the national executive of AGSI, the Association of
19 Garda Sergeants and Inspectors.

20 192 Q. Yes. 11:24

21 A. That would have probably impacted on my frontline
22 supervision duty, in that we worked kind six on four
23 off structure, and on the six days kind of on, I
24 probably would have been three of them gone to Dublin,
25 meetings with management, whether it be the chief or 11:24
26 Garda Headquarters or different places, Department of
27 Justice, etcetera. So I wouldn't have been there the
28 full-time.

29 193 Q. CHAIRMAN: would you have been there 50% of the time,

1 roughly?

2 A. Yeah.

3 194 Q. CHAIRMAN: what was the rough kind of picture?

4 A. well, I suppose, Chairman, I actually done a kind of an 11:24

5 analysis. When I got this thing, I looked at the first

6 100 days that I went onto the unit, unit C. I think of

7 the first 100 days, I think I was 36 days working on

8 the unit and 35 days in AGSI. That would be meetings

9 with Garda management in headquarters.

10 195 Q. CHAIRMAN: I understand, whatever issues arising? 11:24

11 A. So it was nearly 50/50.

12 196 Q. MR. MCGUINNESS: Yes. Just before we deal with

13 Superintendent Murray's instruction, as it were, in

14 early 2015, I think you had been asked to provide a

15 performance report in relation to Garda Keogh, isn't 11:25

16 that correct?

17 A. Yes, that was I think around February 2015.

18 197 Q. Yes. Certainly Garda Keogh has it referred to in his

19 diary, perhaps we will just look at that entry, volume

20 47, page 13300. It's there, Tuesday, the 24th: 11:25

21

22 "Sergeant Moylan informs me he has to write report on

23 my performance."

24

25 Then he has gotten entries relating to rest days. On 11:25

26 the top of the next page, which appears to be the 27th:

27

28 "Pat Murray, new super Athlone."

29

1 He must have learnt of that at the time. But that
2 instruction was received by you to write a performance
3 report, isn't that correct?

4 A. Yeah. From my recollection, that emanated from the
5 Garda Occupational Health Service. 11:26

6 198 Q. Yes.

7 A. I think he was being referred to the Occupational
8 Health Service. It comes down, there was four or five
9 items that we address, that the front line super was to
10 sit down with him and just go through with him. 11:26

11 199 Q. We will look at those in a minute. But if we go to the
12 next page in the diary, 13301, there's an entry there
13 on Sunday, the 8th:

14

15 "Sick. Rest day. Texted Sergeant Monaghan 14:29. 11:26
16 Cormac, can I get a copy of that progress report
17 please?"

18

19 Do you recollect sending that to him or not?

20 A. Well, I think that's saying that Nick Keogh may have 11:27
21 texted me looking for a copy of the progress report and
22 got no reply.

23 200 Q. Yes. Do you recall subsequently sending it to him or
24 not?

25 A. No. But I do know that, I actually, unlike probably 11:27
26 what I would have normally done when you're doing a
27 progress report and I would have completed it myself.

28 201 Q. Yes.

29 A. In the instance of Nick Keogh's progress report, I

1 actually sat Nick down at the computer in the
2 sergeant's office beside me when I wrote the
3 performance report. Because I specifically remember
4 there was a line in it, I think it could have been the
5 fourth point or something, and it was that he had no
6 issue with his immediate supervisors. 11:27

7 202 Q. Yes.

8 A. And he wanted the word immediate in.

9 203 Q. Okay. We will come to the report in a moment. Perhaps
10 if we just look at Volume 33, page 9378, just to see 11:27
11 the sequence of it. The top e-mail there is from Alan
12 Mulligan to Dr. Cathal Collins the CMO, forwarding the
13 chief superintendent's report on 24th February, 12:35.
14 And underneath that, Chief Superintendent Curran had
15 forwarded the report to assistant commissioner, sick 11:28
16 section. If we go down to the bottom of the page, the
17 original report, and over the page it says:

18
19 "Please see attached report from Sergeant Cormac Moylan
20 on his meeting with Garda Keogh. Forwarded for 11:28
21 information please. For onward transmission to HRM
22 Sick Section. Sent on behalf of superintendent by
23 Inspector Minnock."

24
25 Then if we go down that page, there is quite a jump in 11:29
26 time because what appears there preceding that is a
27 reminder of 1st October 2014, it says:

28
29 "Second reminder. Athlone. Superintendent Athlone re

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sick report.

The attached correspondence dated 1st October 2014
assistant commissioner Eastern Region --"

11:29

I think that was Assistant Commissioner Fanning at the
time.

-- is forwarded for your attention and report."

11:29

So, if we proceed down that page then and go to the top
of 9831 in fact, the next page. It says:

"Reply to this branch correspondence dated 14th January
and 15th May 2014 in respect of the above member is
awaited at this time."

11:30

So this appears to have generated the reminder again in
November that we have seen.

11:30

"Local management should provide an up to date unit
report under the below headings and prepared in
consultation with the member for the attention of this
branch:

1. Work performance to include what duty the member
currently performs.
2. History of attendance at work clarifying periods of
effectiveness/non-effectiveness.
3. Coping skills and efforts which have been made to

11:30

1 assist the member to improve coping skills where this
2 has been perceived necessary. Code 11.32 (2) refers.
3 4. Relationship with peer and supervisors.
4 5. Any other information deemed relevant in this case
5 (including any related matters of concern from the 11:30
6 member, if any).

7
8 It is essential that this unit report is made available
9 to the CMO for information and advices.

10 11:30

11 For favour of immediate attention."

12

13 That is sent then by Mr. Mulligan, the director of HRM.

14 A. That's correct. I suppose that report would have
15 originated prior to me coming onto the unit. 11:31

16 204 Q. Indeed, yes.

17 A. From my recollection, I don't think it would have been
18 a big report, it wouldn't have been a big task. So I
19 am just wondering why I didn't do it until February. I
20 would imagine that I would have probably got a reminder 11:31
21 in February, not having seen the previous original
22 correspondence.

23 205 Q. Yes.

24 A. And then acted upon it.

25 206 Q. It doesn't appear to have been previously replied to, 11:31
26 no criticism of you, it hadn't been referred to you
27 prior to your dealing with it in February?

28 A. No.

29 207 Q. Of 2015?

1 A. No.

2 208 Q. I think you prepared a report, it's to be found at
3 9382. You make that point in your first paragraph:
4
5 "In relation to the above and attached correspondence, 11:31
6 I wish to report that I am not in receipt of previous
7 correspondence referred to as I only became Garda
8 Keogh's supervisor last December.
9
10 In respect of the points raised, having spoken to Garda 11:32
11 Keogh, I am to reply as follows:
12 1. Garda Keogh currently performs all duties
13 consummate with his rank, including beat, station
14 prisoner management duties.
15 2. A history of his effectiveness/non-effectiveness is 11:32
16 available in the district office.
17 3. There are no coping skills or other methods deemed
18 necessary at this stage.
19 4. Garda Keogh states he has a good working
20 relationship with his peers and immediate supervisors 11:32
21 alike.
22 5. Garda Keogh does not wish to note any other areas
23 of concern."
24
25 Now, do I understand your evidence to say that you, in 11:32
26 fact, had sat down with Garda Keogh at the computer?
27 A. Absolutely, yes.

28 209 Q. And prepared this report. I think you are required to
29 consult the member when you are sending a unit report

1 up like this, isn't that correct?

2 A. Well, it would be my practice. I think if you are
3 going to write on somebody like that in terms of
4 welfare, it'd be only right that you'd talk to them.

5 210 Q. But certainly from the point of view of Garda Keogh, 11:33
6 number 2 there:
7
8 "Hi story of hi s effectiveness."
9

10 The reference there to the district office, what was 11:33
11 available in the district office?

12 A. Well, they have access to the SAMS, they have access to
13 all the sickness records.

14 211 Q. Yes.

15 A. As a sergeant on the unit in a busy station like 11:33
16 Athlone and the scant resources available, I wasn't
17 going to go trawling for all that information. It
18 would have taken me days to try and find that
19 information.

20 212 Q. Yes. 11:33

21 A. So that was available at the push of a button in
22 another office.

23 213 Q. You told the Chairman he wanted "immediate
24 supervisors". Had he some reservation about his
25 non-immediate supervisors or did he articulate anything 11:33
26 to you about that?

27 A. He did. And Superintendent Murray hadn't even landed
28 in the station at that stage.

29 214 Q. Yes.

1 A. So he was indicating to me that, yeah, he wanted
2 specifically the word immediate, he looked for the word
3 immediate supervisors. He just said, look it, that he
4 had no problem with the sergeants but management and
5 other people in the station he had. He just wanted to 11:34
6 hold that. He mentioned a couple of names. He
7 mentioned Aidan Glacken, who was a former super. He
8 mentioned Superintendent Noreen McBrien, from what I
9 recall. I don't think he named anybody else in that.

10 215 Q. Obviously Superintendent Glacken had been replaced? 11:34

11 A. He had yeah.

12 216 Q. By Superintendent McBrien quite sometime ago?

13 A. Yes.

14 217 Q. Did he articulate any complaints against Superintendent
15 McBrien? 11:34

16 A. No, that was it. He was satisfied, having gone through
17 the different points, he was satisfied with the word
18 immediate. It was allowing me to reply to the
19 correspondence and he was happy enough for that to go
20 back. 11:34

21 218 Q. Number 5:
22
23 "Garda Keogh does not wish to note any other areas of
24 concern. "
25 11:34

26 Were you aware of the Ó Cualáin investigation into his
27 allegations being up and running?

28 A. Yes, I was aware that the protected disclosure had been
29 made. As to when the Ó Cualáin investigation started,

1 I suppose once again, when it had started, but I do
2 remember there was activity around the station one day
3 I think where some investigators were in looking for
4 custody records or different things. So whether that
5 was before or after that time, I couldn't pin it to the 11:35
6 calendar.

7 219 Q. Yes. Did he bring anything to your attention in
8 relation to his medical record or his medical
9 condition?

10 A. There was something in relation to it about medical 11:35
11 reports or whatever the case would be, and he said to
12 me that, yeah, he would have copies of them available
13 for the surgeon when he met them.

14 220 Q. Yeah.

15 A. Because this was going back up to the chief medical 11:35
16 officer or the Occupational Health department for an
17 appointment with him.

18 221 Q. Yes.

19 A. And he indicated that he would have --

20 222 Q. There was a discussion on a later date about that. 11:35
21 A. Yes.

22 223 Q. We will come to that. But at this point in time he
23 doesn't seem to have made any complaints about the
24 Ó Cualáin investigation or any other matters, is that
25 fair? 11:36
26 A. No.

27 224 Q. In any event, you sent that in and that was transmitted
28 up?
29 A. That's correct.

1 225 Q. In the interim then, between your next sort of contact
2 with him in an official sort of way, Superintendent
3 Murray came on the scene and was assigned to be the
4 superintendent in Athlone, isn't that correct?
5 A. That's correct, yes. 11:36

6 226 Q. Were you aware of any issues concerning Garda Keogh's
7 car tax or expenses claims? Had you any involvement in
8 those?
9 A. I had no involvement in them.

10 227 Q. Insofar as the issue of assignment of sergeants and 11:36
11 supervision of Garda Keogh is concerned, I think you
12 obviously received the memo from Superintendent Murray
13 which he issued about the supervision of the sergeants.
14 Could you give the Tribunal your perspective on that?
15 A. In actual fact, I actually taught to myself, fair play, 11:37
16 the new superintendent is actually listening to me.
17 Because I had previously met the previous
18 superintendent and Inspector Minnock after a meeting in
19 relation to -- the fact that I was gone half the time
20 off the unit and not being around, I thought maybe it 11:37
21 was -- for one, it was probably unfair on me because
22 the workload still remained the same, you were doing
23 all the unit work in half the time. And I had brought
24 it to their attention. I know they undertook to have a
25 look at it. Obviously the superintends moved at the 11:37
26 time. Superintendent Murray came in. And within a
27 short space of time he had made suggestions, even
28 within a couple of months I was given the option of
29 moving to Kilbeggan, etcetera. So I just felt it was

1 something, it was part of him reviewing the process of
2 me being able to manage my workload as well because I
3 wasn't always going to be there. So Sergeant Haran, he
4 was the community policing sergeant, but he rested with
5 unit C. So it was kind of putting it on a more sure 11:38
6 footing, that when I wasn't Sergeant Haran was to be
7 there. We were kind of operating on that basis anyway,
8 so that if I needed leave on a Saturday night, I would
9 ring Sergeant Haran to see was he working. So there
10 was always one of us working. We'd bounce off each 11:38
11 other. For the first time, I suppose, I seen it in
12 black and white that the superintendent was putting it
13 on a more sure footing.

14 228 Q. Yes. Could I ask you to comment on the suggestion that
15 this was a form of excessive unjustified 11:38
16 microsupervision imposed on Garda Keogh by
17 Superintendent Murray?

18 A. Well, I didn't see it that way at all. From what I
19 have explained, I felt from my perspective, when I read
20 that, I thought, fair play to the super, he's listened 11:38
21 to me in relation to the fact that I'm not there. I'm
22 only there 50% of the time, so he is actually doing
23 something about it and looking at it. That's the way I
24 took it.

25 229 Q. Garda Keogh has obviously given evidence in relation to 11:39
26 how Superintendent Murray dealt with the car tax, the
27 regulation 10 notice. Did you become aware of that at
28 that time that, that had occurred or was occurring?

29 A. No, I hadn't any dealings with that. I subsequently

1 had dealings with another member in the district, car
2 tax. But I was aware of the Nick Keogh issue with car
3 tax at all.

4 230 Q. Was that the guard who was subsequently off sick
5 through an injury that had occurred and that you dealt 11:39
6 with at a much later stage?

7 A. That's correct, yeah. When I moved to Kilbeggan, there
8 was obviously correspondence in around the time when I
9 was in Athlone in relation to checks for car tax.

10 231 Q. Yes. 11:39

11 A. But when I moved out to Kilbeggan, I remember getting a
12 reminder about car tax and I remember replying saying
13 that the member had been out sick. He had been injured
14 on duty arresting a prisoner and badly damaged his knee
15 and he needed surgery on it. So he was out sick and 11:40
16 off duty. So I reported that, that he was out sick and
17 he wasn't due to return I think until around January
18 2016, was what he was indicating to me, he wouldn't be
19 back until.

20 232 Q. Yes. 11:40

21 A. So I reported that and was asked to deal with it, even
22 when he was out sick, to try and get it dealt with, it
23 needed to be brought to a conclusion.

24 233 Q. I think despite perhaps his own view about his
25 obligations, he complied with the suggestion or 11:40
26 requirement that he do tax the car or the vehicle?

27 A. Yeah, well, I met him in January before he came back to
28 work, the member, and I spoke to him. I suppose in the
29 instance that I was dealing with, I had moved in July

1 to Kilbeggan, the member was not working, had never
2 worked, had never appeared into work in all that
3 period, so I never witnessed him driving. In actual
4 fact, I had actually seen him twice during that
5 intervening period driving, but he was driving a family 11:41
6 car. So they had a five series BMW car, that's what he
7 was driving on both of those occasions. In January
8 when I spoke to the member when he came in, he also had
9 a jeep, a work jeep, a farm jeep, he has a herd number
10 and a farm, and I would know where the farm is and I 11:41
11 knew he was farming.

12 234 Q. This is 2016?

13 A. This was January 2016, when I spoke to the member and I
14 gave him advice. From an ex-road traffic perspective,
15 my advice was, if you are driving your car one day, if 11:41
16 you are going to require that for one day a year, as
17 hard and all you feel that, as unfair you feel that is,
18 to get to work, you know, because the wife might be
19 working, mightn't be home, and he would need to use the
20 jeep to come to work, I said, if it's only one day a 11:41
21 year you are going to tax that privately. He felt
22 unjust, he felt it was unfair, he thought I was coming
23 at him. I said, unfortunately, the law is the law,
24 that's it.

25 235 Q. Yes. 11:41

26 A. He said, you know, that's going to cost me. I think it
27 was going to go from 250 or €300 to €1,600 for the
28 year, for a very occasional time he was going to use
29 it. But he did.

1 236 Q. CHAIRMAN: He was a full-time garda?
2 A. He was full-time garda, a part-time farmer, but he had
3 a family.
4 237 Q. CHAIRMAN: A part time farmer?
5 A. Yeah. 11:42
6 238 Q. CHAIRMAN: And the claim was that he could use a
7 vehicle privately on the basis of the farm?
8 A. The claim was that he could have used it commercially
9 because it was used as a commercial vehicle. But I
10 suppose, I had never witnessed him using it privately. 11:42
11 239 Q. CHAIRMAN: The commercial element was in his role, not
12 in his full time job but in his part-time job as
13 farmer?
14 A. Yes.
15 240 Q. MR. MCGUINNESS: You're talking about a different 11:42
16 vehicle other than BMW?
17 A. Oh, yes, yes, it was a Hilux jeep, two seater.
18 241 Q. In any event, you didn't discipline him; isn't that
19 right?
20 A. No, I gave him advice, he took my advice. 11:42
21 242 Q. You hadn't been instructed to discipline him?
22 A. From the correspondence that I had got in dealing with
23 it --
24 243 Q. Just from the point of view of the impetus for you
25 keeping at this, you were receiving reminders from the 11:42
26 district office as to whether all the members had these
27 checks been completed and what action had been taken.
28 That was ongoing from the summer of 2015 onwards, is
29 that right?

1 A. That's correct, yes.

2 244 Q. We have seen from the papers that, in fact, you sent
3 Garda Keogh's expenses claim back to him in January of
4 2015 to be resigned and resubmitted. Have you any
5 memory of that?

11:43

6 A. I don't. I don't, just natural correspondence, just
7 forwarded.

8 245 Q. In any event, the Tribunal has heard from
9 Superintendent Murray about sorting out the car tax,
10 the discipline regulation, his interview with Garda
11 Keogh on the 26th March and his intention to refer him
12 to the CMO. I think you became involved in that to
13 some degree. You were instructed to bring his absence
14 from work and the consequences for his pay to his
15 attention. If we look at page 9405 in volume 33. This
16 is directed to you. You were the unit sergeant at that
17 time, the 16th April.

11:43

11:44

18
19 "Reference to the above. Garda Keogh has now exceeded
20 183 within the past four years due to him reporting
21 non-effective for duty on 31st March 2015. In
22 accordance with the public service management
23 regulations 2014, the member may be paid temporary
24 rehabilitation remuneration.

11:44

25
26 Please have the attached document handed personally to
27 Garda Keogh and this office appraised when he has been
28 provided with same.
29

11:44

1 Forwarded for your information and immediate attention.
2 Reply by return. Superintendent Murray."

3
4 I think you did that. If we go back to the preceding
5 page, page 9404. That was sent down by you for Garda 11:45
6 Keogh. It came through Sergeant Baker to you, and then
7 you sent it down to Garda Keogh. And you made him
8 aware of that.

9 A. That's correct, yes.

10 246 Q. Okay. You then, I think, became involved in making 11:45
11 sure that Garda Keogh was aware of his appointment with
12 the CMO, isn't that correct?

13 A. Yes.

14 247 Q. If we could look at page 9418, and at the bottom of 11:45
15 that page, just to follow the sequence, Mr. Mulligan
16 says:

17
18 "The above named member is due for review at the Garda
19 Occupational Health Service, Garda Headquarters on 19
20 May at 1 p.m. 11:46

21
22 Under no circumstances can the appointment be cancelled
23 without the permission of the Executive Director, Human
24 Resources and People Development (Sickness Absence
25 Section). 11:46

26
27 Prior to the member's review, local management shall
28 meet with the member to discuss the following:
29 1. The reason the member is being referred to the CMO

1 is to determine the member's medical fitness grade for
2 policing duty.

3 2. To advise the member to forward all relevant
4 medical reports from treating/certifying doctors,
5 including specialists to the Garda Occupational Health 11:46
6 Service on or prior to the review date. The member
7 should be assured that these medical reports will be
8 treated in strictest medical confidence by the CMO in
9 consultation with the member's treating certifying
10 doctors. 11:46

11 3. Any other non-medical issues which may have a
12 bearing on the member's medical fitness for duty.

13

14 Local management shall not discuss issues of a
15 confidential medical nature in the course of this 11:47
16 meeting.

17

18 Please forward report on the outcome of this meeting
19 with the member to this branch in early course, which
20 will be forwarded to the Chief Medical Officer for his 11:47
21 information."

22

23 That is sent by Mr. Mulligan. That goes to -- if we go
24 to the top of that page, that is sent by Chief
25 Superintendent Wheatley on to the superintendent in 11:47
26 Athlone. And if go back to the preceding page. If we
27 go to the top there, we see this is from you to the
28 superintendent in answer to it, it having been referred
29 to you.

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"Re Garda Nicholas Keogh. In relation to correspondence below, I spoke to Garda Keogh on 4th May '15 and made him aware of the time and date of the upcoming appointment with the Garda Occupational Health Service on the 9th May at 1:00pm. Garda Keogh states he will attend on that date. 11:48

As Garda Keogh is currently working nights and not due back on days until next week, I have also made him aware of the text of the letter, in particular the three items to be discussed with the member. Garda Keogh is aware that he is being referred to the CMO to determine his medical fitness grade for policing duty. Garda Keogh has been advised to forward all relevant medical reports on or prior to the review date. He indicates that he may have a report with him on the day as he is due to see his GP this week. He was also made aware that these reports will be treated in strictest confidence. In relation to other non-medical issues, Garda Keogh states that he may wish to discuss this with the Chief Medical Officer in person. 11:48

Finally, as the 19th of May is a scheduled rest day for Garda Keogh, I have scheduled him to alternative rest day on Monday, 11th May 2015, which was his preferred choice. 11:48

Forwarded for your information, please."

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Does that reflect a discussion that you had with Garda Keogh about the contents of the HR request?

A. Yeah. And I would have shown him the contents of what I was writing and then you will actually see I actually cc'd him in that e-mail, to Nick. So he got a copy of the e-mail as well, so he was fully apprised of what I was saying and writing. 11:49

248 Q. Yes, it's sent to the Athlone district office, yes, and cc'd to Sergeant Baker and Garda Keogh? 11:49

A. That's correct.

249 Q. You didn't discuss his medical condition or his doctor's certification of it, I take it?

A. No, I didn't think it was my place to involve myself in that. 11:49

250 Q. Yes. Now, going back to your statement at page 606, at page 3.3, we were just looking at that, and in the fourth line of paragraph 3.3, you say:

"The correspondence also requested I sit down with Garda Keogh and go through his notebook, Pulse, DPP and crime file list. I duly did go through Garda Keogh's Pulse, crime file and DPP lists. I do not recall going through his notebook." 11:50

was that an unusual thing to do or was that in some form of manner a special procedure in relation to Garda Keogh? 11:50

A. Had I got correspondence like that before? Possibly

1 no. Did I see it unusual? No. He had been
2 sporadically out sick and stuff, he had his issues with
3 alcohol etcetera, he was returning to work, there was a
4 request for me to do it as a his sergeant. It was just
5 to make sure there was nothing falling through the 11:50
6 cracks. I suppose the accountability that was within
7 Athlone, it would be fair to say from my experience,
8 and I think it's important that having worked in a
9 number of stations and national specialists units and
10 Dublin areas and being in the college, when I moved to 11:51
11 Athlone I found the accountability level and systems
12 and processes much better than anywhere I had worked
13 before. In fact, when they were designing processes
14 around accountability for the Garda organisation, there
15 was a number of Athlone personnel were involved in 11:51
16 that, designing the processes. I suppose when Pat
17 Murray, the super came, I suppose it went from fourth
18 gear to fifth gear, or fifth to sixth, because it was
19 ramped up another level. Everything, nothing was
20 missed, if you know what I mean. So it was just 11:51
21 ensuring that if there was a serious incident -- and
22 there wasn't anything that serious in it. Nick had
23 more concerns and he did have concerns, but like there
24 was a passage of time I think in relation to one
25 investigation, but I think the matter was being 11:51
26 withdrawn, so it didn't really impinge on it.

27 251 Q. Yes.

28 A. I didn't see them as all that serious or all that
29 insurmountable.

1 252 Q. Was that an harassment case?
2 A. Yes.
3 253 Q. That had been referred to you by the superintendent?
4 A. Yes.
5 254 Q. To assist him in? 11:52
6 A. Yes, and that matter had been withdrawn. There was a
7 bit of tidying up to be done on Pulse, because I think
8 the person had been marked as a suspected offender and
9 that had to be changed as well to be a suspect.
10 Because obviously when the incident wasn't being 11:52
11 pursued there was a little bit of tidying up on it, but
12 it wasn't -- that was my job I suppose as a supervisor,
13 to ensure that was done.
14 255 Q. Was it your experience then that when Superintendent
15 Murray came that the level of accountability and 11:52
16 scrutiny was increased generally in a beneficial way
17 from the point of view of policing?
18 A. It would be my personal opinion, yes. I thought from
19 all the different places I had, I thought Athlone was
20 very well run. You know, files that went to the DPP 11:52
21 never came back with queries. They were always to a
22 very good standard. It was something that
23 professionally's I thought the standard of work that
24 was done was very good. The systems of accountability,
25 you know, the PAF meeting, there was instructions then 11:53
26 for us all to attend, even -- like I was in Kilbeggan
27 at one stage and it was a half hour drive in and a half
28 an hour drive out, you know, you'd be preferring to use
29 that hour for something else, but it was important that

1 you were asked to attend the accountability meetings.
2 So you were involved in a lot of decisions around the
3 table. Sometimes you didn't agree with them, sometimes
4 you did. In fairness now, they were debated and
5 sometimes the superintendent would change his mind and 11:53
6 did on a couple of occasions because, you know, he took
7 your viewpoints on board. So I thought it was a good
8 process.

9 256 Q. Yes. At this point in time Superintendent Murray had
10 issued a general instruction based upon a general, but 11:53
11 out of concern that he referred to an instruction about
12 members' cars, licences etcetera. Perhaps we will look
13 at that, at page 184. You obviously got that, I think.
14 At this point in time I think it seems to be your
15 evidence that you weren't aware that Garda Keogh had 11:54
16 been dealt with by Superintendent Murray, either in
17 relation to car tax or in relation to a discipline
18 related to it, is that right?

19 A. No, I didn't deal with that.

20 257 Q. Yes. 11:54

21 A. With Garda Keogh's car tax.

22 258 Q. But that wasn't, as it were, public police knowledge
23 within the station then, is that right?

24 A. I wasn't aware of it.

25 259 Q. Yes. And you were his unit sergeant? 11:54

26 A. At that time, yeah. I think Nick would have been
27 sporadically off sick at the time.

28 260 Q. Yes.

29 A. So I think he might have been out.

1 261 Q. In any event, you gave effect to this direction and
2 reported on that. If we look at Volume 31, page 8770.
3 That's a report from you dated 2nd July to the sergeant
4 in charge:

11:55

5
6 "In relation to the above, I have inspected the driving
7 licence, insurance disk, tax disk and NCT disk for the
8 following members attached to unit C and they are all
9 in order."

11:55

10
11 That includes Garda Keogh there. There is a reference
12 to another guard there at the bottom. Can I ask you to
13 comment on the general instruction and the effect that
14 was being given to it? Did you see that in any way as
15 either a targeting of Garda Keogh or a favouring of
16 other members?

11:55

17 A. If I am correct, I think this was after everything had
18 been rectified.

19 262 Q. Yes.

20 A. So, no, this was before I left, I dealt with the
21 Kilbeggan issue.

11:55

22 263 Q. Yes.

23 A. I didn't see that as any targeting. It was just a
24 matter of ensuring that everybody -- it was right and
25 proper that everyone had their documents in order.

11:56

26 264 Q. It would reflect badly on policemen if they were found
27 not to have any of these matters in order?

28 A. Absolutely.

29 265 Q. Had you been made aware of a previous anonymous

1 complaint that Inspector Minnock had dealt with in
2 January 2015?

3 A. No.

4 266 Q. Relating to another guard?

5 A. In actual fact, I didn't know about that until 11:56
6 recently.

7 267 Q. I think he said that he kept it, as it were,
8 confidential in a sense?

9 A. Right.

10 268 Q. In any event, you had involvement with a number of 11:56
11 crime files submitted by Garda Keogh, isn't that
12 correct?

13 A. That's correct, yes.

14 269 Q. Perhaps we will just look at one or two of those. If
15 we look at page 190. This is one of two files that 11:57
16 relates to theft at Custume Place on 4th July of 2015,
17 isn't that correct?

18 A. Yes, that's correct, yeah.

19 270 Q. Can I just ask you first a general question: At this
20 point in time the matter had obviously been logged on 11:57
21 to Pulse, isn't that correct?

22 A. That's correct.

23 271 Q. At what stage then does this crime file come into
24 existence? Does it come into existence after a PAF
25 meeting or as a result of a direction of the PAF 11:57
26 meeting?

27 A. No. It wouldn't normally -- well it may be a direction
28 at a PAF meeting to complete the crime file. But
29 members would be aware that in any crime they would be

1 issuing a crime file. So when they are issuing a crime
2 file, any crime, the responsibility would be to issue a
3 crime file or to complete a crime file.

4 272 Q. Yes. But looking at that, is that the front cover of a
5 folder? 11:58

6 A. Well, I'd imagine just on the dates of this, this is
7 dated -- the incident happened on the Saturday, 4/7/15.

8 273 Q. Yes.

9 A. So this incident wouldn't have been dealt with in a PAF
10 meeting until Monday 6th or the 7th, but it's obviously 11:58
11 completed because as I signed it on the 5/7.

12 274 Q. Just go down the page a little bit there. Is this
13 created by Garda Keogh?

14 A. Yes.

15 275 Q. Then it's signed by you at the bottom, is that right? 11:58

16 A. That's correct, yes. And I have written remarks there:
17
18 "CCTV viewed but of no evidential value. I used the
19 camera panning quickly past premises."
20 11:59

21 There is a person there, I won't say:
22
23 "Collated at Custume place at the time of the offence
24 and a possible suspect. Statement of injured erred
25 excluded." 11:59

26 276 Q. Would you have got that information from Garda Keogh
27 directly then?

28 A. That was the information that coming from Garda Keogh.

29 277 Q. Yes.

1 A. He has it in the following page, which would be written
2 in before I would have got it. On page 191.

3 278 Q. Yes.

4 A. At point 12 there:
5
6 "Additional inquiries conducted. CCTV viewed with
7 injured party."
8
9 Then the investigating member's comments, where it's
10 blanked out. 11:59
11
12 "The suspect in the area around the time of the crime.
13 No other evidence."
14 279 Q. Yes.
15 A. So he would have put forward that. 11:59
16 280 Q. would that have been on the form when it was presented
17 to you, as it were?
18 A. That would have been on the crime file when I got it,
19 yes.
20 281 Q. That's Garda Keogh's writing, is it? 12:00
21 A. That's Garda Keogh's writing.
22 282 Q. Number 12.
23 A. Yes.
24 283 Q. The one on page 194 relates to the other theft of the
25 same place, submitted at the same time? 12:00
26 A. Yes.
27 284 Q. with the same essential comments on it?
28 A. That's correct, yeah.
29 285 Q. Did you note that the statements had been made by the

1 the injured party themselves?

2 A. Yeah, well I would have noticed. I did notice, I think
3 it's one of the statements, where there was something
4 written on the back of the statement. I only became
5 aware of that during disclosure. The statement form, 12:00
6 you know when you kind of lift the statement form to
7 see the back of it, I never noticed the writing on the
8 back of it.

9 286 Q. Yes.

10 A. But I would have noticed the writing. I suppose from 12:00
11 my perspective, and I dealt with probably a number of
12 traffic accidents and stuff over the years, where
13 people will come with a prescribed statement having
14 been made to their solicitor, typed format, and hand it
15 in and you'd get them to sign it or whatever. 12:01

16 287 Q. Yes.

17 A. So the fact that someone hand wrote it out, I didn't
18 pick up on it, I suppose. It was unusual.

19 288 Q. Yes.

20 A. It was something I don't think I had seen before. 12:01

21 289 Q. Yes.

22 A. But I didn't pick up on it. I didn't stop it and
23 return it.

24 290 Q. We know obviously it was sent back with queries, did
25 you see anything wrong with those queries or did you 12:01
26 see anything wrong with the file yourself?

27 A. Well, queries in terms of investigation.

28 291 Q. Yes.

29 A. Like, we would have a number of cameras, like I think

1 there's 23, 24 cameras -- sorry 26 cameras in Athlone,
2 within the town, and there are other businesses
3 etcetera. So in terms of investigation and the queries
4 that went back to kind of complete a more comprehensive
5 investigation or a comprehensive look at it, would have 12:01
6 been -- it would have put the suspect in place. You
7 know, we were aware he was in it. It would have maybe
8 solidified it a bit. But I suppose I didn't take issue
9 one way or the other. I suppose when the
10 correspondence came back, I just forwarded it on for 12:02
11 the attention of the member.

12 292 Q. Yes. The memo from the superintendent is at page 197.
13 The queries are set out. Would you have regarded those
14 as reasonable or unreasonable supervision or issues to
15 raise? 12:02

16 A. Well, in terms of the first point, in relation to the
17 suspect, that was the person who was nominated by Nick
18 himself. So I found absolutely no issue with it. And
19 I suppose when I came back asking about the statements,
20 I suppose you would have to bow to the higher 12:02
21 authority, the superintendent said that the statement
22 was -- should have been -- you know, in relation to the
23 taking of it. It was forwarded on to the member for
24 their consideration.

25 293 Q. Yes. 12:03

26 A. But I didn't see anything wrong either way.

27 294 Q. Can I ask you to look at another file at page 213, it's
28 not clear whether you had a dealing with this or not.
29 It's a theft on the Dublin Road of a trailer?

1 A. That was in August, I was gone to Kilbeggan at that
2 stage.

3 295 Q. That's not your signature?

4 A. No, that's Sergeant Monaghan.

5 296 Q. That's Sergeant Monaghan's signature. There was then a 12:03
6 file that was recategorised, did you have any
7 involvement in that one, at page 225?

8 A. That was September '15. Likewise, again I was gone
9 from the station.

10 297 Q. You were gone. In the interim, however, you had 12:04
11 dealings with Garda Keogh in relation to him being off
12 sick and then ringing in off sick and that being
13 brought to your attention, isn't that correct?

14 A. That's correct, yes.

15 298 Q. Perhaps we would just look at the e-mail that you sent 12:04
16 at page 2218. I think you yourself hadn't been on duty
17 on the Friday or the Saturday night, isn't that
18 correct?

19 A. Or the Sunday either.

20 299 Q. Or the Sunday either. And you came into work on Monday 12:04
21 13th?

22 A. That's correct, yes.

23 300 Q. It was brought to your attention that Garda Keogh
24 hadn't shown up for duty on the previous two days,
25 isn't that correct? 12:05

26 A. That's correct, yes.

27 301 Q. Just who informed you of that?

28 A. One of the guards on the unit, from recollection I
29 think it was Martin Linnane.

1 302 Q. Yes. Was that a matter of concern?
2 A. Of course, yes.

3 303 Q. What steps did you take then to deal with that?
4 A. I spoke to the unit, they indicated to me anyway that
5 he hadn't turned up. I tried ringing him, I couldn't 12:05
6 get through to him. I know that some of the members
7 tried to ring him because they were able to come back
8 to me -- I never got a reply, I never got a text, I
9 never got anything back. But they were able to tell me
10 that -- it was from them that I heard that he had 12:05
11 broken out and that he was in Tullamore. He was
12 drinking in Tullamore, he had broken out.

13 304 Q. Did you have one phone number for him or more?
14 A. I only had one.

15 305 Q. Can you recall who it was that told you he had broken 12:06
16 out in Tullamore?
17 A. From my recollection again it was Martin Linnane.

18 306 Q. This is sent to the Athlone office, as it were, at 3:15
19 in the morning. Was this the culmination of a number
20 of hours of attempting to contact him? 12:06
21 A. Well, that's correct, yeah. Well, I suppose, we still
22 have the normal police work to do. As I say, I was
23 after being off for the previous three days, so I was
24 catching up with correspondence incidents and incidents
25 etcetera and the run of normal policing and calls that 12:06
26 had to be done. But I remember trying to make contact
27 with him. I think I would have tried ringing him a few
28 times and talking to the lads to try and put out the
29 feelers to see where he was, if he could be made

1 contact with. From my perspective, now I wasn't
2 overseeing it, but I do think that some of the members
3 were trying to make contact with him and were
4 unsuccessful in trying to do it.

5 307 Q. Just from the point of view of your contacts, can you 12:07
6 recall whether his phone was ringing out or going to
7 voicemail or just not getting through?

8 A. I can't recall, no.

9 308 Q. Okay.

10 A. I just know that I couldn't get through. 12:07

11 309 Q. Yes.

12 A. If I remember correctly, I would hazard a guess that it
13 was ringing out but with the passage of time, you know,
14 years later, I just couldn't be exact.

15 310 Q. Sure. I think you weren't actually asked to make a 12:07
16 statement for the purpose of the disciplinary inquiry,
17 isn't that correct?

18 A. Em.

19 311 Q. Did you make no further report other than this to the 12:07
20 superintendent?

21 A. No, that was it.

22 312 Q. You don't refer in this report to a Facebook message
23 but you do describe in the statement having got a
24 Facebook message?

25 A. I did, yes. 12:08

26 313 Q. That was received on your Facebook page certainly at
27 00:29 hours:
28
29 "Sorry about this, Cormac, I missed your call, haven't

1 credit to call you back."

2

3 CHAIRMAN: On the 14th, is that right?

4 A. Yeah. I was working on the night of the --

5 314 Q. CHAIRMAN: You came back on the Monday? 12:08

6 A. I came back on Monday, the 14th.

7 315 Q. CHAIRMAN: Sorry, Monday is the 13th, as I have it

8 here, according to your statement?

9 MR. MCGUINNESS: Yes.

10 CHAIRMAN: Maybe I'm wrong about this, but what you say 12:08

11 is Monday, the 13th. Because I was just trying to work

12 out the various dates.

13 A. Yeah, but I suppose the phone call -- I sent the e-mail

14 on the 14th, which was in the -- I suppose I call it

15 the Monday, but it was actually in the early hours of 12:08

16 Tuesday morning.

17 316 Q. CHAIRMAN: Ah, I'm sorry?

18 A. Because I'm on nights.

19 317 Q. CHAIRMAN: It's the night of Monday/Tuesday that you

20 sent your e-mail? 12:09

21 A. Yes, that's correct.

22 318 Q. CHAIRMAN: So Monday night, into Tuesday morning,

23 3:15am?

24 A. That's correct.

25 319 Q. CHAIRMAN: which is actually on the Tuesday? 12:09

26 A. Yeah. On the 14th, on the Tuesday, yes.

27 320 Q. CHAIRMAN: Correct?

28 A. The 14th was a Tuesday.

29 321 Q. CHAIRMAN: Now at 00:29 you got the Facebook -- or

1 sorry, the Facebook message came in onto your Facebook
2 page?

3 A. Yes.

4 322 Q. CHAIRMAN: Is that 00:29 on Tuesday, the 14th?

5 A. That came in at 00:29 hours on 15/7, which is the early 12:09
6 hours of wednesday morning.

7 323 Q. CHAIRMAN: Okay. Very good. I just wanted to clear up
8 that.

9 A. Yeah. I had worked on the Monday night, I had worked
10 from 6:00pm till 4:00am. Shortly before I left, at 12:09
11 around 3:30 I made the super aware of what had
12 happened.

13 324 Q. MR. MCGUINNESS: Yes.

14 A. On the Tuesday, I was actually due to work nights on
15 the Tuesday night, but I actually took leave, because 12:10
16 on that Tuesday I was actually in Croke Park with a
17 bunch of under 8 hurlers, they you were doing a blitz.
18 So that's when I had taken leave. At some part of that
19 night when I got home, I went to bed, and the following
20 morning I realised, you know, I'd got this message. It 12:10
21 came through on Facebook messenger.

22 325 Q. Yes.

23 A. But I didn't reply to it, I didn't respond to it.

24 326 Q. CHAIRMAN: No, I understand, but I just wanted to get
25 the sequence right. I wondered was it on Tuesday, the 12:10
26 14th, sometime before the 3:15 e-mail. No, it was the
27 next night, you say.

28 A. It was, yes.

29 CHAIRMAN: Okay. Thank you.

1 327 Q. MR. McGUI NNESS: And it came to your attention only
2 then, in the morning of the 15th?
3 A. That's correct, yes.

4 328 Q. I mean, you don't get Facebook alerts on your phone, I
5 take it? 12:10
6 A. It's Facebook messenger.

7 329 Q. Messenger?
8 A. So, no. No, I wasn't aware of it until the following
9 morning.

10 330 Q. In any event, it wasn't sent at 00:29, some two hours 12:11
11 before your e-mail, it was the day after?
12 A. No. No, no, it was the day after, the night after.

13 331 Q. I think you didn't have any involvement in the
14 discipline issue as such?
15 A. No, I didn't. 12:11

16 332 Q. Just in terms of the issue about the confinement of
17 Garda Keogh to indoor duties, did you have any
18 involvement in that?
19 A. No, that would have been after the time that I was
20 there. 12:11

21 333 Q. Yes. The commendations issue, were you involved in any
22 of those incidents?
23 A. No, I wasn't, no.

24 334 Q. Just in terms of the supervision of Garda Keogh in a
25 general way while you were directly in charge of his 12:11
26 supervision?
27 A. Well, I always got on reasonably well with Nick, but I
28 would say that in the period that I -- in the seven
29 months that I was dealing with Nick, he was

1 sporadically out sick and stuff. But I did have two
2 incidents where I had to kind of -- Nick loved doing
3 the beat but he wouldn't be detailed maybe to do the
4 beat. On two occasions I would have had to call him
5 back from doing something that he wasn't to be doing. 12:12
6 I remember one of them was specifically a Saturday
7 night, we were short resources, I came in at nine
8 o'clock and someone said to me, yeah, Nick has gone on
9 the beat, but he wasn't actually down to do beat. I
10 think he was due to do the car or do the public order 12:12
11 van, and I had to instruct the unit to make contact
12 with him to tell him to come back. He came back and I
13 kind of had to call him aside and say, Nick, look it,
14 you just can't go and do the beat, you are being
15 instructed to do something else. That is the duty. I 12:12
16 have decided it, I'm sergeant and that's it. And he
17 took it on board. But, yeah, that was the only time I
18 had an issue with him. Other than that, we always got
19 on fairly well.

20 335 Q. He says in his own statement that he has always had a 12:13
21 good working relationship with Sergeant Cormac Moylan
22 and you note that he hasn't accused you of any
23 wrongdoing. But have you any evidence to give the
24 Chairman in relation to any targeting or bullying or
25 victimisation of Garda Keogh by anyone? 12:13

26 A. I never seen it, never heard of it. As the AGSI
27 representative of sergeants around the area, if it was
28 going on I would have heard about it, I'm sure someone
29 would have said it to me. I never heard anything or I

1 was never instructed in any way to target Nick Keogh.
2 I would actually say I treated Nick very carefully.
3 You know, even in terms of some of the reports, sitting
4 him down in front of and going through them, it
5 mightn't be something I would have done with other 12:13
6 members, I was probably giving him extra treatment, do
7 you know what I mean, and making sure that he was
8 satisfied that everything was done, you know, ccing him
9 in e-mails and stuff that was going up, to make sure
10 that he was fully au fait with what was happening and, 12:13
11 you know, going through the correspondence with him and
12 helping him with the investigations.

13 336 Q. In terms of being aware or seeing or knowing of any
14 targeting or victimisation or bullying by others
15 members, did you see any evidence of that? 12:14

16 A. Never saw any evidence.

17 MR. MCGUINNESS: would you answer any questions that
18 people might have.

19
20 END OF EXAMINATION 12:14

21
22 CHAIRMAN: Yes. Mr. O'Brien, yes.

23
24 SERGEANT CORMAC MOYLAN WAS CROSS-EXAMINED BY MR.
25 O' BRIEN, AS FOLLOWS: 12:14

26
27 337 Q. MR. O' BRIEN: Good afternoon, Chairman, good afternoon,
28 Sergeant Moylan. Just in relation first of all to
29 Superintendent Murray's memorandum to you on the 2nd

1 April, I think you told the Chairman, just to clarify,
2 that you hadn't received correspondence like that
3 before, in terms of the direction that it gave to sit
4 down with Garda Keogh, is that correct?

5 A. I would have got it probably in a different format, but 12:14
6 I often got an e-mail saying, you know, such and such a
7 lad on the unit might have an incident or some crime or
8 something that's due, you know, it's near statute
9 barred or a summons that is coming up, kind of assist
10 them to say that the six months is fast approaching. 12:15
11 But in terms of the direction, it's probably something
12 that I was looking from Superintendent McBrien, that
13 she would put in place to maybe make my job a little
14 bit easier in terms of the management of the unit,
15 because of the unit duties I had. So I had actually 12:15
16 met Superintendent McBrien to relay that issue but I
17 didn't get it. So, I suppose when I got it, I seen it
18 as being that I was being listened to.

19 338 Q. I think you say in your statement at page 606, it's
20 paragraph 3.3, I think you did sit down with Garda 12:15
21 Keogh, isn't that right, just in relation to this
22 direction?

23 A. That's correct, yes.

24 339 Q. You confirm that you went through Pulse, crime file,
25 DPP lists, is that correct? 12:15

26 A. Yeah. And I think I was asked to do the notebook and I
27 actually didn't do the notebook.

28 340 Q. Is that because you didn't feel the need to do it
29 because things were in order?

1 A. Well, what I had seen so far had been, yeah -- like
2 there was issues, but, as I said already, there was
3 nothing insurmountable. You know, the withdrawal of
4 the harassment issue, anything else, there was nothing,
5 nothing that wasn't routine stuff that I could see that 12:16
6 wasn't -- that couldn't be done. I suppose just some
7 of it had maybe lagged behind, because Nick had maybe
8 been out sick and stuff like that, a passage of time
9 had passed in relation to certain incidents, but it was
10 still okay. 12:16

11 341 Q. Did you view the direction by Superintendent Murray to
12 go through his notebook as being oppressive?

13 A. Oh, I didn't, no. I just didn't go through his
14 notebook because I suppose guards and their notebooks
15 are -- it's kind of an area, that I just as a sergeant 12:16
16 would be reluctant to kind of -- when everything else
17 was okay, I just didn't see the need to go through the
18 notebook.

19 342 Q. So you were satisfied at the end of sitting down with
20 him that matters were in order, is that right? 12:16

21 A. That what we had and what we were aware of was being
22 dealt with by going through the DPP crime file list,
23 etcetera, and through his pulse. That I had everything
24 sorted, everything was sortable.

25 343 Q. Just on the issue of microsupervision, I think you have 12:17
26 been here and you have heard Garda Keogh's evidence and
27 you know his position in relation to that, do you
28 accept that it was Superintendent Murray's intention to
29 place Garda Keogh under microsupervision, as is his

1 case?
2 A. No, I don't. As I have said already, I think this --
3 when I got that direction and that correspondence, I
4 just -- my initial thing was saying, now someone has
5 actually listened to me, because I was doing serious 12:17
6 mileage on the road, I was up and down to Dublin and I
7 was covering the country, I was all over the country at
8 different meetings etcetera, meeting Garda management,
9 and I just felt that eventually someone was actually
10 putting something in place, you know, and me being able 12:17
11 to manage that.

12 MR. O' BRIEN: I have no further questions, Chairman.

13

14 END OF EXAMINATION

15

12:17

16 CHAIRMAN: Thanks very much.

17 MR. DIGNAM: I have no questions for Sergeant Monaghan.

18 CHAIRMAN: You have no questions either. Does anybody
19 else have any questions? No. Very good. Thanks very
20 much. Well, Mr. McGuinness. 12:18

21 MR. MCGUINNESS: Thank you, Sergeant Moylan, nothing
22 further.

23 CHAIRMAN: Thanks very much, Sergeant Moylan. Thanks
24 very much.

25 THE WITNESS: Thank you, Chair. 12:18

26

27 THE WITNESS THEN WITHDREW

28

29 MR. MCGUINNESS: The next witness, Chairman, is

1 Sergeant Monaghan.

2 CHAIRMAN: Thank you.

3

4 SERGEANT DERMOT MONAGHAN, HAVING BEEN SWORN, WAS
5 DIRECTLY-EXAMINED BY MR. McGUINESS, AS FOLLOWS:

12:18

6

7 THE WITNESS: Dermot Monaghan.

8 CHAIRMAN: Thanks.

9 344 Q. MR. McGUINESS: Sergeant Monaghan, could you outline
10 to the Tribunal your career in An Garda Síochána to
11 date?

12:19

12 A. To date. I was attested to An Garda Síochána in 1997,
13 where I was stationed -- my first station was Celbridge
14 in County Kildare, I remained there until 2002, where I
15 transferred to Athlone Garda Station. In 2007 I was
16 promoted to the rank of sergeant, where I was
17 transferred to Ballinrobe in County Mayo. I spent
18 almost a year at Ballinrobe. I was transferred to
19 Granard in Longford. Following six months in Granard,
20 I applied for a position in the traffic unit, the
21 Westmeath divisional traffic unit, I was successful and
22 I was transferred to Moate Garda station, or Moate
23 traffic unit, where I was stationed for seven years.

12:19

12:19

24

25 In July 2015 I came into Athlone Garda Station, where I
26 temporarily took over unit C, before covering maternity
27 leave as sergeant in charge of Athlone until January of
28 that next year, 2016, where I returned to be a
29 supervisor sergeant in unit C. I am currently area

12:19

1 administrator in Moate Garda Station.

2 345 Q. So your period of being a sergeant in Athlone
3 supervising unit C was the 20th July until 28th August
4 2015?

5 A. Roughly, yes. 12:20

6 346 Q. From that date then you covered Sergeant Baker's
7 maternity leave as the sergeant in charge of the
8 station, is that right?

9 A. Correct. Sergeant Baker went on maternity leave in
10 October of that year, but prior to her going on 12:20
11 maternity leave I was intermittently covering her
12 absences through annual leave and she had other
13 functions to fulfil.

14 347 Q. Yes.

15 A. So I would have been covering unit C at the same time 12:20
16 during that period I'd say.

17 348 Q. Yes. And Sergeant Haran had the responsibility for
18 doing unit C then in that period?

19 A. Sergeant Haran was attached to community policing and
20 he would be covering in my absence. 12:20

21 349 Q. Your period of acting sergeant in charge was completed
22 in January '16, and at that stage you returned to the
23 supervision of unit C in Athlone?

24 A. Correct.

25 350 Q. But Garda Keogh was no longer at that point -- 12:21
26 A. He was out sick.

27 351 Q. He was out sick, as it turned out didn't return at that
28 point?

29 A. Correct.

1 352 Q. On your transfer to Athlone and having the
2 responsibility you did, what was your view of the way
3 the station was being managed by the superintendent and
4 the initiatives he put in place? Were you familiar
5 with those? 12:21

6 A. I wasn't initially, because I had been away from
7 mainstream policing, let's say, for seven years because
8 I was in traffic. But I had previously been a guard in
9 Athlone, so I was familiar with the procedures there.
10 Seven years later, or ten years later almost, these 12:21
11 were new procedures, that took me a bit of time to
12 adjust to. But when I got adjusted to them, yes, they
13 were good procedures. I found they were good
14 procedures. They were safeguarding me as a supervisor
15 and they assisted members to keep their workload on 12:22
16 track and getting anything that is going Statute barred
17 or summary offences and stuff like that.

18 353 Q. Was it providing strict sort of overview or oversight
19 of files and how guards were dealing with them?

20 A. Yes. It gave great assistance to guards to bring their 12:22
21 files to a conclusion, that they wouldn't end up
22 getting in trouble with the late submission of files,
23 yes.

24 354 Q. Now, I think you had some involvement in the issue of
25 Garda Keogh being out sick and ringing back in. I 12:22
26 think he forwarded to you a short report explaining
27 what had happened, which you sent on to the
28 superintendent, isn't that right?

29 A. That's correct.

1 355 Q. In July of 2015?
2 A. As a unit sergeant you are responsible when your
3 members are out sick on the unit, to just try and keep
4 contact with them. If they are out for any period more
5 than a day or two, you would ring them. So that was my 12:23
6 function.
7 356 Q. That's to be found in one part of the papers at 2227.
8 It just explains:
9
10 "Sergeant Monaghan, with reference to overleaf." 12:23
11
12 And that was the superintendent's request for a report.
13
14 "I made a mistake regarding reporting unfit for duty.
15 I thought I was still on sick leave those days. I 12:23
16 apologise for same. Sick cert attached. Forwarded for
17 your information please."
18 A. That would have been the second day I would have
19 started on the unit.
20 357 Q. You sent that on with the sick certificate to the 12:23
21 superintendent?
22 A. Correct.
23 358 Q. I think you had no more involvement in it, save for the
24 fact that Garda Keogh applied for Haddington Road hours
25 in respect of the period of duty when he was taking the 12:24
26 phone call from Superintendent Murray on either the
27 14th or the 15th?
28 A. Yes.
29 359 Q. As they thought.

1 A. Yes.

2 360 Q. You transmitted that application up and that was
3 refused, as you became aware?

4 A. Yes.

5 361 Q. Now, you had involvement with the submission and 12:24
6 transmission of crime files from Garda Keogh up to the
7 superintendent and back, in relation to a number of the
8 months that the Tribunal is concerned with, isn't that
9 correct?

10 A. Yes. Not just solely Garda Keogh, for unit C in total. 12:24

11 362 Q. Of course.

12 A. Yes.

13 363 Q. At page 198, we saw the short report there, the
14 instruction of Superintendent Murray. This came in
15 obviously after a couple of incidents that we have 12:25
16 seen, but you became aware of this obviously in August
17 of 2015?

18 A. That's correct, yes.

19 364 Q. Obviously some of the crime files that we looked at
20 came in to being before that. The ones relating to the 12:25
21 thefts at Custume Place are, of course, dating from the
22 4th July, that preceded your arrival as such?

23 A. Yes.

24 365 Q. But you had some dealings with them. In particular, if
25 we look at page 200. You were involved in transmitting 12:25
26 Superintendent Murray's report for Garda Keogh's
27 attention?

28 A. Yes.

29 366 Q. I think you got a reply to that a number of weeks

1 later, on the 28th August, if you look at page 201.
2 And the response of Garda Keogh is there. Had you
3 examined the crime file yourself?

4 A. No.

5 367 Q. Did you see any issue with it? 12:26

6 A. This is the first time -- it would have been returned
7 down from the superintendent's. This is the first time
8 I would have seen this.

9 368 Q. In any event, you got the instruction subsequently from
10 the superintendent on the 3rd September, if we look at 12:26
11 page 202. The superintendent sets out his views there.
12 Did you see anything unusual or untoward about what he
13 was asking you to do?

14 A. No. Not at the time, no. This is in relation to the
15 instructions in chapter 3 of the CIT manual. 12:27

16 369 Q. Yes.

17 A. I printed off a copy of chapter 3 and I sat down with
18 Garda Keogh and went through it in the office.

19 370 Q. Yes.

20 A. Because I myself had never seen witnesses submit 12:27
21 statements before. The only statements I would have
22 seen were people presenting themselves as possible
23 suspected offenders with their solicitor for cases that
24 were non-arrestible, I'd say.

25 371 Q. Yes. 12:27

26 A. And you would have sat them down and read it over with
27 the caution. But I had never seen witnesses submit
28 statements before.

29 372 Q. Yes.

1 A. So we sat down and discussed chapter 3 and Garda Keogh
2 took it on board and made no comment in relation to it
3 as far as I can remember.

4 373 Q. Yes. You reported back up to the superintendent that
5 you had done that? 12:27

6 A. Yes.

7 374 Q. If we look at page 207. Did Garda Keogh raise any
8 complaint that this was sort of an oppressive
9 supervision, that he was perfectly entitled to get them
10 to write their own statements? 12:28

11 A. Not that I can recollect anyway, no.

12 375 Q. That went up to the superintendent and then he endorsed
13 his -- you sent an attached report, which is at 208
14 there as well?

15 A. Yes. 12:28

16 376 Q. Which gave further detail about what Garda Keogh had
17 done in fact?

18 A. Yes.

19 377 Q. Obviously there's some information that wasn't on the
20 original crime file, but were you concerning yourself 12:28
21 with the rights and wrongs or the reasonableness or
22 otherwise of the response or the requests?

23 A. Not really. Initially I would have thought that the
24 crime file should not have been submitted in the first
25 place, because the instructions were clearly that in 12:29
26 absence of a suspect or when all avenues are exhausted
27 you will submit a crime file. Outside that, it would
28 be an investigation file. So, you know, that was the
29 only thing that kind of came to me.

1 378 Q. CHAIRMAN: When the crime file is submitted.
2 A. Yes.

3 379 Q. CHAIRMAN: That is the end of the case.
4 A. When you have exhausted all your investigation
5 purposes, the crime file is submitted. 12:29

6 380 Q. CHAIRMAN: You put in a crime file?
7 A. You put in a crime file, yes.

8 381 Q. CHAIRMAN: Otherwise there may be Pulse, there may be a
9 report, there may be an investigation file, is that
10 correct? 12:29

11 A. That's correct, yes.

12 382 Q. CHAIRMAN: Okay. But when a crime file is done, that
13 is, look, we have done everything we can.
14 A. Yes.

15 383 Q. CHAIRMAN: And we are going no further with it. 12:29
16 A. The contents of a crime file would be the A4 piece
17 that's folded over, the original injured party's
18 statement and any other statements, with a copy of an
19 incident summary report.

20 384 Q. CHAIRMAN: I follow. 12:29
21 A. That would be sent to the victims office, where the
22 victim would be notified of the outcomes and filed away
23 for --

24 385 Q. CHAIRMAN: It's the end of the line?
25 A. It is, unless down the line it's reactivated. 12:29

26 386 Q. CHAIRMAN: Of course, something else might happen and
27 reactivate it?
28 A. It's there for any member then to retrieve, let's say,
29 and carry out an investigation.

1 MR. McGUI NNESS: But can I ask you this question?

2 A. Sorry.

3 387 Q. Because it may clarify matters for me, as perhaps for
4 the Chairman. Who submits the crime file?

5 A. The investigating member, through his unit sergeant up 12:30
6 to the district office.

7 388 Q. Yes, but is it not the case then that, in fact, if the
8 member submits it to you, you are in fact submitting it
9 to the superintendent for closure?

10 A. Well, the only one that can close it is an inspector or 12:30
11 a super.

12 389 Q. Yes.

13 A. The sergeant would put a recommendation on reading what
14 the garda submitted on the file. And if we're
15 satisfied ourselves -- sometimes it comes down for 12:30
16 clarity, if they see something, an anomaly that we have
17 missed. That's the beauty of the accountability
18 process; that it's caught at all different levels
19 before it's eventually finalised.

20 390 Q. But put it this way: The crime file isn't submitted to 12:30
21 the superintendent behind your back or without it going
22 through you?

23 A. No, it has to go through the channels of communication,
24 which is garda to sergeant, sergeant to the
25 superintendent. 12:30

26 391 Q. But if there are deficiencies in either matters not
27 being clearly reported or other avenues of
28 investigation, or other steps that should be taken,
29 should they not be caught by the sergeants first?

1 A. Well, in the main they should be, yes, but sometimes,
2 you know, with paperwork and different things, there
3 can be oversight on the sergeant's behalf. That's why
4 the accountability process is there. That at another
5 level then it is caught and it's sent back down through 12:31
6 the sergeant back to the guard for clarification.

7 392 Q. Yes. I mean, it's one of the points of complaint by
8 Garda Keogh that he was being micromanaged and sort of
9 harassed in this way, but you say at page 615:
10
11 "Like all members, if his standard of work was lacking 12:31
12 he was asked to address outstanding issues and resubmit
13 his files when they were fully completed for directions
14 through his immediate supervisor sergeant, and then
15 onwards to the district officer 12:31
16 (superintendent/inspector) for their direction."

17 A. Yes. So if an investigation file came to me or a crime
18 file came to me and I saw something lacking on it, I
19 would send it straight back to the guard and ask them,
20 this is what is missing from this, can you please add 12:32
21 it in and I'll submit it up. Sometimes I would miss
22 one or two things, then it goes up to the
23 superintendent or inspector and they would see it and
24 they will send it back down to me, on to the garda.

25 393 Q. The superintendent, I mean obviously he came in, he 12:32
26 sort of issued a lot of directives and gave different
27 instructions over the period of months since he had
28 been appointed. But was he stricter with Garda Keogh
29 or was he in your opinion evenhanded in dealing with

1 files that came to him?

2 A. well, I can only speak for my own unit, and any files I
3 would have submitted, if there were anomalies they
4 would have came back, no matter what guard it was.
5 Even if it was my own files I was submitting, if there 12:32
6 was anomalies he would have returned it to me. So I
7 couldn't see Garda Keogh being picked out for special
8 treatment in that case.

9 394 Q. Yes. well, looking at the theft of the Dublin Road
10 trailer incident? 12:33

11 A. Yes.

12 395 Q. That's at page 213. That occurred on the night of, I
13 think, Saturday/Sunday, 7th/8th August?

14 A. 7th/8th August, yes.

15 396 Q. That's your signature at the bottom? 12:33

16 A. It is, yes.

17 397 Q. And the writing there:
18
19 "CCTV viewed to no avail as of poor quality."

20 A. Yes. 12:33

21 398 Q. "No ID for suspects."
22
23 Is that Garda Keogh's handwriting?

24 A. That's my handwriting.

25 399 Q. That's your handwriting? 12:33

26 A. Yes.

27 400 Q. Did you record that from what he told you, is it?

28 A. On reading the crime file itself, on not speaking to
29 Garda Keogh, I would have read what he had written on

1 all the fields in the next couple of pages. The
2 sergeant, where it says "remarks to supervisor", will
3 give a summary of what's contained in the file and if
4 there is not enough sufficient evidence in that, that's
5 what I wrote, no CCTV, no ID -- 12:34

6 401 Q. The next page then, for instance, box 12 on page 214
7 there?

8 A. Yes. Garda Keogh completed that. That's the second
9 page of that form.

10 402 Q. Okay. So was that filled in before you filled in the 12:34
11 first part?

12 A. It's an A4 folded in two. So it's the one form, it's
13 four pages. It's all the one sheet, if you open it out
14 it's an A3 size but it's folded in half.

15 403 Q. Okay. 12:34

16 A. So it contains four different sheets, let's say.

17 404 Q. So the information in box 12, that's on it?

18 A. That would be all completed before I --

19 405 Q. Before you fill in the remarks of supervisor?

20 A. Yes, yes. 12:34

21 406 Q. And that was filled in in that way when you received it
22 then and dealt with it?

23 A. Correct.

24 407 Q. We know ultimately the crime was solved, the accused
25 were prosecuted and convicted, etcetera? 12:34

26 A. Yes.

27 408 Q. It didn't appear obviously that there was perhaps
28 another source of footage?

29 A. No, on reading this crime file on its face, I have no

1 indication that Garda Keogh had sourced other CCTV.

2 409 Q. All right. So you had no reason to require him to do
3 anything further yourself?

4 A. Correct, yes.

5 410 Q. From your perception? 12:35

6 A. I was taking what he had said on the face, that there
7 was no CCTV, so I assumed he would have tried to
8 cultivate all CCTV that was available. I took him at
9 his word and I sent it forward to the superintendent.

10 411 Q. Yes. Superintendent Murray raised a query, which the 12:35
11 Tribunal has seen, at 215 there?

12 A. Yes.

13 412 Q. About the CCTV. There's a reply then on the next page
14 from Garda Keogh. You must have transmitted that to
15 him? 12:35

16 A. I did, yes.

17 413 Q. Yes. Number 3 is the reply to that one?

18 A. Yes.

19 414 Q. It says:
20 12:36

21 "Garda CCTV stored on computer. Incident happened at
22 night. Quality is poor."

23 A. Yes.

24 415 Q. It would appear from the Pulse record we have seen that
25 Garda Keogh hadn't received the -- or there is 12:36
26 certainly no mention of receiving the footage or the
27 statement?

28 A. Yes.

29 416 Q. CHAIRMAN: That was a long shot anyway, wasn't it?

1 A. It was. Well, yes, it would be done.

2 417 Q. CHAIRMAN: I mean as it happened?

3 A. As it happened, it did turn out to be successful, yes.

4 418 Q. CHAIRMAN: In the unlikely event it happened, that the
5 thieves stopped for petrol at another -- which had to 12:36
6 be a pretty long shot?

7 A. Yes.

8 419 Q. CHAIRMAN: But full marks to Garda Keogh for thinking,
9 look, I'll exclude the possibility. But he probably
10 wasn't pinning any hopes that -- 12:36

11 A. No, because the Garda CCTV actually covers their route
12 from, let's say, the town the whole way out to that
13 filling station. And I did was like -- it was poor
14 quality.

15 420 Q. CHAIRMAN: I follow. You might see something passing 12:36
16 or something like that, is that right, they wouldn't
17 have to be --

18 A. Yes, sort of depending on a shop that has close CCTV.

19 421 Q. CHAIRMAN: Okay. Still, it was a good piece of work?

20 A. Yes. 12:37

21 CHAIRMAN: To think that that might be the case.

22 422 Q. MR. McGUIINNESS: That was brought to your attention
23 later because you reported it up on the 28th August
24 yourself?

25 A. Yes. 12:37

26 423 Q. At page 217, isn't that correct?

27 A. That's correct, yes.

28 424 Q. Then, you reported further on the basis of another
29 report from Garda Keogh, at page 220, which brought it

1 into September then at this stage?

2 A. Yes.

3 425 Q. In which the position is made clear beyond doubt?

4 A. Yes.

5 426 Q. As to what he had done and what was done and what was 12:37
6 recovered, isn't that right?

7 A. Yes, that's correct. When he received the CCTV, myself
8 and another colleague sat down with him in the back
9 office.

10 427 Q. Yes. 12:37

11 A. And helped him download it and helped him, let's say,
12 put it on discs to be forwarded to the collator and to
13 Ballinasloe Garda station. So that's how it was
14 transmitted onwards, with the assistance of Garda
15 Linnane, who was mentioned earlier. 12:38

16 428 Q. I think ultimately when it came to execute the arrests
17 of the suspects and attend court, Garda Keogh hadn't
18 been able to come in to duty?

19 A. Yes.

20 429 Q. There had been Haddington Road hours assigned to be 12:38
21 fulfilled in that regard, is that right?

22 A. Yeah, I was made aware that the suspects were due in
23 Naas court, I think it was on the 18th, I think. I
24 asked Detective Sergeant Curley for assistance from his
25 unit to assist Garda Keogh to go to Naas court to 12:38
26 arrest the suspects.

27 430 Q. Yes.

28 A. I think it was on Monday that week Garda Keogh rang me
29 to say that he didn't think he would be in a position

1 to make it on the wednesday, because I think he
2 relapsed into his drinking and had met an ex girlfriend
3 or something like that. So anyway, I asked him for
4 permission to retrieve the file from his locker, which
5 he gave me permission to do and I did. And I passed it 12:38
6 on to Garda Brian Lynskey, who was another member from
7 the detective branch, who arrested the accused and
8 brought it to a successful conclusion.

9 431 Q. The issue of Mulligan's?
10 A. Yes. 12:39

11 432 Q. Had that file been submitted to your arrival or were
12 you involved in that?
13 A. I think I was involved in it, yes.

14 433 Q. Yes. The queries were sent down on the same memos as
15 the superintendent -- 12:39
16 A. Yeah, they seemed to cross in -- yeah.

17 434 Q. Was there anything wrong or unusual in that?
18 A. Not really, because the files were sent on the same
19 number, same sergeants, same unit, so they probably
20 just -- all that came back down together, yeah. 12:39

21 435 Q. In relation to the nomination of a certain family as
22 suspects?
23 A. Yes.

24 436 Q. Would you consider it appropriate to have had them
25 ruled out definitively one way or another if possible? 12:39
26 A. I would, yes, because a connection of that family were
27 actually living on that same road, while the family
28 that was nominated were the other far side of town and
29 were active in similar type of crime in the town. But

1 the family, they had extended family living on the same
2 road, so it was important to out rule them in the
3 investigation of it anyway.

4 437 Q. In relation to an annual leave cancellation application
5 made to you? 12:40

6 A. Yes.

7 438 Q. I think you forwarded that as recommended, but were you
8 aware --

9 A. No, I forwarded it as an error, I put down application
10 approved, where I should have put down application 12:40
11 recommended.

12 439 Q. I see. Did you believe at the time that you were
13 entitled to approve that?

14 A. I should have wrote recommended.

15 440 Q. Recommended, okay. 12:40

16 A. You can have no authority to approve leave or a
17 cancellation.

18 441 Q. Can you recollect, did you have any, as it were,
19 face-to-face discussion with Garda Keogh as to why he
20 was seeking it? 12:40

21 A. No. It was just left in the unit C tray for me to
22 write on when --

23 442 Q. I think you, as we have seen, obviously, forwarded the
24 superintendent's decision?

25 A. Yes. 12:41

26 443 Q. And you wrote a memo saying that he could reapply if he
27 wanted to bring any further matters to the
28 superintendent's attention?

29 A. Yes.

1 444 Q. He didn't do so, as it turned out?
2 A. To date I have received no correspondence back, no.
3 445 Q. Okay. The issue of the robbery of the taxi driver and
4 the crime file relating to that. I think you brought
5 it to the Tribunal's attention that you had sent an 12:41
6 e-mail, I think at 4:33 in the morning, to the
7 superintendent's office about that?
8 A. Yes.
9 446 Q. Isn't that correct?
10 A. Yes. I was at the scene with Garda Keogh and Garda 12:41
11 Glennon.
12 447 Q. Yes.
13 A. They were there initially at first and I arrived
14 shortly afterwards.
15 448 Q. Yes. 12:41
16 A. So, as per protocol, before the end of tour duty, any
17 important incident had to be reported to the district
18 officer so that it would be taken up the next morning.
19 449 Q. Yes.
20 A. So, if I didn't attend and solely the guard was there, 12:42
21 I would ask the guard to send the report to me, if I
22 was working.
23 450 Q. Yes.
24 A. Then I would forward it on to the district office. But
25 in this event I was actually working at the scene that 12:42
26 night, so I did the report myself.
27 451 Q. Yes. In relation to Garda Keogh's evidence in relation
28 to that matter, can you enlighten us as to what
29 happened thereafter then?

1 A. In relation to the investigation?
2 452 Q. Yes.
3 A. Yes. We finished work that night and we had no further
4 part in the investigation. I had none and Garda
5 Keogh -- my unit had no further -- 12:42
6 453 Q. Did you know whether Garda Keogh was going off duty?
7 A. Yeah, we were all finished that night.
8 454 Q. Or on leave?
9 A. Yes.
10 455 Q. Yes? 12:42
11 A. Yes. We finished nights that night and we were going
12 on four rest days following that.
13 456 Q. Did you have any more involvement in that?
14 A. No, just the initial night, we done initial inquiries
15 on the night with the members who were working, and 12:43
16 looked after the taxi driver, seized the car as part of
17 evidence, because that was our scene as such, because
18 the driver was unsure of where it happened and Garda
19 Keogh took some items of clothes, which went on to the
20 property store, but after that, no. 12:43
21 457 Q. You did send in one report from Garda Keogh on the 5th
22 October, isn't that correct? Page 233.
23 A. No, that's a different incident.
24 458 Q. That's a different incident?
25 A. That's a different robbery. 12:43
26 459 Q. Sorry, that's the robbery from the person?
27 A. That's correct, yes.
28 460 Q. In relation to the issue of commendations?
29 A. Yes.

1 461 Q. Garda Keogh has noted in your diary that you said you
2 would apply for commendations for all concerned. Did
3 you have a discussion with Garda Keogh about that?
4 A. I have no recollection of it but I may have said it,
5 but I can't say yes or no. 12:44

6 462 Q. There doesn't appear to be any report or memo from you
7 or note applying for a commendation, in terms of a
8 Garda commendation?
9 A. No, because I didn't.

10 463 Q. Whether on an EPW1 or not? 12:44
11 A. I didn't apply for any.

12 464 Q. For any member?
13 A. For any member.

14 465 Q. Yes.
15 A. I just applied for the Seiko Just in Time award. 12:44

16 466 Q. Did any member raise any issue with you about that?
17 A. No.

18 467 Q. Whether it's a failure about it or a failure to do it
19 or a complaint about not doing it?
20 A. No. 12:44

21 468 Q. There was obviously an application made directly within
22 a month for a Seiko Just in Time award --
23 A. Yes.

24 469 Q. -- under the Irish Water Safety award system. Were you
25 aware of that and did you support that? 12:44
26 A. I completed the application.

27 470 Q. Yes. I think Garda Keogh ultimately did turn up at
28 Dublin Castle --
29 A. He did.

1 471 Q. -- to get that, on the 8th November?
2 A. Yes. I gave his invitation to Inspector Minnock, who
3 was his liaison person at the time, he hand-delivered
4 it, I believe, to Garda Keogh. The Water Safety
5 Commission were on to me to see was Garda Keogh going 12:45
6 to attend, because they wanted an idea of numbers, but
7 I got no reply until the day, he turned up on the day.

8 472 Q. Yes.
9 A. Where we all received the same award.

10 473 Q. Yes. You say in your statement at paragraph 5.3: 12:45
11
12 "I received no reply to the invitation from Garda
13 Keogh. He then arrived at the ceremony to receive the
14 award. I deny the assertion made by Garda Keogh that
15 he was denied a commendation for this incident and that 12:45
16 he single handedly pulled the female from the water as
17 this was a group effort."

18 A. Correct. I was in the station at the time when the
19 call came in. I detailed two patrol cars, Garda Keogh
20 being one, to the scene. I walked down from the 12:46
21 station, which is approximately 300 metres, I suppose,
22 to the scene. There was a lady in the water, who had
23 rang, called in herself, she left her property on the
24 bank of the river further down. She was swimming up
25 and down about 10 feet from the shoreline and Garda 12:46
26 Keogh had a lifebuoy, trying to throw it in to her.
27 But she was communicating with her at all times and she
28 was in no distress or danger. But then we could see
29 her, let's say, failing, running out of steam, so Garda

1 Keogh, Garda Moore and Garda Glennon got into a rowboat
2 that was moored at the side of the river. I coaxed the
3 lady over beside the boat and the three of them pulled
4 her into a slip way down the river and we got her
5 medical attention. 12:46

6 474 Q. He has given evidence to the Tribunal about
7 commendations or incidents in respect of which he
8 believed he should have got commendations but for
9 Superintendent Murray's view.

10 A. Yes. 12:47

11 475 Q. First of all, were you aware of the detail of those two
12 incidents, a burglary and --

13 A. Burglary, no. The robbery from the taximan I was
14 involved in, yes, and the rescue I was involved in.

15 476 Q. Yes. 12:47

16 A. So I would have been -- I would have known of two of
17 them, yes.

18 477 Q. In relation to the robbery from the taximan.

19 A. Yes.

20 478 Q. That, as we know, developed into an investigation of 12:47
21 another related incident --

22 A. Yes.

23 479 Q. -- involving the same suspects, etcetera.

24 A. Yes.

25 480 Q. But was it you who applied for a commendation in 12:47
26 respect of the investigation of those two incidents?

27 A. No, I had no part in the investigation from that night.

28 481 Q. Yes.

29 A. It was handed over to the detective branch the next

1 morning and they completed a full investigation
2 subsequently.

3 482 Q. Were you aware of any efforts or intention or decision
4 to exclude Garda Keogh from the prospect of a
5 commendation in respect of either the burglary or the 12:47
6 taxi driver incident?

7 A. Well, I can only speak in relation to the taxi driver,
8 I was there on the scene, Garda Keogh went there, none
9 of the three of us got a commendation and there was no
10 issue on my behalf anyway. 12:48

11 483 Q. Yes. I mean, would the first responders who don't or
12 didn't take part of any of the subsequent in-depth
13 investigation of it, would you expect to get a
14 commendation?

15 A. Only if you done something exceptional when you were 12:48
16 first responder there. That if you saved someone's
17 life, let's say, if the taxi driver was bleeding to
18 death and you administered, let's say, urgent CPR or
19 first aid to him, yes, possibly in that circumstance.
20 But, no, in the normal course of work you are dealing 12:48
21 with what's in front of you and you secure the scene as
22 best you can. There's nothing exceptional in that. It
23 is just our normal tour of duty like.

24 484 Q. You refer in your statement, at paragraph 6.5 onwards,
25 to a number of issues relating to Garda Keogh failing 12:48
26 to perform hours of duty. They appear to be
27 principally in the period after he was confined to
28 indoor duties there. You're referring to the 13th
29 November onwards, the 22nd November, the 3rd December,

1 the 22nd December?

2 A. Mm-hmm.

3 485 Q. Did you notice any deterioration in Garda Keogh's
4 performance from July/August onwards?

5 A. No, not generally. His attendance was sporadic but, 12:49
6 no, he was fine. He was mainly working night shifts,
7 late shifts, worked very little early shifts. I think
8 on the duration of his tours, indoor duties, two
9 earlies, five lates and seven nights I think.

10 486 Q. Yes. 12:49
11 A. So I wouldn't have seen him because I wouldn't have
12 been on the nights or lates, because I was in the IC's
13 position at that stage.

14 487 Q. Yes.
15 A. So I wouldn't see him on the early days. 12:50

16 488 Q. Yes. On the issue of confinement to indoor duties.
17 A. Yes.

18 489 Q. Did Superintendent Murray discuss that with you in any
19 way beforehand?

20 A. No. 12:50

21 490 Q. Or afterwards?
22 A. No.

23 491 Q. Were you responsible for rostering Garda Keogh then?
24 A. As sergeant in charge, I was still over the unit, I
25 would have -- he was detailed PO, it was the only 12:50
26 position of indoor duty we had available at the time.

27 492 Q. Do you have any knowledge or evidence of any targeting
28 that you saw of Garda Keogh by any superior officer?
29 A. Not by a superior officer.

1 493 Q. At any time?
2 A. No. Not by anybody of any rank, in my time in Athlone
3 anyway.
4 494 Q. Were you aware of any management bias against him in
5 any form or fashion? 12:50
6 A. No.
7 MR. McGUI NNESS: would you answer any questions.
8
9 END OF EXAMINATION
10 12:51
11 CHAIRMAN: Yes.
12
13 SERGEANT DERMOT MONAGHAN WAS CROSS-EXAMINED BY MR.
14 O' BRI EN, AS FOLLOWS:
15 12:51
16 495 Q. MR. O' BRI EN: Sergeant Monaghan, just moving back to
17 the issue of Garda Keogh's application to cancel the
18 day's annual leave.
19 A. Yes.
20 496 Q. I think you deal with this at page 611 of your 12:51
21 statement, it's at paragraph 4.1. You set out at the
22 bottom of that paragraph the reason for the request was
23 to attend at Portlaoise to meet with GSOC. You were
24 presumably aware of the reason as to why he wished to
25 cancel day's the annual leave, were you? 12:51
26 A. Just what he had written on the form. I had never
27 known he was attending GSOC at the time. And seemingly
28 he a meeting the night before with the superintendent,
29 but I wasn't aware of it.

1 497 Q. Having seen the form, you were satisfied or you were
2 minded to grant his application or even recommend the
3 application?
4 A. I could recommend the application, yes, on what he was
5 telling me, yes. 12:51
6 498 Q. We know that the application was sent on to
7 Superintendent Murray, who refused it in the absence of
8 any proper explanation?
9 A. Yes.
10 499 Q. Were you surprised at that, just given the content of 12:51
11 the application form?
12 A. No.
13 MR. O' BRIEN: I don't have any further questions.
14
15 END OF EXAMINATION 12:52
16
17 CHAIRMAN: Anybody else.
18 MR. MÍCHEÁL O' HIGGINS: I have one or two questions,
19 Chairman.
20 CHAIRMAN: Yes, Mr. O'Higgins. 12:52
21
22 SERGEANT DERMOT MONAGHAN WAS CROSS-EXAMINED BY MR.
23 MÍCHEÁL O' HIGGINS, AS FOLLOWS:
24
25 500 Q. MR. MÍCHEÁL O' HIGGINS: Sergeant Monaghan, on the same 12:52
26 page of your statement, on page 611, can I ask you one
27 or two questions surrounding paragraph 3.5. You
28 mention at paragraph 3.5 that Garda Keogh intended to
29 call in sick when he was scheduled to work on the day

1 shift?

2 A. Yes.

3 501 Q. That's your recollection?

4 A. That's my recollection. On some mornings I would have
5 got phone calls on the way to work from Garda Keogh 12:52
6 stating that he wouldn't be in here, to mark me down
7 sick when you go in. You know, that's what happens,
8 not every morning he went sick but some mornings I
9 would have got a phone call on the way in.

10 502 Q. CHAIRMAN: what hours would the day shift be? 12:52

11 A. Start at 7:00am to 5:00pm.

12 503 Q. MR. MÍCHEÁL O' HIGGINS: You know, if you received that
13 phone call, would it cause any disruption or would it
14 be something --

15 A. Well, I wouldn't know until I got into work to see what 12:53
16 resources I would had available to me. Some days you'd
17 have enough cover, other days you'd be short, yes. It
18 could effect, yeah, the day-to-day work. But, as I
19 said, until I arrived into work, I wouldn't know what
20 was available for the day. 12:53

21 504 Q. CHAIRMAN: Sorry 7:00 to --

22 A. 7:00 to 5:00.

23 505 Q. MR. MÍCHEÁL O' HIGGINS: You were asked by
24 Mr. McGuinness a couple of questions relating to the
25 crime files? 12:53

26 A. Yes.

27 506 Q. Did you also deal with crime files for other members of
28 unit C?

29 A. I had eight members on unit C, so I would have output

1 crime files for each member, yes.

2 507 Q. And they would generally buy into the process that --

3 A. There was buy in. I suppose reluctance initially

4 because it was new to members, but when they saw the

5 benefits of it, yes, there was huge buy in. And the 12:53

6 same system is currently running and it's running

7 effectively and efficiently. And they knew it was

8 safeguarding themselves from getting in bother. So,

9 you know, once they bought into that, you know, it is a

10 good system. 12:54

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

12

13 END OF EXAMINATION

14

15 CHAIRMAN: Okay. 12:54

16 MS. O' ROURKE: I don't have any questions.

17 CHAIRMAN: Thanks very much.

18

19 SERGEANT DERMOT MONAGHAN WAS RE-EXAMINED BY MR.

20 McGUINNESS, AS FOLLOWS: 12:54

21

22 508 Q. MR. McGUINNESS: Just a couple of details I perhaps

23 should have asked you. After the confinement to indoor

24 duties?

25 A. Yes. 12:54

26 509 Q. Did Garda Keogh raise any query or complaint with you?

27 A. None whatsoever, no.

28 510 Q. Had you a good working relationship with him at that

29 time?

1 A. Yes, I felt he, and any time he needed help with files
2 I would have given him a hand with files and he would
3 have come in on sick days with sick certs to hand them
4 personally and I would have went through his locker
5 with him at his behest to give him a dig out with stuff 12:54
6 in cases he fell behind with, yes.

7 511 Q. I think you told the Chairman that you did detail him
8 then for indoor duty in the public office?

9 A. Yes.

10 512 Q. That first duty was I think designated to commence on 12:54
11 the 29th October?

12 A. I think so, yes.

13 513 Q. Then you give different dates in paragraph 3.2 onwards,
14 when he came in and out of duty and went off duty sick,
15 isn't that correct? 12:55

16 A. Yes, that's correct.

17 514 Q. Paragraph 3.2 onwards to 3.4. That gives an accurate
18 account, does it?

19 A. Of my recollection of an accurate account of what his
20 work style was at the time, yes. 12:55

21 MR. McGUI NNESS: Thank you.

22

23 END OF EXAMINATION

24

25 CHAIRMAN: Nothing arising out of that? Very good. 12:55

26 Thanks very much.

27 THE WITNESS: Thank you, Chairman.

28

29 THE WITNESS THEN WITHDREW

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MR. MCGUINNESS: Chairman, that's the last witness for today, we have accelerated through the list.

CHAIRMAN: Okay, well that's the way it happens, that's not a problem.

12:55

MR. MCGUINNESS: It is intended to recommence on Monday morning with Superintendent Alan Murray.

CHAIRMAN: Very good.

MR. MCGUINNESS: To be followed by Chief Superintendent Lorraine Wheatley.

12:55

CHAIRMAN: Very good. Everybody knows that. We have the schedule and everybody knows what the schedule is. Very good. Thanks very much. So we have an early day. Very good. Thank you very much.

12:55

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