

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

ESTABLISHED BY INSTRUMENT MADE BY THE MINISTER FOR JUSTICE  
AND EQUALITY UNDER THE TRIBUNALS OF INQUIRY (EVIDENCE) ACT  
1921, ON 17 FEBRUARY 2017, AS AMENDED ON 7 DECEMBER 2018

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

HELD IN DUBLIN CASTLE  
ON TUESDAY, 11TH FEBRUARY 2020 - DAY 136

136

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

GWEN MALONE STENOGRAPHY  
SERVICES

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4. DETECTIVE INSPECTOR MICHAEL COPPINGER
5. CHIEF SUPERINTENDENT LORRAINE WHEATLEY
6. RETIRED DETECTIVE SUPERINTENDENT DECLAN MULCAHY
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1 THE HEARING RESUMED, AS FOLLOWS, ON TUESDAY, 11TH  
2 FEBRUARY 2020:

3  
4 CHAIRMAN: Good morning.

5 MS. McGRATH: Good morning, Chairman. Detective  
6 Superintendent Walsh, please.

10:31

7  
8 DETECTIVE SUPERINTENDENT FRANK WALSH, CONTINUED TO BE  
9 DIRECTLY-EXAMINED BY MS. McGRATH, AS FOLLOWS:

10  
11 CHAIRMAN: Thank you very much. Good morning,  
12 superintendent.

10:31

13 THE WITNESS: Good morning, Chairman.

14 1 Q. MS. McGRATH: Good morning, detective superintendent.  
15 Just to finish up some matters yesterday. I think the  
16 first thing I want to do is just clarify something.  
17 Yesterday, when we were going through the confidential  
18 reporting framework and the documentation, if you  
19 remember we looked at the early regulations and the  
20 charter and then we spoke about the Protected  
21 Disclosures Act.

10:31

22 A. Yes.

23 2 Q. If you remember that. The date of the Act commencing  
24 was 15th July 2014 and I had drawn your attention to  
25 the policy which I had in the brief and I had been  
26 asking you questions about that policy. Now, we sought  
27 to clarify the position on that policy and it would  
28 appear that it didn't come into being until 2017, would  
29 that be your understanding of the situation?

10:31

10:32

1 A. Yes, Chairman. I was concerned when I was asked the  
2 question, I think I was asked the question whether  
3 Assistant Commissioner Ó Cualáin would have been aware  
4 of the policy and I thought, but wasn't sure, that that  
5 charter didn't come into existence at the same time as 10:32  
6 the Act. That is why I was reluctant to...

7 3 Q. Okay. Thank you for that, detective superintendent. I  
8 am sorry if I misled you in any way in that regard.  
9 But can I ask you this: Given that the Act came into  
10 play in July 2014 and the charter, it seems then, did 10:32  
11 not come into being until at least early 2017, what was  
12 the document or the charter that was in operation in  
13 that intervening period? Was it the old charter, do  
14 you still think that everyone was operating under?

15 A. It would have been the old Charter but we would have 10:33  
16 been cognisant of the new legislation also and the  
17 obligations that were imposed upon us by the  
18 legislation. I would certainly have been guided by  
19 that in any correspondence I was writing.

20 4 Q. Okay. Can I just ask you, I just want to finish up 10:33  
21 this morning by asking you to deal with two matters,  
22 two or three matters essentially which arose from the  
23 evidence of Chief Superintendent Mark Curran. And as  
24 we mentioned yesterday, he was the divisional officer  
25 in westmeath at the time of the protected disclosure, 10:33  
26 isn't that right?

27 A. That's correct, yes.

28 5 Q. Now, when the chief superintendent was giving his  
29 evidence, one of the matters which arose during his

1 evidence was effectively the knowledge or understanding  
2 of senior management, and particularly the divisional  
3 management, of what was happening on the ground in  
4 Athlone around this time. I think his evidence was to  
5 the effect that they weren't informed of the making of 10:34  
6 the protected disclosure and he used the word  
7 officially, is that right? would that be common?

8 A. Em, yes, that would be common, yes. We would only  
9 notify the assistant commissioner who was appointed to  
10 carry out the investigation. 10:34

11 6 Q. Okay. During his evidence, he said that he became  
12 aware -- this is the divisional officer now of where  
13 everything was happening, he said he became aware of  
14 the making of the protected disclosure only through the  
15 broadcast media. would you accept that that is most 10:34  
16 likely the case?

17 A. I would, yes. He certainly wasn't notified from the  
18 Commissioner's office. I certainly didn't do any  
19 correspondence notifying the divisional office, no.

20 7 Q. And can I ask you, is the thinking behind that the fact 10:35  
21 that the identity of the protected disclosure -- or the  
22 confidential reporter is to be confidential, is that  
23 the logic behind all that?

24 A. Yes, the whole scheme is a confidential scheme.  
25 Especially the identity of the discloser. 10:35

26 8 Q. Can I ask you then, just staying on this particular  
27 issue, under the 2007 regulations which were in place  
28 at the time, I think there is provision under section 9  
29 of the regulations for the reporter's identity to be



1 disclosed. we just might look at that, at page 7862.  
2 You see there in section 9 it talks about the  
3 protection of the confidential reporter's identity. If  
4 you look at perhaps 9(2), it says:

5  
6 "The identity of a confidential reporter may be  
7 disclosed by the Minister or Commissioner to an officer  
8 of the Minister, a member..."

10:36

9  
10 I take that's of AGS

10:36

11  
12 " -- or a civilian, only where the Minister or  
13 Commissioner believes that disclosure is essential for  
14 the proper examination of the confidential reporter or  
15 investigation of the corruption or malpractice  
16 concerned. "

10:36

17  
18 Subsection (3) then talks about:

19  
20 "An officer of the Minister or a member or civilian to  
21 whom the identity of the confidential reporter has been  
22 disclose under paragraph (2) may not disclose the  
23 identity of any other person without the written  
24 authorisation of the Minister or Commissioner as the  
25 case may be. "

10:36

10:36

26  
27 And under subsection (4):

28  
29 "The Minister or the Commissioner may give such an

1 authorisation only where she or he believes that it is  
2 essential for the proper examination of the  
3 confidential reporter or investigation of the alleged  
4 corruption or malpractice. "

10:36

6 So I think there it creates a facility where there may  
7 be circumstances where the identity may be disclosed,  
8 is that right?

9 A. That's correct, yes.

10 9 Q. Was that considered or taken into account as maybe  
11 something that might be considered by the  
12 Commissioner's office in relation to this protected  
13 disclosure, in the light of the media issues?

10:37

14 A. Not in any discussions that I had with the Commissioner  
15 or in any correspondence that I prepared in relation to  
16 this particular report, it wasn't, no.

10:37

17 10 Q. Okay. Can I ask you this then: In relation to Chief  
18 Superintendent Curran, he expressed some frustration or  
19 some distance from the investigation being carried out  
20 by the Assistant Commissioner Ó Cualáin in his  
21 evidence, would the Commissioner's office have been  
22 aware of that?

10:37

23 A. I can only say I personally wasn't aware. I don't know  
24 whether the Commissioner was aware or not but I  
25 personally was not aware, no.

10:37

26 11 Q. Can I ask you specifically, we mentioned briefly in  
27 passing yesterday, there was an intelligence entry made  
28 by Garda Keogh and we looked at the Pulse ID for that  
29 yesterday. In particular, I think the chief

1 superintendent wrote to the assistant commissioner of  
2 the Eastern Region in relation to this issue, which  
3 effectively landed on his desk. I don't know if you  
4 have seen those papers in the brief in relation to  
5 this, the difficulty the chief superintendent said he 10:38  
6 had in relation to dealing with this intelligence  
7 entry. would you be familiar with the papers  
8 surrounding this?

9 A. I'm sure I saw them, I just can't recall them at the  
10 moment. 10:38

11 12 Q. well, can I ask you to look in particular, there's a  
12 letter on the papers from the Chief Superintendent  
13 Curran to the assistant commissioner Eastern Region and  
14 it's at page 8276. You see there it's dated 19th May  
15 2014, but in fact the chief superintendent corrected 10:39  
16 this as the 20th May, up at the top there,  
17 Mr. Kavanagh. So on the 20th May, which is a number of  
18 days, possibly around two weeks after the protected  
19 disclosure, this intelligence entry was placed on Pulse  
20 by Garda Keogh and here you have the chief 10:39  
21 superintendent writing to the assistant commissioner in  
22 relation to the Pulse entry and he identifies it. If  
23 you can just look there at paragraph 2, I think,  
24 because you do have some involvement in a moment in  
25 relation to the movement of this correspondence. He 10:39  
26 says:

27  
28 "Garda Keogh was recently named publicly in the Dáil as  
29 having reported certain matters to the Garda interim

1 confidential recipient. As is evident from the  
2 attached correspondence of Inspector Farrell dated 20th  
3 May 2014, Garda Keogh has now cited the fact that he is  
4 due to meet with the Assistant Commissioner Ó Cualáin  
5 in relation to these matters and consequently states 10:40  
6 that he cannot discuss the entry with Inspector  
7 Farrell."

8  
9 Then he says:

10  
11 "I am mindful of the obligations placed on me to ensure  
12 that all acts of criminality disclosed are investigated  
13 thoroughly."

14  
15 He mentions the data protection issues. He then goes 10:40  
16 on in the next paragraph, he says:

17  
18 "In view of the foregoing requirements and the  
19 information now entered on the Pulse system alleging  
20 criminality by members of An Garda Síochána, I am now 10:40  
21 seeking clarification as to how I can progress these  
22 matters with Garda Keogh to obtain additional  
23 information to investigate the allegation. I am also  
24 concludes of Garda Keogh's right to report such matters  
25 to the confidential recipient and have them acted upon 10:40  
26 through that mechanism.

27  
28 I must advise that this office is not aware as to  
29 whether or not the allegation that is now set out on

1 the above created intelligence is the subject of a  
2 referral to the confidential recipient."

3  
4 And it goes on to say:

5  
6 "However, as the matter has now been disclosed I am  
7 duty bound to ensure it is fully investigated."  
8

9 On the next page he says that he seeks the views of the  
10 chief superintendent at Internal Affairs and  
11 Superintendent Nyland at Crime Policy and  
12 Administration.

13  
14 Now, we know from the papers and in particular that  
15 this letter makes its way to you. If Mr. Kavanagh  
16 could open up 8294. So, sorry, 8294, at the bottom  
17 there, sorry, Mr. Kavanagh. So from the commissioner  
18 of operations, it goes to the Commissioner's office on  
19 the 22nd May, which is two days later, attaching this  
20 particular report. If Mr. Kavanagh can then just  
21 scroll back up. 8293 is the start of that, so keep  
22 going, Mr. Kavanagh, please. If you stop there. From  
23 yourself in the Commissioner's office, you forward this  
24 on, you reply to the commissioner of operations on the  
25 27th May and you copy the assistant commissioner of the  
26 criminal investigation. If Mr. Kavanagh can now keep  
27 scrolling down, please. You say:

28  
29 "I am directed by the Commissioner..."

1  
2  
3  
4  
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6  
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28  
29

So the Commissioner had seen this document, is that right?

A. That's correct, yes.

13 Q. Okay. And has seen the issue in relation to the intelligence entry. What the chief superintendent has outlined there, he is looking for guidance in relation to how to deal with it. And you say:

10:42

"Please report further on requested clarifications sought from chief superintendent Internal Affairs and, superintendent crime policy and administrations as to how the chief superintendent Mullingar can progress these matters with Garda Keogh to obtain additional information to investigate the allegation.

10:42

10:42

This report has been copied to assistant commissioner Western Region for information."

So you send that on. That is your e-mail, isn't that right?

10:42

A. That's correct.

14 Q. And that's you sending it on. You are directed by the Commissioner to do this, so was it the case that you were directed by the Commissioner to bring this pretty smartly to the attention of the criminal investigation, that this was an issue that was alive for the chief superintendent in Mullingar?

10:43

A. Well, it was a case, it seems, that the deputy

1 commissioner in charge of operations had sent that  
2 particular aspect of the file to the Commissioner for  
3 her information. You will note the first line of my  
4 response is "the content of which has been noted", so  
5 there isn't an action per se, the Commissioner is not 10:43  
6 directing an action. It would be standard then, the  
7 second paragraph, asking them for a further report on  
8 the issues that had opinion raised, it would be  
9 standard that we would ask that we would be kept  
10 informed of any of those issues that might arise. So 10:43  
11 there's no direction as such in that to do X, Y or Z or  
12 to give any guidance as to how it should be done. It  
13 is merely saying we are noting what you are saying and  
14 please ensure that the office is kept informed. Again,  
15 the fact that the Assistant Commissioner Ó Cualáin 10:44  
16 would have been investigating the matter, we copied it  
17 to him for his information, that he would have a  
18 complete picture of anything that was touching on the  
19 investigation that he was conducting.

20 15 Q. So would you have been directed to copy the assistant 10:44  
21 commissioner on it?

22 A. I would imagine I was, I can't say, I couldn't say that  
23 a hundred percent, but it would have been the standard  
24 procedure that the assistant commissioner had such an  
25 integral part in the file at this point in time, that 10:44  
26 he would be copied for his information.

27 16 Q. Can I ask you, there was a follow up letter by the  
28 chief superintendent to the assistant commissioner in  
29 the Eastern Region the following day effectively. That

1 is your e-mail of the 27th May. The following day, on  
2 the 28th May, and this letter is at page 8303, and  
3 effectively this is from the chief superintendent to  
4 the assistant commissioner of the Eastern Region and  
5 effectively -- if we can just have a look at it, 10:45  
6 please, detective superintendent, because I want to  
7 clarify whether or not this one ever made its way to  
8 you and whether you remember it or recall it. Now this  
9 is Chief Superintendent Curran, he is saying:

10  
11 "I refer to previous correspondence from this office  
12 dated 19th May..." 10:45

13  
14 Now we know, as I say, that's corrected to the 20th in  
15 his evidence here. 10:45

16  
17 "...and yours of the 27th May in reply with attachments  
18 from the office of the Commissioner and deputy  
19 commissioner of operations." 10:45

20  
21 So he is previously outlining the item of intelligence  
22 created in the next paragraph. He outlines the issue  
23 in respect to data protection and that has been  
24 referred. He is repeating the paragraph that Garda  
25 Keogh has been named publicly in the Dáil and is 10:45  
26 meeting Assistant Commissioner Ó Cualáin. Can you just  
27 look at the next paragraph, please, detective  
28 superintendent, because this is an important paragraph  
29 and I just want to know if this triggers any member of



1           yours or came to your office.

2  
3           "Owing to the fact that Garda Keogh has now stated that  
4           this current allegation is the subject of a referral to  
5           the Garda confidential recipient, I am not in a  
6           position to determine whether it is appropriate for the  
7           local investigation to proceed."

10:46

8  
9           He said:

10  
11           "This cross-referencing is an issue that can only be  
12           addressed by the Garda Commissioner and the advices of  
13           superintendent Nyl and, Crime Policy and Administration,  
14           is to the effect that the matter should be addressed  
15           solely by the Garda Commissioner to remove any conflict  
16           of interest or intrusion on the investigation reported  
17           through the confidential recipient."

10:46

10:46

18  
19           He says in the next page:

20  
21           "Accordingly, subject to your approval I do not propose  
22           to take any further action unless otherwise directed."

10:46

23  
24           So I think in that previous paragraph it's a very  
25           pointed reference to the Garda Commissioner needing to  
26           get involved in this issue. Do you remember did you  
27           ever see that letter coming through the office?

10:46

28           A.    The letter is familiar but I am not sure whether it's  
29           from my recent examination of the file or whether I

1 remember it from -- I think it's is most likely that it  
2 is from my recent examination of the file when I was  
3 making my statement. I don't remember -- but that  
4 particular paragraph, when he talks about "it should be  
5 addressed by the Garda Commissioner", the Garda 10:47  
6 Commissioner would address that on receipt of the  
7 advices from the Crime Policy section, which is the  
8 reference to Chief Superintendent Nyland. So that's  
9 where, in the previous minute, when I had written back  
10 to operations I asked for an update on the issues that 10:47  
11 had been raised, including Chief Superintendent  
12 Nyland's response to that. I don't know if that was  
13 ever received.

14 17 Q. Well it says:

15  
16 "The advice of Superintendent Nyland in crime 10:47  
17 administration is to the effect..."

18  
19 So that suggests that advice was given by  
20 Superintendent Nyland. 10:47

21 A. I am not familiar with that, I don't know, I couldn't  
22 answer that, I'm afraid.

23 18 Q. I take it then this cross-referencing that he was  
24 looking for from the Garda Commissioner, for the Garda  
25 Commissioner to remove any conflict of interest or 10:48  
26 intrusion, did that ever come across your desk, a  
27 request for that, an action for that?

28 A. Not to my recollection.

29 19 Q. Because what happens then, and this is on the basis of

1 the chief superintendent, is that the following day, on  
2 29th May 2014, he gave evidence to this Tribunal both  
3 in his interview with the investigators and his  
4 evidence to the Chairman that there was a phone call  
5 from you to him on the 29th May and it related to this 10:48  
6 issue of intelligence. You would be aware of this from  
7 the papers and the transcripts?

8 A. Yes, Chairman.

9 20 Q. Is that right?

10 A. Mm-hmm. 10:48

11 21 Q. Now, I think when you gave your second statement to us  
12 in January, you record in your statement, and I will  
13 just get the page for you, at 15882, you record that,  
14 on the 29th May you say:

15  
16 "No entries regarding telephone  
17 call /conversati on/communi cati on wi th Chi ef  
18 Superintendent Mark Curran on thi s date or  
19 subsequently. "

20  
21 Now, that's not the same as saying you have no  
22 recollection or it didn't happen. What is your  
23 evidence to the Chairman in relation to this particular  
24 phone call?

25 A. I was aware this was an issue and that that was 10:49  
26 evidence that had been given. I would speak regularly  
27 with Chief Superintendent Mark Curran. I don't recall  
28 making that phone call. It's quite possible that I  
29 did. I think the diary entry for the day, I think I

1 included the page from the diary, which I think showed  
2 that it was a particularly long day and I was extremely  
3 busy and I didn't have notes of everything that I did  
4 on that particular day. If Chief Superintendent Curran  
5 says that I rang him on that day, I am very happy to 10:49  
6 accept that. I wouldn't contradict him in any way.

7 22 Q. Can I ask you, if I could ask Mr. Kavanagh to open up  
8 the transcript at Day 117, please. If I can ask  
9 Mr. Kavanagh to go to page 56 please. Now, what is  
10 happening here is Chief Superintendent Curran is giving 10:51  
11 his direct-evidence and he is just being asked about  
12 that letter that we opened up there a moment ago of the  
13 28th May, where he says he is not going to take any  
14 further action unless otherwise directed. And then if  
15 you just go to line 19 please. It's there. Are we on 10:51  
16 the right page, page 56?

17 A. Yes.

18 CHAIRMAN: No.

19 THE WITNESS: Sorry, I have a transcript here.

20 23 Q. MS. McGRATH: Line 19, please. Now it's put to him 10:51  
21 that:  
22  
23 "Now, I think, as you said, that's where it was on the  
24 28th May, and..."

25 10:52  
26 we're referring there to that letter you've just looked  
27 at.  
28  
29 "...you got a phone call the following day, is that

1 right?  
2 A. That's correct, Chairman  
3  
4 Q. Okay. Can we just look at that phone call? I  
5 think if you go to -- you talk about it in your 10:52  
6 interview at Volume 7, page 134. I think it might be  
7 at the bottom of the page, line 194, if you see it,  
8 chief superintendent  
9 A. Yes.  
10 10:52  
11 Q. Sorry. If you just stay there, Mr. Kavanagh. If  
12 you go to the next page."  
13  
14 And it's put to him that in his interview or statement  
15 he says: 10:52  
16  
17 "I can confirm that on 29th May 2014 Superintendent  
18 Frank Walsh. . . ."  
19  
20 And it's identified that you are the private secretary 10:52  
21 to the Commissioner. It's there at line 9 onwards,  
22 this is taken from his interview:  
23  
24 "...get a call from the Commissioner's office,  
25 contacted me by telephone and made me aware that a 10:52  
26 complaint had been made to the confidential recipient,  
27 Judge McMahon."  
28  
29 Now, can you remember this? This is very specific. He

1 is saying that Judge McMahon has contacted you and made  
2 a complaint to you.

3 A. No, I don't recall it.

4 24 Q. Now, as I say, are you sure about that, detective  
5 superintendent? It's a very specific issue. It's a 10:53  
6 complaint coming in to you via Judge McMahon and you  
7 are then channelling that on to the chief  
8 superintendent. Is it your evidence you don't remember  
9 the conversation?

10 A. That's my evidence, yeah, and I have no note of it, 10:53  
11 unfortunately, so.

12 25 Q. Now, if you go on down to line 19, the chief  
13 superintendent says:  
14  
15 "I have gone through that in my head. I didn't take 10:53  
16 notes of that call at the time, because the net import  
17 of the call was that I was not to talk to Garda Keogh  
18 about the intelligence itself."  
19

20 Can you comment on that? 10:53

21 A. I can't, no, unfortunately.

22 26 Q. Can I just ask you, are you saying the call did or did  
23 not happen or it did happen but you just don't remember  
24 the conversation?

25 A. No, I can't remember whether the call was made or 10:53  
26 whether that discussion took place. As I said, I have  
27 no problem accepting that if Chief Superintendent  
28 Curran said I contacted him on that date. I would say  
29 in relation to the content of the call, that it

1 wouldn't be something that I would decide to do again  
2 off my own bat, it would have been following a  
3 consultation most likely with the Commissioner. But I  
4 don't remember the call and I don't have a note of it.  
5 I was asked specifically, that's why I set it out in my 10:54  
6 diary entry, that there was nothing in the diary for  
7 that particular day.

8 27 Q. If we just go on to the next page, page 58, at line 12  
9 there. He is asked:

10  
11 "What exactly were you deciding or told or directed?  
12 Can you just maybe just take us through that. What was  
13 the conversation, and give us as much detail as you can  
14 in relation to the conversation? 10:54

15 A. My understanding was, of that conversation was,  
16 pursuing any questions of Garda Keogh in relation to  
17 the intelligence itself wasn't to happen. " 10:54

18  
19 Now, if that call did happen, as you say, this would  
20 not be your direction, you acted pursuant to the 10:55  
21 direction of the Commissioner, is that right?

22 A. That's correct, yes.

23 28 Q. And here it's saying:

24  
25 "Pursuing any questions of Garda Keogh in relation to 10:55  
26 the intelligence itself wasn't to happen. That to some  
27 extent I suppose it didn't resolve the CHIS issue, but  
28 it meant I couldn't ask him about the intelligence  
29 entry any more. "

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Now, he goes on then when he is under cross-examination, I think it was Mr. Kelly was cross-examining him, and this is at Day 118.

CHAIRMAN: I thought it was Ms. Mulligan who cross-examined. No. Mr. O'Brien?

10:55

MR. KELLY: Mr. O'Brien.

MS. McGRATH: Sorry.

CHAIRMAN: Sorry, Mr. O'Brien, I picked everybody except you. Sorry, Mr. O'Brien. Anyway we think it was Mr. O'Brien on Day 118. 118. It's in the other direction, Peter.

10:56

MS. McGRATH: Up at the top maybe. It's page 2, Mr. Kavanagh. It should be there. No. So it's Day 118 and it is page 26. If I can ask you to look at line 6 there, the chief superintendent is asked:

10:57

"What did chief superintendent Walsh say to you in relation to what the concerns of the confidential recipient were? What was the message that was to be passed to you?"

10:57

A. That I wasn't to Garda Keogh about the intelligence."

Now I think it's your evidence you don't remember any of this, isn't that right, detective superintendent?

10:58

A. That's correct, yes.

Q. And then the next question is:



1 "And the reason for that? Was it that it was within  
2 the remit of the Ó Cual áin investigation?

3 A. The way that was -- Superintendent Walsh said he  
4 was just passing on a message. "

5 10:58

6 Again, does that trigger any recollection to you?

7 A. It doesn't ring a bell at all. Again, I would just  
8 like to say that it is possible that I made that call,  
9 I just have no recollection of it whatsoever, and no  
10 note.

10:58

11 MS. McGRATH: Thank you, detective superintendent. If  
12 you could answer any questions please.

13

14 END OF EXAMINATION

15

10:59

16 THE WITNESS: Thank you.

17 CHAIRMAN: Now, Mr. Kelly. Take your time.

18

19 DETECTIVE SUPERINTENDENT FRANK WALSH WAS CROSS-EXAMINED  
20 BY MR. KELLY, AS FOLLOWS:

10:59

21

22 30 Q. MR. KELLY: Superintendent, good morning.

23 A. Good morning.

24 31 Q. I want to just ask you a few questions, beginning with  
25 the object of the charter. I think that's the charter  
26 that would have been in place back in May 2014, the  
27 older one?

10:59

28 A. The original, yes.

29 32 Q. Yes, the original one. Now if I have understood what

1           you are saying correctly when you were taken through  
2           the object of the charter, that the duties which were  
3           imposed within the charter upon various people were  
4           designed to encourage disclosure, is that right?

5           A.     That's correct, yes. 11:00

6    33    Q.     And certainly not to discourage?

7           A.     No.

8    34    Q.     So the object, the culture wasn't to create a culture  
9           where people felt free to make disclosures, is that  
10          right? 11:00

11          A.     That's correct, yes.

12   35    Q.     And I think also within that Charter it was envisaged,  
13          again if I have understood you correctly, that one of  
14          the policy objectives was that when someone had made a  
15          disclosure they would then be kept informed or, to use 11:00  
16          the phrase, in the frame as to the progress as it went  
17          through, is that right?

18          A.     That's correct, yes.

19   36    Q.     And the chosen channel for that was the confidential  
20          recipient? 11:01

21          A.     Correct.

22   37    Q.     So looking at it in the round, a person makes a  
23          disclosure to the confidential recipient, it is dealt  
24          with, the object was to be kept informed via the  
25          confidential recipient? 11:01

26          A.     That's correct.

27   38    Q.     That then changed shortly thereafter, didn't it?  
28          Because we know by July the office of the confidential  
29          recipient had gone, that's right, isn't it?

1 A. That's correct, yes.

2 39 Q. So I am just wondering, what was the channel then?

3 A. The channel then was -- well, there was a new  
4 confidential recipient came in, Judge McMahon's office  
5 or his predecessor was then -- under the old system 11:02  
6 there were a number of chief superintendents in various  
7 regions appointed to receive any confidential reports.  
8 Subsequent to that, when the new legislation came in,  
9 the office of the confidential recipient came into  
10 being and it began I think with Mr. Connolly and 11:02  
11 afterwards Judge McMahon. So they would then have been  
12 kept informed of the --

13 40 Q. I understand that perfectly well, but what I am  
14 focusing on, perhaps it's my fault, by July the office  
15 of the confidential recipient had been abolished, there 11:02  
16 was now a new system, protected disclosure managers, is  
17 that right?

18 A. That's correct, yes.

19 41 Q. What I am asking is, so between March -- between May  
20 and July, the confidential recipient, Judge McMahon, 11:02  
21 was in place, the office is then abolished. Up until  
22 that point the channel for communication with the  
23 person who made the protected disclosure was Judge  
24 McMahon or the occupant of that office?

25 A. Yes. 11:03

26 42 Q. We know it was Judge McMahon, so we will just use his  
27 name. The office is then abolished, so what is the  
28 channel of communication, feedback to the person who  
29 has made the protected disclosure once that office is

1 gone?

2 A. That was, sorry, July in which year?

3 43 Q. 2014.

4 A. 2014. I am trying to recall. I think it may have been  
5 through the HR department, but I am not a hundred 11:03  
6 percent certain.

7 44 Q. Well, I am suggesting on the basis of -- it may be that  
8 I have got the wrong end of the stick, that it may have  
9 been an oversight, the confidential recipient is  
10 abolished, he played a key role in feeding back, 11:04  
11 keeping the person informed, that office is abolished  
12 and there's no real mechanism then put in place to keep  
13 the person informed, certainly until much later?

14 A. I think there was, but I couldn't -- I can't give you  
15 the dates for it but I think Chief Superintendent 11:04  
16 McLoughlin at some stage was appointed to have  
17 oversight of confidential reporting, but that may have  
18 been at a later point in time. I can't assist you with  
19 the dates, I'm sorry.

20 45 Q. So far as you are concerned, it may well be that after 11:04  
21 July for a period there was in fact no formal channel  
22 for feedback?

23 A. But equally, I can't say that there wasn't. I can't  
24 say that there was but equally I can't say there  
25 wasn't, because I believe that Chief Superintendent 11:05  
26 McLoughlin had a role in it at that point in time.

27 46 Q. Yesterday, when you were being asked questions about it  
28 by Ms. McGrath, you went on to speak about -- if we can  
29 call up the transcript, it's Day 135, it's yesterday,

1 page 57, you were asked about risks, the risk  
2 assessment?

3 A. Yes.

4 47 Q. Do you remember that? I think it's page 57, if we can  
5 go to that, please. So line 22: 11:05  
6  
7 "That is effectively a similar situation, where the  
8 feedback provisions continued, is that right?  
9 A. Yeah, it seems to be, yes.

10 Q. Okay. At 7.12: The protected disclosure 11:06  
11 disclosures manager shall be aware of any risks  
12 associated with the disclosure and document any risks  
13 identified by the worker maybe making the disclosure."  
14  
15 Is that right? Do you see that? 11:06  
16 A. Yes, I see that there, yes.

17 48 Q. So here, on the basis of that, the intention was that  
18 it would be the protected disclosure manager who would  
19 entertain that role as the channel of feedback, the  
20 link man, with the person who had made the disclosure, 11:06  
21 is that right? Well, that's what it seems to be  
22 saying?

23 A. Can I just read that again, if you don't mind?

24 49 Q. Yes, of course. If Mr. Kavanagh can move it back up.  
25 CHAIRMAN: what is this document, Mr. Kelly. 11:06  
26 MR. KELLY: My understanding is that this is a new --  
27 CHAIRMAN: Is this the 2017 document we're talking  
28 about?  
29 MR. KELLY: That is what I am unclear about.

1 CHAIRMAN: Okay. Is that right, Ms. McGrath? Is this  
2 the 2017 document?  
3 MS. McGRATH: Sorry, we were just looking for something  
4 else there in the papers. What page is Mr. Kelly  
5 talking about? 11:07  
6 CHAIRMAN: He is looking at Day 135, page 57 and there  
7 is a 7.12, but I don't have it in front of me and I'm  
8 not sure --  
9 MS. McGRATH: Yes, those paragraphs refer to the 2017  
10 document. 11:07  
11 50 Q. CHAIRMAN: The 2017 document. But if I may just  
12 intervene for just one moment. Mr. Kelly is exploring  
13 the feedback situation that existed after the  
14 termination of the confidential recipient office. So  
15 2007 we had Judge McMahon and his little office and the 11:08  
16 feedback was supposed to go through him and as far as  
17 we know did go through him, because he went back to the  
18 Commissioner and so on. But when he stopped, and that  
19 was in July 2014, and this is just as far as you are  
20 aware, detective superintendent, as far as you're 11:08  
21 aware, was there any a system, a formal system, if you  
22 like, a system in place for feedback?  
23 A. Yes, Chairman, I thought Chief Superintendent  
24 McLoughlin may have been appointed at that stage, but  
25 I'm not certain. He was appointed at some stage. 11:08  
26 51 Q. CHAIRMAN: I understand.  
27 A. I don't know whether it was --  
28 52 Q. CHAIRMAN: We know that down the road, because we're  
29 going to hear from Chief Superintendent McLoughlin and

1 we know what he is going to say, but from the point of  
2 view of a formal system in place, am I understanding  
3 that as far as you're aware there wasn't a formal  
4 system in place?

5 A. If Chief Superintendent McLoughlin was appointed at 11:09  
6 that point in time, that would have been the formal  
7 system.

8 53 Q. CHAIRMAN: Okay. So it depends, if Chief  
9 Superintendent McLoughlin as the PD manager was in  
10 place, then your understanding is that he would have 11:09  
11 had obligations in regard to feedback?

12 A. That's correct, yes.

13 54 Q. CHAIRMAN: So the question then depends on whether he  
14 was appointed or not appointed and when he was  
15 appointed? 11:09

16 A. That's correct.

17 55 Q. CHAIRMAN: If he wasn't appointed for a time, then  
18 Mr. Kelly is correct, there was a gap in which there  
19 was not a formal system in place?

20 A. I accept that. 11:09

21 CHAIRMAN: Okay. Sorry, Mr. Kelly, but I think that  
22 that was implicit in your questions and I am glad you  
23 have clarified that.

24 MR. KELLY: Yes, thank you, Chairman. I was just  
25 simply exploring it, because as it stands at the moment 11:10  
26 there is a gap. I may be wrong about that, I may be  
27 right.

28 CHAIRMAN: well, we have now clarified on what it is  
29 appears to depend.

1 MR. KELLY: That's right.

2 CHAIRMAN: Okay.

3 56 Q. MR. KELLY: Also, just whilst we have that up there,  
4 looking at the protected disclosure manager, aware of  
5 the risks associated with the disclosure, any risks 11:10  
6 identified by the disclosure. So there is a clear  
7 organisational recognition there, isn't there, for the  
8 person making the disclosure, there may well be risks?

9 A. Yes.

10 57 Q. Yes. And the organisation there is saying well, look, 11:10  
11 how do we document those and deal with them, is that  
12 right?

13 A. We're talking about line 27?

14 58 Q. Well, I am getting at the intention of that, I assume  
15 that that is what it's trying to say. 11:11  
16

17 "... shall be aware of the risks associated with the  
18 disclosure and any risks identified by the worker  
19 making the disclosure."  
20 11:11

21 I'm asking you, am I right in thinking that that was  
22 the organisation saying, look, there probably are risks  
23 here, we better document them, identify them, so we can  
24 deal with them.

25 A. That's certainly an interpretation that could be put on 11:11  
26 that, yes.

27 59 Q. What other interpretation could be put on it?

28 A. Well, it uses the word "shall" so "the protected  
29 disclosure manager shall be aware of any risks



1 associated with the disclosure" so that is putting an  
2 onus -- to my reading, my interpretation of that is,  
3 it's putting an onus on the protected disclosure  
4 manager to be aware of the risks, to be aware of the  
5 risks. 11:11

6 60 Q. It is saying do a risk assessment?  
7 A. Yes.

8 61 Q. Yes. But then it goes on to say?  
9  
10 "... the risks identified by the worker." 11:11  
11  
12 So is the emphasis upon actually carrying out a risk  
13 assessment upon the person making the disclosure?  
14 CHAIRMAN: Just go down a tiny bit, Peter, so we can  
15 see the next line. Thanks very much. 11:12  
16 A. Would it be possible to see the full paragraph  
17 together?  
18 CHAIRMAN: I'm sorry, yes. There is only one word  
19 missing. I thought there was more. So Peter, just  
20 roll up. Hold on, top there. "Disclosure" is the word 11:12  
21 missing.

22 62 Q. MR. KELLY: Yeah. "With the disclosure and document  
23 any risks identified by the worker making the  
24 disclosure."  
25 A. Yes, that is placing the obligation on the protected 11:12  
26 disclosures manager to make himself aware of any risks  
27 and any risks that he sees -- I would read it as any  
28 risks that he sees and any risks as disclosed by the  
29 discloser himself.

1 63 Q. Okay. It would be wrong of me then to read that as  
2 meaning it's for the protected disclosure manager to  
3 speak to the person who has made the disclosure, hear  
4 what he has got to say and then he, the protected  
5 disclosure manager, to make a risk assessment. To say 11:13  
6 to himself, look, what are the risks here? Is that  
7 really what it's saying?

8 A. Yeah, I don't believe it would be wrong of you to say  
9 that.

10 64 Q. Yeah. 11:13

11 A. That is an interpretation certainly, yes.

12 65 Q. And it's not to be construed as placing the onus upon  
13 the person who is making the disclosure to actually  
14 identify all the risks that there might be in making  
15 that disclosure? 11:13

16 A. No. If anything, it's on the protected disclosure  
17 manager, yes.

18 66 Q. All right. If I can just turn up, if I can please,  
19 page 1081, which I think is in volume 38.

20 CHAIRMAN: 10831, is that what you said, Mr. Kelly. 11:14

21 MR. KELLY: My note says 1081.

22 CHAIRMAN: Sorry, I misheard. Thank you.

23 MR. KELLY: I hope that is the page. This is one where  
24 Chief Superintendent Curran -- I think this is from  
25 your diary, isn't it? Is this from your diary? 11:14

26 A. No, it's not, no.

27 67 Q. Go on down. Sorry, I must have gotten that wrong. The  
28 one I am asking for is where Mr. Ó Cualáin asked for  
29 the formal appointment to be made by the Commissioner's

1 office in respect of the criminal and disciplinary  
2 aspects of the investigation?

3 A. Yes.

4 68 Q. You understand what I am asking about?

5 A. Yes, I do, yeah. 11:15

6 69 Q. Now, that was, we dealt with it yesterday, made on 8th  
7 May 2015, around about then?

8 A. I haven't it in front of me but I accept what you are  
9 saying, yes.

10 70 Q. Okay. What I am just curious about is, so Ó Cualáin 11:15  
11 had been conducting an investigation, I think by August  
12 '15 that was completed, is that right, that is roughly  
13 about right I think?

14 A. Yes, roughly.

15 71 Q. Okay. At the end of it is asking for a formal 11:16  
16 appointment to be made in respect of two things; one,  
17 the criminal aspects and two, the disciplinary aspects,  
18 to have an investigation in respect of those, is that  
19 right?

20 A. That's correct. 11:16

21 72 Q. So what had he been doing in the intervening 14, 15, 16  
22 months, if not investigating those aspects?

23 A. I think my evidence yesterday was that in relation to  
24 that, he was talking about a different member of An  
25 Garda Síochána at this point in time. A garda who had 11:16  
26 been identified by Garda Keogh in his disclosure. He  
27 got to a stage of the investigation where he felt there  
28 may be a case against this other garda.

29 73 Q. I understand you now. That is the one we know as Garda

1 A?

2 A. Yes.

3 CHAIRMAN: I'm sorry, say that again, Mr. Kelly.

4 MR. KELLY: That's the person we know as Garda A.

5 CHAIRMAN: No. 11:17

6 MR. KELLY: Is it not?

7 CHAIRMAN: No. It's a new garda who had -- as I

8 understand, and I am glad to have this opportunity,

9 because it will be cleared up. As I understand,

10 Detective Superintendent Walsh gave evidence yesterday 11:17

11 that Assistant Commissioner Ó Cualáin requested

12 criminal and disciplinary authority in respect of a

13 garda not previously the subject of investigation, who

14 had not been previously investigated and they were not

15 investigating in the course of their protected 11:18

16 disclosure investigation. That investigation threw up

17 a possible case of either criminality or disciplinary

18 breach by a Garda X, let's say. Am I understanding

19 that correct?

20 A. Correct. 11:18

21 74 Q. CHAIRMAN: I will stop using sequential things, but a

22 Garda X and he said, we better look into this?

23 A. That's correct.

24 75 Q. CHAIRMAN: So that's what he was doing. Now that's my

25 understanding of it, Mr. Kelly, it doesn't mean it's 11:18

26 right and obviously the assistant commissioner will be

27 giving evidence. But that's what I thought. Is that

28 what you meant?

29 A. Yes, that is my understanding of what we were being

1 asked.

2 CHAIRMAN: Okay, thank you.

3 76 Q. MR. KELLY: You told us yesterday that the --

4 MR. DIGNAM: Sorry, Chairman, I wonder if I might

5 intervene. 11:18

6 CHAIRMAN: Sorry, Mr. Dignam.

7 MR. DIGNAM: Just so that we don't all go off on the

8 wrong tangent, Judge, I have taken instructions from

9 former Commissioner Ó Cualáin, and in fact that does

10 refer to Garda A. That will be his evidence when he 11:19

11 gives evidence.

12 CHAIRMAN: well, Mr. Kelly was absolutely right and I

13 was incorrect and it appears that the witness is

14 incorrect in his recollection because that appears to

15 be the situation. In defence, I understood correctly 11:19

16 what the witness said, it now appears that Mr. Kelly

17 was absolutely right and it is Garda A who was

18 involved. So thank you very much, Mr. Kelly. That's

19 the advantage of raising these things and discovering

20 where we stand. Thank you very much. 11:19

21 MS. McGRATH: I wonder if we could put maybe the letter

22 up just again, so the witness can see it, the 8th May,

23 if that's the one at issue.

24 CHAIRMAN: It's 8th May 2015.

25 MS. McGRATH: It's at 10881, if that just helps 11:19

26 anybody.

27 CHAIRMAN: Thank you.

28 MS. McGRATH: So 10881.

29 MR. KELLY: Just scroll down, Mr. Kavanagh, to see the

1 date on that. Just go down to check the date on the  
2 screen. Right, it's the 8th. Okay. We know that it's  
3 from Mr. Ó Cualáin.  
4  
5 "I refer to the above correspondence." 11:20  
6  
7 Yeah, it's perfectly plain there.  
8 CHAIRMAN: Yes.  
9 77 Q. MR. KELLY:  
10 11:20  
11 "The confidential reporter in this matter has made  
12 serious allegations surrounding Garda activities in the  
13 Athlone district and has named individual gardaí and  
14 management as being complicit in areas of malpractice.  
15 The allegations in the main are made against a serving 11:20  
16 member, Garda A, in the drugs unit Athlone."  
17  
18 He then goes on to say --  
19 CHAIRMAN: Absolutely right, yes.  
20 MR. KELLY: So that's clear. We are clear on that. 11:21  
21 A. Sorry, Chairman, if I may.  
22 78 Q. CHAIRMAN: Yes.  
23 A. And I may be still incorrect.  
24 79 Q. CHAIRMAN: It's okay, yeah. Your understanding was  
25 different from that. 11:21  
26 A. But my understanding remains.  
27 80 Q. CHAIRMAN: Okay.  
28 A. The allegations in the main are made against a serving  
29 member, Garda A, in the drugs unit Athlone station,

1 this is not the member who made the protected  
2 disclosure.

3 CHAIRMAN: Yes.

4 A. That is my reading of this, and remains my reading of  
5 this. 11:21

6 81 Q. MR. KELLY: If it's of any -- I agree with you, I think  
7 that's right, it's not Nick Keogh.

8 A. Yes.

9 82 Q. We're agreed on that.

10 A. That's the point I am making, that this was another 11:21  
11 guard.

12 83 Q. CHAIRMAN: And you also think it wasn't Garda A.

13 A. I'm not quite sure who Garda A is.

14 84 Q. CHAIRMAN: "The allegations in the main", we will get  
15 this sorted out ultimately. Mr. Kelly's question 11:21  
16 really should be directed to Assistant Commissioner Ó  
17 Cualáin. Either this is a request for an investigation  
18 of Garda A or it's a request for an investigation of  
19 another garda, we will call Garda X. Your  
20 understanding was that it was a request for an 11:22  
21 investigation, criminal and disciplinary, in respect of  
22 another garda, Garda X. That was your understanding,  
23 is that correct?

24 A. Yes, I am just not sure --

25 85 Q. CHAIRMAN: No, but what your understanding was and what 11:22  
26 your evidence was yesterday?

27 A. Yes, I believe I knew who Garda A was in this.

28 86 Q. CHAIRMAN: And you knew who Garda X was, did you? It  
29 doesn't matter.

1 MR. KELLY: I have a simple solution. I am going to  
2 pass you a piece of paper.  
3 CHAIRMAN: Yes.

4 87 Q. MR. KELLY: we will pass it over, which just simply has  
5 the name of the person I understand to be Garda A. I 11:22  
6 am not going to ask you to read it out, I am going to  
7 ask you to look at it and see if we are talking about  
8 the same person.  
9 CHAIRMAN: Yes.

10 11:23

11 PAPER HANDED TO THE WITNESS

12

13 A. Yes, that's who I believe we're talking about.

14 88 Q. MR. KELLY: Right, we are all agreed it's Garda A.  
15 CHAIRMAN: Anyway, carry on, Mr. Kelly, and we will 11:23  
16 see, all will become clear in the end.

17 89 Q. MR. KELLY: Yeah. So a year later, he has been  
18 investigating, a year later he comes back and says,  
19 look, I think there is something here against Garda A,  
20 and he wants these two aspects done, is that right? 11:23  
21 A. That's correct, yes.

22 90 Q. Initially when this came through the Commissioner's  
23 office, the 9th May, this was pointed at you making --  
24 and you made a request for a report, we dealt with that  
25 yesterday, you point at him and say, we want a report 11:23  
26 by the 9th June?

27 A. That's correct.

28 91 Q. I think what you said yesterday was that it wasn't that  
29 you were actually expecting it within a month but it



1 was just simply so that it would come up on the system?

2 A. Yes, it was just a reminder, yes.

3 92 Q. How long were you expecting it to take?

4 A. It's difficult with an investigation. Any criminal  
5 investigation is very difficult to put a timeline on 11:24  
6 it. They can be quite complex. This one was quite  
7 complex. It would be unfair of me to put a timeline on  
8 an investigation. I really couldn't. You would  
9 certainly hope it would be done within a year. But,  
10 you know, a smaller investigation could be done within 11:24  
11 a matter of weeks, larger investigations have been  
12 known to carry on for several years.

13 93 Q. How long have you been in the office in total  
14 performing this role?

15 A. I was there since February 2012. 11:24

16 94 Q. Through to what, '17, was it?

17 A. To '16, July '16.

18 95 Q. '16. So you would have seen a range of time it took to  
19 undertake investigations?

20 A. Yes. Sorry, I should say I was previously in the 11:25  
21 office in a different rank a number of years previously  
22 also.

23 96 Q. I see. But what we do in fact know is that this  
24 investigation went on until 11th August '15. That was  
25 when Mr. Ó Cualáin said, look, I will be sending my 11:25  
26 report to the DPP within a month?

27 A. Yes.

28 97 Q. Do you remember that?

29 A. Yes.

1 98 Q. We know from the papers, it's not necessary to call it  
2 up, but I think it is page 10945, that the report from  
3 Mr. Mulcahy went to the DPP on 3rd September 2015.  
4 That is 16 months later, that's right, isn't it?  
5 A. That's correct. 11:25  
6 CHAIRMAN: Are those dates correct? I mean, it's not  
7 vital. I thought the Ó Cualáin report was completed on  
8 24th November 2015. Maybe I am wrong.  
9 MS. McGRATH: That's correct, Chairman.  
10 CHAIRMAN: The dates are not vital. 11:26  
11 MR. KELLY: I hope I am told, Chairman, that are you  
12 right. Okay.  
13 CHAIRMAN: Gratifying. That's gratifying.  
14 MR. KELLY: It was November, the report goes off to the  
15 DPP. That's what, 17 months or thereabouts later, 17 11:26  
16 or 18 months later. I will just ask you a direct,  
17 blunt question: why did it take so long?  
18 A. It's a complex investigation. I can't either defend or  
19 criticise.  
20 99 Q. I know. 11:26  
21 A. It's not for me. I don't know, but it would have been  
22 a very and very complex investigation with a lot of  
23 strands to it and I can well understand how -- I think  
24 we heard in evidence yesterday of how long it took for  
25 the initial statement from Garda Keogh, it took several 11:27  
26 hours. I believe there was a huge number of pages in  
27 it. I haven't seen it, so...  
28 100 Q. I accept entirely your position, you weren't the  
29 investigating officer?

1 A. Yes.

2 101 Q. I was merely asking whether you have any view on it.  
3 You say it was a complex investigation?

4 A. Yes.

5 102 Q. I can explore that elsewhere, that's fine. You will be 11:27  
6 pleased to know that is all the questions I have for  
7 you. Thank you very much.

8 THE WITNESS: Thank you.

9

10 END OF EXAMINATION 11:27

11

12 CHAIRMAN: Thank you very much. Now, Mr. Dignam, have  
13 you any questions?

14 MR. DIGNAM: Yes, Chairman, I just have a few brief  
15 areas I want to cover. 11:27

16 CHAIRMAN: That is all right, no problem, I am just  
17 checking.

18 MR. DIGNAM: Thank you, Chairman.

19

20 DETECTIVE SUPERINTENDENT FRANK WALSH WAS EXAMINED BY 11:27  
21 MR. DIGNAM, AS FOLLOWS:

22

23 103 Q. MR. DIGNAM: Detective Superintendent walsh, just in  
24 relation to, you were asked a number of questions about  
25 the interpretation of the policy that was opened up 11:28  
26 yesterday. I think Ms. McGrath brought you back to  
27 that this morning, to point out that it appears that  
28 that was a 2017 policy?

29 A. Yes.

1 104 Q. You finished, as you just told Mr. Kelly there, you  
2 finished in the Commissioner's office in 2016; is that  
3 right?

4 A. That's correct, July '16.

5 105 Q. Can I take it that that was the end of your dealings 11:28  
6 with the confidential reporting or protected  
7 disclosures?

8 A. That's correct.

9 106 Q. You were asked then in that context about formal 11:28  
10 feedback mechanisms and those questions were put to you  
11 by Mr. Kelly in the context of the framework of that  
12 2017 policy?

13 A. That's correct.

14 107 Q. But if I can just ask you about your understanding of 11:28  
15 what feedback was going on with Garda Keogh during the  
16 course of this investigation and when doing that, I  
17 also want to ask you about what information you had in  
18 relation to Garda Keogh's welfare being looked after  
19 and what updates you were getting in relation to the  
20 investigation. Now, that's a long way of introducing a 11:29  
21 topic, detective superintendent. But firstly, was it  
22 your understanding that that the investigation team  
23 that had been appointed i.e. headed up by Assistant  
24 Commissioner Ó Cualáin, were in contact with Garda  
25 Keogh during the course of your investigation? 11:29

26 A. Yes.

27 108 Q. Was it your understanding that they were attending to  
28 his welfare? Is that your understanding?

29 A. Yes, it was.

1 109 Q. And was it your understanding that they were giving  
2 updates in relation to where the investigation stood at  
3 particular points in time?  
4 A. Yes, that's correct.

5 110 Q. Now, I don't want to open up the documents to any great 11:29  
6 length, detective superintendent, but if I could just  
7 ask Mr. Kavanagh to open the document at page 10797.  
8 This is a letter from Assistant Commissioner Ó Cualáin  
9 to you, dated, I think it's either the 10th or 16th  
10 June, I think it's probably 16th June 2014. This 11:30  
11 appears to be the first update that the Commissioner's  
12 office through to you received in relation to the  
13 investigation; is that right?  
14 A. Yes.

15 111 Q. Yes. And at the end of that, at the bottom of the last 11:30  
16 paragraph, there is a sentence:  
17  
18 "During the course of interview the confidential  
19 reporter was advised of the services available from the  
20 employment assistance officer." 11:31  
21 A. That's correct.

22 112 Q. You remember seeing that?  
23 A. Yes.

24 113 Q. Can we take it then that that was your understanding of  
25 the interaction between the investigation team and 11:31  
26 Garda Keogh in relation to his welfare at that stage?  
27 A. That's correct, yes.

28 114 Q. If I can then ask you to go, Mr. Kavanagh, to open page  
29 10827. The Chairman saw all of these yesterday, so I

1 am not going to go into them in any detail, chief  
2 superintendent. The document at page 10827 is a letter  
3 from you to Assistant Commissioner Ó Cualáin dated 27th  
4 November 2014. It seems to have followed on from a  
5 newspaper article which appeared in the Daily Mirror in 11:31  
6 which Garda Keogh appears to have been recorded as  
7 making some complaints or raising concerns. You, in  
8 the middle paragraph, asked, or stated that:

9  
10 "The Commissioner directs that immediate contact is 11:32  
11 made with Garda Keogh to establish the problems he is  
12 experiencing. He should be reassured that he will not  
13 be subject to any form of harassment and will be  
14 treated with dignity and respect in the workplace.

15 11:32  
16 It is noted from the previous update, supplied 16th  
17 June 2014, that Garda Keogh was advised of the services  
18 of the employment assistance officers."

19  
20 That last sentence there is a reference back to the 11:32  
21 update that you got on the 16th June?

22 A. That's correct.

23 115 Q. Can I just ask you about that middle paragraph?

24 Firstly, can the Chairman take it that obviously An  
25 Garda Síochána is a hierarchical structure, where 11:32  
26 directions are issued and the actions that are directed  
27 are performed by people down the line, is that correct?

28 A. That's correct, yes.

29 116 Q. Where it's recorded that the Commissioner directs that

1 immediate contact is made with Garda Keogh, can I take  
2 it that's a direction, as it says, of the Commissioner  
3 to the investigation team headed by Assistant  
4 Commissioner Ó Cualáin that contact be made with Garda  
5 Keogh to explore the issues that featured in the 11:33  
6 article and to ask in relation to his -- to reassure  
7 him in relation to his welfare and dignity?

8 A. That's correct.

9 117 Q. Can I then ask you to look at page 10836. So your  
10 letter that I just opened is 27th November 2014, the 11:33  
11 document at 10836, you wouldn't have been aware, I take  
12 it, at the time, but you have probably seen it in the  
13 Tribunal papers, which is a note from the assistant  
14 commissioner to Detective Superintendent Mulcahy,  
15 bringing your correspondence to Detective 11:34  
16 Superintendent Mulcahy's attention and directing that  
17 the actions which were directed by the Commissioner be  
18 carried out by Detective Superintendent Mulcahy. Then,  
19 at page 10832 is a letter or a report of 12th December  
20 2014, again which you probably didn't see at the time, 11:34  
21 which is Detective Superintendent Mulcahy's report back  
22 to the assistant commissioner on foot of the direction  
23 which was issued. Then could I bring you up to a  
24 document which you received, which is the document at  
25 10834. 11:34  
26

27 Now, this is a letter from the assistant commissioner  
28 to you and it refers back to your memo or letter of the  
29 27th November and Assistant Commissioner Ó Cualáin

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says:

"I wish to confirm that Detective Superintendent Mulcahy accompanied by detective Inspector Coppinger met the confidential reporter as directed by the Commissioner."

11:35

The Chairman will hear evidence from both of those gentlemen later on today or tomorrow and they can deal with the actual substance of the conversation. But it records:

11:35

"The confidential reporter stated that he had issues with this investigation and was satisfied with progress. He further indicated that he felt he was harassed by senior management in Mullingar for the following reasons."

11:35

It sets out the three reasons. Then it goes on to say:

"The confidential reporter has stated that he lodged a complaint with GSOC in respect of that alleged harassment. He was of the understanding that GSOC will investigate this aspect of his complaint on the termination/conclusion of this investigation. He was assured that the current investigation will proceed to determine an outcome to his allegations and that he would be treated with dignity and respect in this determination. He was also informed that if he felt he

11:35

11:35



1 was being harassed to report the matter immediately."

2

3 Now, is that the action, your understanding, is that  
4 the action that was being directed on 27th November  
5 2014?

11:36

6 A. Yes, it is.

7 118 Q. And when you received that, were you satisfied that the  
8 action which had been directed by the Commissioner  
9 through your report had been implemented or carried  
10 out?

11:36

11 A. Yes.

12 119 Q. Now, if I could then ask you just to turn briefly to  
13 the document at page 10851. This is a report of the  
14 1st April 2015, so now we have moved on four months,  
15 from Assistant Commissioner Ó Cualáin to you. It  
16 arrived on the same day. In fact, it's dated the same  
17 day as a report which gave an update of the actual  
18 investigative steps that are taken, but this document  
19 deals with the interactions with the investigation team  
20 and Garda Keogh in relation to welfare. You will see  
21 in the second paragraph -- first of all, do you  
22 remember receiving this letter?

11:36

11:37

23 A. I do, yes.

24 120 Q. You will see in the second paragraph:

25

11:37

26 "By way of additional information, I wish to inform you  
27 that Detective Superintendent Mulcahy has been in  
28 regular contact with the confidential reporter both in  
29 person and on the phone. During all of these meetings

1 and conversations with Detective Superintendent Mulcahy  
2 has enquired about the confidential reporter's welfare  
3 and made him aware of all the services available to  
4 him, if required. The confidential reporter has  
5 consistently indicated that he does not want to engage 11:37  
6 with any welfare services offered by An Garda  
7 Síochána. "

8  
9 Now, in the final paragraph then Assistant Commissioner  
10 Ó Cualáin states: 11:38

11  
12 "With the investigation ongoing and further  
13 communications expected between Detective  
14 Superintendent Mulcahy and the confidential reporter, I  
15 have instructed Detective Superintendent Mulcahy to 11:38  
16 ensure that any welfare issues highlighted will be  
17 communicated to local management for attention, as  
18 appropriate. "

19  
20 So you remember receiving that letter. When you 11:38  
21 received that, did you consider that the investigation  
22 team were engaged with Garda Keogh in relation to  
23 welfare issues and attending to any welfare concerns  
24 that he might have?

25 A. That would be my reading of that, yes. 11:38

26 121 Q. Could I then ask you just to turn on a few pages, to  
27 page 10859. This is your letter back to the assistant  
28 commissioner. You seem to be -- on behalf of the  
29 Commissioner's office, seem to be satisfied that

1 welfare issues were being attended to as between the  
2 investigation team and Garda Keogh, is that right?

3 A. That's correct, yes.

4 122 Q. Yes. And I think that's reflected, we don't need to  
5 open it, but you wrote on the same day I think, at page 11:39  
6 10860 and 10883, to GSOC and the Secretary General of  
7 the Department of Justice --

8 A. That's correct.

9 123 Q. -- in similar terms in relation to Garda Keogh's  
10 interactions with the investigation team? 11:39

11 A. That's correct.

12 124 Q. Now, can the Chairman take it, detective  
13 superintendent, that at that stage your understanding  
14 was that the investigation team, through Detective  
15 Superintendent Mulcahy, were in contact with Garda 11:40  
16 Keogh and were ensuring and asking him about his  
17 welfare and ensuring that his welfare was being looked  
18 after and that Garda Keogh was declining the services  
19 of the employment assistance?

20 A. That was our understanding at that time, yes. 11:40

21 125 Q. Yes. I think you didn't know at that stage but you  
22 came to know later that in fact Garda Keogh then had a  
23 change of heart in or around April 2015 and sought the  
24 assistance of the employment assistance scheme, is that  
25 right? 11:40

26 A. That's correct.

27 126 Q. If I can just then finally ask you to look at page  
28 10945. It's a short covering letter from Assistant  
29 Commissioner Ó Cualáin dated 3rd September 2015, but

1 forwarding to you a detailed report of Detective  
2 Superintendent Mulcahy. This is a two-page report, I  
3 don't propose to open it fully, detective  
4 superintendent. But, do you remember receiving that  
5 report from Assistant Commissioner Ó Cualáin?

11:41

6 A. Yes.

7 127 Q. That sets out, isn't it correct to say, that that sets  
8 out the details of the interactions and engagement  
9 between Detective Superintendent Mulcahy on behalf of  
10 the investigation team and Garda Keogh about his  
11 welfare?

11:41

12 A. Correct.

13 128 Q. Yes. In fact, that brought your information up-to-date  
14 in that over on the second page, on 10947, on the  
15 second paragraph, Detective Superintendent Mulcahy  
16 writes:

11:42

17  
18 "On the morning of 21st April 2015 I received a further  
19 text message from the confidential reporter which read  
20 'superintendent, I will accept welfare if you are still  
21 offering'. I returned a text message to him stating I  
22 would call him later and at 9:42 hours I called him.  
23 In my opinion the reporter was once again under the  
24 influence of an intoxicant. I again discussed this  
25 welfare status with him and conveyed my concerns to  
26 him. He then agreed that I make contact with the  
27 welfare services on his behalf. I subsequently called  
28 Garda Morgan Landy, welfare officer, southern region,  
29 on the confidential reporter's behalf. I outlined the

11:42

11:42

1 background of my request and Garda Landy agreed to make  
2 contact with the confidential reporter."

3  
4 Then he goes on to say that he informed the  
5 confidential reporter and Garda Keogh of that, that he 11:42  
6 then -- detective Superintendent Mulcahy called  
7 Sergeant Claire Malone of the Garda welfare service and  
8 made an official referral to her and then he  
9 understands that Garda Michael Quinn, whom the Chairman  
10 has heard from in evidence, was assigned to deal with 11:43  
11 the referral, and then Garda Keogh and Garda Quinn had  
12 a close welfare relationship, lasting a considerable  
13 period of time. Is that your understanding?

14 A. Yes.

15 129 Q. Now, taking all of that, Detective Superintendent 11:43  
16 Walsh, were you satisfied that the issue of welfare  
17 that had been directed by the Commissioner to be  
18 attended to was being looked after by the investigation  
19 team?

20 A. Yes, yeah. Sorry, I should probably say, it wasn't for 11:43  
21 me to be satisfied.

22 130 Q. No, I appreciate that?

23 A. I was merely the conduit, informing the Commissioner of  
24 progress updates.

25 131 Q. I take that point, but when you were receiving these 11:43  
26 reports had you cause to raise any concerns about  
27 whether or not the Commissioner's directions were being  
28 implemented?

29 A. No, I hadn't.

1 132 Q. Thank you.

2

3

END OF EXAMINATION

4

5 CHAIRMAN: Very good. Anybody else? Now, Ms. McGrath. 11:44

6 MS. McGRATH: I just want to clarify one or two matters  
7 with the detective superintendent.

8

CHAIRMAN: Yes.

9

10 DETECTIVE SUPERINTENDENT FRANK WALSH WAS RE-EXAMINED BY 11:44

11 MS. McGRATH, AS FOLLOWS:

12

13 133 Q. MS. McGRATH: Just in relation to an issue that was  
14 raised by Mr. Kelly there in relation to the period of  
15 the gap. Can I just ask you to just look -- I want to 11:44  
16 clarify this to assist the Chairman. The regulations  
17 there are at 7858, Mr. Kavanagh. This is the 2007  
18 regulations. So you see there, it's the confidential  
19 reporting of corruption or malpractice in 2007. Now,  
20 can I ask then, the next document to go to -- and we 11:44  
21 saw that yesterday, isn't that right?

22 A. Yes.

23 134 Q. The next document, I want to follow a sequence and see  
24 if we can clarify this, at 7843 please, Mr. Kavanagh.  
25 Now, this is an HQ directive, 105/2008, and it's dated 11:45  
26 4th July 2008. If you can just look at the section in  
27 bold there:

28

29 "Section 124 of An Garda Síochána Act 2005..."

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Now that's just a general provision which allows the Minister to make regulations; isn't that right?

A. That's correct.

135 Q. Okay.

11:45

"The Garda Síochána confidential reporting of corruption and malpractice regulations 2007 and the confidential reporting charter."

11:45

And it says:

"With the approval of the Minister for Justice, Equality and Law Reform, the Commissioner has established a confidential reporting charter. It is established in order to provide guidelines and mechanisms and members of civilian staff of An Garda Síochána to report in confidence allegations of corruption or malpractice within An Garda Síochána.

11:45

The charter has been developed in line with the Garda policy of encouraging ethical behaviour within An Garda Síochána and in compliance with the Garda Síochána reporting regulations of 2007."

11:45

It goes on in the next paragraph, in bold, the second line there:

11:45

"The aim of the charter is to create an environment in

1 which members and civilian staff members are encouraged  
2 to report incidents of corruption or malpractice."

3  
4 Okay. So that's the HQ Directive that came down. Then  
5 we saw the charter, it is actually the following page, 11:46  
6 Mr. Kavanagh, if you can go on. This is the charter.  
7 It says at the bottom in the box, it says:

8  
9 "It is established in accordance with section 124 of  
10 the Garda Síochána Acts 2005-2007 and the Garda 11:46  
11 Síochána regulations 2007."

12  
13 That is confirmed on the next page by the then  
14 Commissioner Murphy at 7845. It has been developed in  
15 line with Garda policy. He goes on to say in the 11:46  
16 middle of the paragraph:

17  
18 "And in compliance with the 2007 regulations."

19  
20 Now, to clarify this then, on 8th May 2007, that was 11:46  
21 the structure that was in existence, isn't that right?

22 A. That's correct.

23 136 Q. Okay. Now we also know that the Protected Disclosures  
24 Act of 2014 commenced on 15th July 2014?

25 A. Correct. 11:47

26 137 Q. Okay. Would you be aware, just having looked it up to  
27 confirm this position, under section 19(2) of the Act,  
28 the regulations were revoked, the 2007 regulations were  
29 expressly revoked?



1 A. That's correct.

2 138 Q. Were you aware of that?

3 A. Yes.

4 139 Q. Now, in the light of the revocation of the regulations,  
5 now they can be dealt with in legal submissions, what 11:47  
6 impact that has on the charter, did the Commissioner's  
7 office issue any kind of direction in relation to what  
8 was now going to be the charter or whether the charter  
9 was to continue or what framework was continuing in  
10 this intern period? 11:47

11 A. No, I don't believe there was any instruction issued.  
12 There was a group set up to produce a new charter,  
13 because I was asked for input on that at that  
14 particular time. I don't know the date, but it was  
15 around the time that the new legislation came into 11:47  
16 being.

17 140 Q. Okay. So to your knowledge did any direction come out  
18 of the Commissioner's office in respect of the old  
19 charter or the position of the old charter or what was  
20 going to be the position in the interim, before there 11:48  
21 was a new policy?

22 A. From a policy perspective, I don't believe so. I think  
23 Judge McMahon mentioned yesterday that he had been in  
24 contact with the office and he wanted his name to be  
25 put on any documentation. So something would have gone 11:48  
26 out in relation to Judge McMahon being the -- possibly  
27 that's before the dates we're talking about, but that's  
28 the only thing I can remember that may have gone out  
29 from the Commissioner's office in relation to the

1 confidential reporting.

2 141 Q. So do you think Mr. Kelly might have been correct when  
3 he put it to you that there was a gap then in the  
4 process then at this stage, a gap in the framework for  
5 these mechanisms? 11:48

6 A. Well, certainly the charter, that was my concern when I  
7 was giving evidence yesterday, to see was there a date  
8 on the new charter, because I think there certainly was  
9 a gap as far as the charter was concerned. But we were  
10 very cognisant of the fact that the new legislation was 11:49  
11 in being and with the protocols outlined in the old  
12 charter and taking cognisance of the new legislation,  
13 that's how we proceeded with any reports that we got in  
14 the interim.

15 142 Q. We just haven't seen it in the disclosure papers, but 11:49  
16 did any direction to this effect go out to Assistant  
17 Commissioner Ó Cualáin?

18 A. I don't believe so.

19 143 Q. Just again, I just had a look there, an issue arose as  
20 to when, first of all, Chief Superintendent McLoughlin 11:49  
21 came on board as the protected disclosures manager. I  
22 think that there's a statement from Mr. Alan Mulligan  
23 from HRM at page 3831 of the book and he says that he  
24 and Tony McLoughlin came on board as protected  
25 disclosures managers in May 2016. would you have any 11:49  
26 reason to dispute that? So that is some time later,  
27 May 2016.

28 A. No, I did say I couldn't recall the day. I did think  
29 there were -- well, I thought Tony McLoughlin was

1 appointed. Now that you mention it, I remember Alan  
2 Mulligan also, yes.

3 144 Q. In May 2016?

4 A. Again, I don't remember the date, but I accept that  
5 that's what he says, that's right. 11:50

6 145 Q. Okay. Then it would appear and also just listening to  
7 my Friend there this morning and our instructions, it  
8 would appear then the policy under the new Act does in  
9 the appear until early 2017, is that right?

10 A. I am only going on the dates that I am told this 11:50  
11 morning. I tried to find a date myself this morning  
12 for it but I couldn't. But I accept if it is dated  
13 '17, that is when it came out, yes.

14 146 Q. Okay. But you were gone from your position at that  
15 stage, isn't that right? 11:50

16 A. I was gone.

17 147 Q. Thank you, detective superintendent.

18

19 END OF EXAMINATION

20

21 CHAIRMAN: Thank you very much, detective  
22 superintendent. You are free to go. Thank you very  
23 much. 11:50

24

25 THE WITNESS THEN WITHDREW 11:51

26

27 MR. McGUINESS: The next witness, Chairman, is  
28 Detective Inspector Coppinger.

29 CHAIRMAN: Thanks very much.

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DETECTIVE INSPECTOR MICHAEL COPPINGER, HAVING BEEN  
SWORN, WAS DIRECTLY-EXAMINED BY MR. MCGUINNESS, AS  
FOLLOWS:

11:51

148 Q. THE WITNESS: Detective Inspector Michael Coppinger,  
Galway.

CHAIRMAN: Thanks. Sit down, you're welcome, detective  
inspector.

149 Q. MR. MCGUINNESS: Detective inspector could you just  
outline your career to date to the Chairman?

11:51

A. Chairman, I joined An Garda Síochána in May 1984, and  
after my initial period of training I was allocated to  
Dun Laoghaire in South County Dublin. While in Dun  
Laoghaire, I spent my time there in service in both  
uniform, general uniform duties and, indeed, protection  
duties. We had a number of High Court Judges sitting  
there at the time, including on the Special Criminal  
Court and we also did some protection on those static  
posts. After about four years there I was seconded to  
the detective branch as an aid to the detective branch  
and then after a number of years there, seven in total,  
I applied for and was successful in getting a posting  
to what was then the Central Detective Unit or the  
Serious Crime Squad in Harcourt Square. That would  
later become the National Bureau of Criminal  
Investigation. I spent seven years there investigating  
murders and robberies around the city here in Dublin.  
I was then promoted back into uniform. I am from

11:52

11:52

11:52

1 Galway, an opportunity arose and I went back to Galway,  
2 initially to Gort and then into the units in Mill  
3 Street. After sometime there I applied for a position  
4 as detective sergeant and again I was successful and I  
5 was a detective sergeant in Galway for a number of 11:53  
6 years, until I was promoted again to inspector and I  
7 went on promotion to Letterkenny in County Donegal.  
8 Then returned to Galway and I --

9 150 Q. What year was that, that you returned to Galway?  
10 CHAIRMAN: Approximate. Don't worry, the dates are 11:53  
11 not --

12 A. I'm approximately 13 years promoted inspector.

13 151 Q. CHAIRMAN: Okay. If you don't remember, the dates --  
14 A. I don't remember the exact date.  
15 CHAIRMAN: We have it written down. So won't worry. 11:53  
16 Just give us your own picture, if you like.

17 A. Yeah.

18 152 Q. CHAIRMAN: A word picture of your career to date, if  
19 you like.

20 A. Indeed. 11:53

21 153 Q. CHAIRMAN: Just in broad terms. So you were in Donegal  
22 as an inspector.

23 A. A uniform inspector.

24 154 Q. CHAIRMAN: A uniform inspector.  
25 A. Indeed. I returned after about a year from Donegal, I 11:53  
26 was then a inform inspector in Galway, presenting in  
27 the District Court and supervision of the units. For  
28 the last number of years, approximately six years, I  
29 have been the detective inspector in Galway.

1 155 Q. CHAIRMAN: And you are still serving?  
2 A. I am still serving.  
3 CHAIRMAN: Thank you.  
4 156 Q. MR. MCGUINNESS: when you moved back to Galway, who was  
5 your divisional or district superintendent there? 11:54  
6 A. The district superintendent when I came back from  
7 Galway, there was some change, we had Superintendent  
8 Martin Lee and Donal Ó Cualáin would have been the  
9 chief superintendent.  
10 157 Q. Did he become the assistant commissioner for the region 11:54  
11 then while you were there?  
12 A. He was later promoted and he was assistant commissioner  
13 for the region, yes.  
14 158 Q. And was he based in Galway?  
15 A. He was based in Galway. 11:54  
16 159 Q. Did you have any dealings with Superintendent Patrick  
17 Murray?  
18 A. I would have known Superintendent Murray, in that he  
19 was the district officer in Gort, but I never was in  
20 Gort when he was there, other than I knew he was the 11:55  
21 superintendent there.  
22 160 Q. Did you have any dealings with him?  
23 A. I was involved in one investigation where I was the  
24 SIO, an investigation in relation to a person who had  
25 reported that he had been kidnapped and went missing 11:55  
26 and we investigated that matter and it turned out to be  
27 a false report.  
28 161 Q. Yes. Did you know Superintendent McBrien or Chief  
29 Superintendent Curran? Did you have any dealings with

1 those?

2 A. Other than Superintendent McBrien, I met her during the  
3 investigation that is currently the subject of this  
4 Tribunal.

5 162 Q. Yes. And any dealings with Chief Superintendent 11:55  
6 Curran?

7 A. Chief Superintendent Curran, I would know, he was the  
8 chief superintendent in Ennis, yeah.

9 163 Q. You were appointed, in any event, by Assistant 11:55  
10 Commissioner Ó Cualáin to assist in conducting an  
11 investigation that he had been appointed to?

12 A. That's correct, Chairman, yes.

13 164 Q. Is that correct? Could you just look at your letter of  
14 appointment at page 3973? That's headed down to you  
15 and Detective Superintendent Mulcahy. It's dated the 11:56  
16 15th May. What was the next thing that occurred in the  
17 investigation then?

18 A. Well, we approached it like we would approach any  
19 investigation, criminal investigation. In that, we  
20 caused an incident room to be set up and when you set 11:56  
21 up an incident room you appoint an IRC and you get an  
22 IRC, an incident room coordinator. We would have  
23 spoken with the assistant commissioner and we sought  
24 further input in relation to that. We would have  
25 looked Henry Burke, Detective Garda Henry Burke was the 11:56  
26 incident room coordinator, and other individuals to  
27 carry out inquiries.

28 165 Q. Detective Superintendent Mulcahy says in his statement  
29 that the assistant commissioner briefed him and you on

1 that investigation, do you recall that briefing?  
2 A. I recall Assistant Commissioner Ó Cualáin and Detective  
3 Superintendent Mulcahy relating a meeting they had with  
4 the confidential reporter and the concerns that he had  
5 outlined. I was not present at that meeting, I 11:57  
6 understood it took place in Portumna Garda station.  
7 166 Q. Perhaps I misunderstood the detective superintendent's  
8 statement, but he says in his statement that:  
9  
10 "On 15th May 2014 Assistant Commissioner Ó Cualáin 11:57  
11 briefed both I and Inspector Michael Coppinger on the  
12 facts surrounding this report."  
13  
14 So that would appear, if he is correct, to be on the  
15 day that he made your appointment, that he briefed both 11:58  
16 of you on the facts surrounding the report of the  
17 confidential reporter; is that correct?  
18 A. I would say it probably is. We would have had many  
19 meetings over the course of the investigation with  
20 Assistant Commissioner Ó Cualáin in relation to his 11:58  
21 guidance and the progression of the investigation.  
22 167 Q. Well, do you recall such a meeting where you were  
23 briefed?  
24 A. I don't recall it in particular but I do recall -- I do  
25 recall many conferences where the assistant 11:58  
26 commissioner would have attended and the team would  
27 have met.  
28 168 Q. Yes. Superintendent Mulcahy's notes for the 15th May  
29 are to be found at page 11309. It seems to record



1           there at the bottom of the page:

2

3           "Met with AC Ó Cualáin and Detective Inspector Mick  
4           Coppinger re whistleblower Nicholas Keogh. Report  
5           required by the 6th June." 11:59

6

7           So does that help you recall?

8           A. I don't recall where the location was.

9   169   Q. It's most likely to have been in Galway?

10          A. Most likely, yes. 11:59

11   170   Q. But he is obviously cognisant, it would seem, of the  
12          date that the Commissioner had fixed for the receipt of  
13          a report by her, which was the 9th June, he is  
14          requiring you then to report by 6th June to him?

15          A. That would appear from his note, yes. 11:59

16   171   Q. The next entry in his notes is on the following page,  
17          at 11310, 23/5/14:

18

19          "Conference Oranmore re whistleblower Nicholas Keogh." 11:59

20

21          Presumably that would have been with the team of the  
22          assisting...

23          A. Yes. The incident room to coordinate the investigation  
24          was set up in Oranmore Garda station for a number of  
25          reasons. One, there was actual space and it was, I 11:59  
26          suppose, confidential in that we would meet there and  
27          nobody needed to know why we were there. It was  
28          convenient for the team, rather than bringing everybody  
29          into the city.

1 172 Q. Okay. You did refer there a few moments ago to a  
2 meeting that the assistant commissioner had with the  
3 whistleblower Garda Keogh, isn't that correct?  
4 A. I have a memory of being briefed in relation to that  
5 meeting, yeah. 12:00

6 173 Q. But that's not one that you attended?  
7 A. No.

8 174 Q. Is that the meeting of the 7th June?  
9 A. That's correct. I was not at that meeting. I met  
10 Garda Keogh, to the best of my recollection, on four 12:00  
11 occasions and until I met him yesterday morning, I  
12 haven't met him since.

13 175 Q. Had you been kept informed that such a meeting had been  
14 arranged prior to it taking place?  
15 A. I'm not sure of the exact sequence, but I knew that 12:00  
16 there was arrangements made to meet him and to enquire  
17 into exactly what his issues were.

18 176 Q. Yes. Is there any reason that you know of why you  
19 weren't attending at that meeting?  
20 A. I don't know. 12:01

21 177 Q. Detective Superintendent Mulcahy notes a conference on  
22 the 10th June and then a visit to Athlone and speaking  
23 to Garda Keogh and made arrangements for an  
24 interview/statement on wednesday, 11/6/14 in Tullamore.  
25 You then attended at Garda Keogh's house on the next 12:01  
26 day, isn't that correct?  
27 A. I did, with Detective Superintendent Mulcahy, that's  
28 correct, at his home in Tullamore, yes.

29 178 Q. I think you recorded the statement that he made in

1 connection with that, which took place over a number of  
2 days, isn't that correct?

3 A. That's correct. I took down his statement outlining  
4 the issues that he wished to have investigated or  
5 complained of in writing. It took all of three days, 12:02  
6 initially at his home in Tullamore and later in  
7 Oranmore Garda station.

8 179 Q. Yes. Now, Detective Superintendent Mulcahy had noted  
9 in his diary for the 10th that he had made a request  
10 for the seizure of the mobile phone allocated to Garda 12:02  
11 A. Were you aware of that on the 10th June?

12 A. I was.

13 180 Q. How did you become aware of that?

14 A. Obviously following our discussions it was apparent  
15 that the phone, particularly this phone, was the phone 12:02  
16 being used by Garda A and it was also a phone used by  
17 the drug unit. It was clearly a priority to get  
18 possession of that phone.

19 181 Q. Yes. It would appear, however, that Detective  
20 Superintendent Mulcahy had to go to Athlone on the 13th 12:03  
21 to seize the phone and the notebook. I think you  
22 accompanied him?

23 A. I recall the day, yes, I was with him, yeah.

24 182 Q. Just going back to the course of the taking of the  
25 statement from Garda Keogh. I think he provided you 12:03  
26 with material, including a warrant and information,  
27 notes of interview, a statement of notes that he had  
28 made in relation to an account given by another person,  
29 isn't that correct?

1 A. That's correct. I think you're referring to his  
2 meeting in Galway.

3 183 Q. Yes.

4 A. With a particular witness.

5 184 Q. We are not naming the person, obviously. 12:03

6 A. Yes.

7 185 Q. You handed those exhibits to Garda Walsh?

8 A. That's correct, he was another one of the team, which  
9 is essential in any investigation; you appoint an  
10 exhibits officer to maintain continuity of exhibits. 12:03

11 186 Q. So you resume the taking of the statement on the 13th  
12 and on the 18th and it was concluded on that date?

13 A. That's correct.

14 187 Q. Is it correct then that you only met Garda Keogh on one  
15 further occasion? 12:04

16 A. I recall myself and Detective Superintendent Mulcahy  
17 met him one evening in the interview room under the  
18 archway in Ballinasloe Garda station.

19 188 Q. Was that in December for the purpose of taking further  
20 statement? 12:04

21 A. I believe there were a number of reasons that we met  
22 him on that occasion. I think one was in relation to,  
23 he had some notes from John of God's I think that he  
24 was to hand over and also there were a few issues that  
25 required clarification with him. 12:04

26 189 Q. Garda Keogh has recorded in his diary a number of  
27 concerns that he had during the course of the  
28 investigation that you were involved in. Were you made  
29 aware of those concerns?

1 A. During the progress of this investigation, Assistant  
2 Commissioner Ó Cualáin was very, very clear in his  
3 direction to us that Detective Superintendent Mulcahy  
4 would be appointed as a single point of contact and all  
5 contact with Garda Keogh was through the detective 12:05  
6 superintendent.

7 190 Q. So is it the position that at no stage did Garda Keogh  
8 write to you or phone you or vice versa, you never  
9 wrote to him or phoned him?

10 A. Yes, as I already stated in my evidence, I met Garda 12:05  
11 Keogh on four occasions; three in relation to taking  
12 the statement, the fourth occasion was in Ballinasloe  
13 and I met him yesterday morning. Other than that, I  
14 have never spoken to Garda Keogh.

15 191 Q. Can I just ask you to look at a number of letters that 12:05  
16 Garda Keogh wrote to Detective Superintendent Mulcahy,  
17 which expressed his concern about a number of different  
18 matters. The first one is dated the 6th August, it's  
19 to be found at page 324 of the Tribunal's papers.  
20 Obviously this is addressed to Detective Superintendent 12:06  
21 Mulcahy. Do you recall seeing that letter?

22 A. I do recall seeing it and particularly later on when  
23 myself and the incident coordinator were putting the  
24 file together for the director, we would have gone  
25 through all the papers. 12:06

26 192 Q. Yes. But it raised an issue about the reluctance of  
27 witnesses to come forward to make statements, in  
28 particular where Garda A was on duty and not suspended.  
29 Was that something that Detective Superintendent

1 Mulcahy discussed with you?

2 A. I do recall, I do recall that concern being raised and  
3 I remember it being addressed at a conference and the  
4 direction I recall was that where possible, where at  
5 all possible statements would not be taken in a Garda 12:07  
6 station. But that was not always possible.

7 193 Q. Well, it would appear that that letter gave rise to a  
8 meeting with Garda Keogh. That's not a meeting that  
9 you attended?

10 A. No. 12:07

11 194 Q. On the 13th August?

12 A. No.

13 195 Q. There is a subsequent letter to be found at page 325 of  
14 the papers, dated the 7th September. Again it's  
15 addressed to Detective Superintendent Mulcahy and he 12:07  
16 says:

17

18 "I have not heard anything from yourself or AC  
19 Ó Cualáin since our last meeting. I am wondering if  
20 there has been any progress with the investigation. I 12:08  
21 ask if at all possible that the mobile phone records in  
22 particular from the period 2008-2010 be obtained as  
23 soon as possible as I believe much progress will be  
24 made and valuable information obtained and it should  
25 get together all the circumstantial evidence." 12:08  
26

27 Do you recall saying that?

28 A. As I said earlier, I do recall seeing the letters, they  
29 weren't addressed to me but I do recall seeing them

1 later when we were putting the file together for the  
2 Director.

3 196 Q. You had caused the phone that Garda A had had in his  
4 possession to be seized?

5 A. That's correct. 12:08

6 197 Q. And you had handed that over?

7 A. That's correct. It was handed over to the exhibits  
8 officer, Garda Barry Walsh. Garda Barry Walsh was also  
9 a telephone liaison officer. In other words, he was  
10 trained in the downloading of data from phones. 12:09

11 198 Q. Yes. Superintendent Mulcahy in his statement has  
12 confirmed that a contact name, which was a shortened  
13 name for a person who we're referring to as Ms. B, was  
14 not in the contacts list on that phone?

15 A. I am aware who you are referring to. 12:09

16 199 Q. Yes.

17 A. And that is the position.

18 200 Q. Yes. But Garda Keogh in his evidence has stated that  
19 he was told that the phone had been wiped, that there  
20 were no contacts on it; is that correct? 12:09

21 A. To my knowledge that's not correct, there was data on  
22 the phone, yes.

23 201 Q. Counsel for the Commissioner and Superintendent Mulcahy  
24 put it to him that there were numerous contacts on the  
25 phone and denied that he, Superintendent Mulcahy, had  
26 ever said it had been wiped to Garda Keogh. Did you  
27 ever hear any reference to the phone being wiped? 12:09

28 A. I didn't. I didn't hear that kind of language and I  
29 don't think it is possible for the TLO to be able to

1 say that a phone is actually wiped. He can only say  
2 what's on it or what he downloaded. From my  
3 understanding there was still data on the phone.

4 202 Q. I think you took a number of investigative steps that  
5 are recorded in your statements that are appended to 12:10  
6 your statement to the Tribunal, isn't that correct?

7 A. That's correct. Those are the statements I would have  
8 made for the purposes of the preparation of the file  
9 for director, which was sent to the director and later  
10 to GSOC. 12:10

11 203 Q. They're contemporaneous statements during the course of  
12 the investigation, isn't that correct?

13 A. Correct.

14 204 Q. Amongst them are a record of your attempts to speak to  
15 Ms. B and obtain a statement from her, isn't that 12:10  
16 correct?

17 A. That's absolutely correct, yes.

18 205 Q. It would appear, subject to what you may say, that the  
19 first attempt made was in April of 2015?

20 A. Correct, yes. 12:11

21 206 Q. Is there any reason why that was the first occasion  
22 when a step was taken to obtain a statement from Ms. B?

23 A. Well, clearly we were carrying out our inquiries and  
24 clearly she was identified as a potential witness which  
25 could assist the investigation. So our inquiries led 12:11  
26 us to her during the course of investigation and that's  
27 when we deemed it prudent to approach her.

28 207 Q. Yes. All of those efforts at that point in time appear  
29 to have been concentrated in the month of April 2015?



1 A. Yes, correct.

2 208 Q. I think summarising the outcome, it didn't prove  
3 possible to meet her and obtain a statement from her;  
4 isn't that correct?

5 A. I would say, to say the least, she was uncooperative. 12:12

6 209 Q. It would appear at the same time that you were  
7 intending to take statement from Garda A. Were those  
8 two actions being coordinated at that point in time?

9 A. It was never our intention to, as you say, take a  
10 statement off Garda A, it was our intention to 12:12  
11 interview him.

12 210 Q. Yes.

13 A. Which is a very different matter.

14 211 Q. Yes. Garda Keogh, I think you will be aware, has been  
15 critical of the conduct of the investigation in a 12:12  
16 number of respects. Are you familiar with the concerns  
17 that he has raised?

18 A. I have heard that criticism being levelled, yes.

19 212 Q. Yes. Could I just ask you to respond to that, if you  
20 wish to. One of the first concerns, which was raised 12:13  
21 both in correspondence and in a statement and is one of  
22 the issues that was raised by him, was a delay in  
23 commencing the investigation during which evidence  
24 disappeared. Now, in terms of any delays that  
25 occurred, obviously there's a period from when 12:13  
26 Assistant Commissioner Ó Cualáin was appointed and the  
27 first meeting with Garda Keogh on the 7th June. Are  
28 you aware as to any reason why a meeting or an inquiry  
29 or a statement from Garda Keogh wasn't taken in a

1 perhaps quicker period?

2 A. I'm not, I'm not but in my own opinion I think that we  
3 moved very quickly to take his statement of complaint.  
4 He had prepared some of the work in his affidavit, so  
5 it was expanding on that affidavit. 12:14

6 213 Q. Had you been aware prior to commencing the interview  
7 with Garda Keogh that he was attaching importance to  
8 the seizure of a phone?

9 A. Well --

10 214 Q. Material on a phone? 12:14

11 A. -- all investigators will always attach weight to a  
12 phone and contacts. We are in a time where phones are  
13 becoming more difficult. Certainly it would have been  
14 foremost on our mind and it was. My understanding of  
15 the way it unfolded was that Detective Superintendent 12:14  
16 Mulcahy, in contact with the then district officer in  
17 Athlone, in order to have what was then a State phone  
18 taken possession of.

19 215 Q. Had you been aware from when you were appointed that  
20 the allegations concerned Garda A and that his use or 12:15  
21 possession of the phone might be a significant issue at  
22 that point in time, or did you become aware of that at  
23 a later time?

24 A. Well, for me personally I didn't become aware of a lot  
25 of matters until we sat down with Garda Keogh and 12:15  
26 actually took the statement off him. He was clearly  
27 making very serious allegations surrounding the  
28 allegation between Garda A and a named witness.

29 216 Q. Is that the first time that you became aware of any of

1 the detail of those allegations?

2 A. Well, to that extent. I had a general understanding of  
3 what Garda Keogh was alleging was malpractice by a  
4 number of gardaí in Athlone.

5 217 Q. The suggestion made by Garda Keogh about there being a 12:15  
6 delay in seizing evidence during which mobile phone  
7 evidence was erased, would you like to say anything in  
8 connection with that or in response to that?

9 A. First of all, I do not know if the phone, as you say,  
10 was wiped. I don't have any evidence to say that it 12:16  
11 was wiped. The critical period surrounding the  
12 allegations being made were already downloaded by  
13 telecoms in relation to an inquiry that the district  
14 officer in Athlone had carried out. And we were  
15 subsequently able to recover that data, which did, 12:16  
16 which did support Garda Keogh's suggestion that there  
17 was a lot of contact between Garda A and a witness. I  
18 think some 1,600 contacts over a period.

19 218 Q. Are you referring to the billing records that have been  
20 obtained? 12:17

21 A. I am, yes.

22 219 Q. Was it your understanding that they had been provided  
23 by the telecom company on request at that point in  
24 time?

25 A. They had been sought previously by the district officer 12:17  
26 in Athlone.

27 220 Q. But in terms of any records that were sought for any  
28 other period, were any other telecom data sought in  
29 respect of the phone that was seized from Garda A, that

1           you're aware of?

2           A.    From memory, I don't remember, but I imagine we did  
3           apply, yes, I imagine we would have.

4 221 Q.    The issue of the suspension of Garda A, were you  
5           involved in any way in any discussions considering           12:17  
6           whether that was possible or appropriate at any point  
7           in time?

8           A.    Clearly that was a matter I suppose of ongoing  
9           attention but it clearly wouldn't have been a matter  
10          for me as I would have no authority to carry out that           12:18  
11          function. It would have been a matter for the chief  
12          superintendent in his area in conjunction Garda  
13          headquarters and Assistant Commissioner Ó Cualáin.

14 222 Q.    Yes. Garda Keogh wrote another letter to  
15          Superintendent Mulcahy on 17th October of 2014. That's   12:18  
16          to be seen at page 326. Can you confirm whether you  
17          saw that at the time?

18          A.    Again, I did see all these letters, particularly  
19          surrounding putting the file together, and its content,  
20          yes.   12:19

21 223 Q.    One of the issues there is that the investigation team  
22          would not be permanently -- or a member wouldn't be  
23          permanently posted so close to Athlone. Did that  
24          reflect his concern about the taking of statements?

25          A.    My recollection of that is that he had a concern in           12:19  
26          relation to one particular sergeant who was on the  
27          team. Now, that particular sergeant was a detective  
28          sergeant in Loughrea and I think it was his belief that  
29          he was -- because he had been stationed in Loughrea

1 that he was too close to Athlone. That was my  
2 understanding of it.

3 224 Q. All right. In the second paragraph he informs  
4 Detective Superintendent Mulcahy that he had spoken to  
5 GSOC in relation to an attempt to manufacture 12:20  
6 complaints against him. He refers later to the fact  
7 that:

8  
9 "Since I last spoke to both yourself and GSOC the cabal  
10 has come at me from another angle in relation to a 12:20  
11 Pulse check I carried out on the 18th May, which I have  
12 enclosed. I am not looking for you to do anything with  
13 that, I just want to make you aware of same."

14  
15 Do you recall any discussion within the investigation 12:20  
16 team about investigating complaints that were  
17 apparently being made against or in relation to Garda  
18 Keogh by his district or divisional officer?

19 A. I don't and certainly our team didn't take any active  
20 part in investigating those complaints, because we had 12:20  
21 our Terms of Reference initially, which basically  
22 followed the complaints being made by Garda Keogh in  
23 his statement of complaint. Those I would imagine were  
24 internal issues which he had with the then district  
25 officer. 12:21

26 225 Q. There are two further letters to Detective  
27 Superintendent Mulcahy in December, at page 327 and  
28 328. We don't need to look at the first one, but if we  
29 go on to 328. The first one related to an apparent

1 sighting by Garda A near Ms. B's house. It would  
2 appear from Detective Superintendent Mulcahy's  
3 statement that Garda Keogh believed that Garda A had  
4 obtained a copy of his statement at some stage. Can  
5 you just confirm what use was made of Garda Keogh's  
6 statement to the investigation? Was it kept in the  
7 possession of the investigation?

12:21

8 A. The original handwritten copy of Garda Keogh's  
9 statement would have been at all times kept locked in  
10 the incident room in Athlone -- or sorry, in Oranmore.  
11 It would have been typed for the purpose of the working  
12 file and it was not released to anybody, that I'm aware  
13 of.

12:22

14 226 Q. In the second letter here he refers to a Pulse  
15 incident. Towards the bottom of the page, in the  
16 middle of the paragraph, he says:

12:22

17  
18 "When I wrote in my last letter that you were  
19 thoroughly investigating this, I didn't realise that  
20 your team hadn't taken statements from..."

12:22

21  
22 Two different persons there.

23  
24 "Who are the most important witnesses. We are 8 months  
25 into this and I haven't seen anything positive yet. In  
26 the event that somebody declines to make a statement, I  
27 ask that yourself and Detective Inspector Coppinger  
28 make statements confirming your conversations with..."

12:22

1 A person there. Now, I think one of those persons is  
2 the person that Garda Keogh had met in Galway?

3 A. Yes.

4 227 Q. Is that right?

5 A. Yes. 12:23

6 228 Q. I think in your statements that you attach to your  
7 statement to the Tribunal you go into all necessary  
8 detail about your attempts to get a statement from that  
9 person?

10 A. That's correct. That particular witness had lived and 12:23  
11 resided with a very important witness, referred to by  
12 Garda Keogh, in [address] in Athlone. He had since  
13 that time changed his life and had moved on to Galway  
14 and was working in Galway, and that's where we met him.

15 229 Q. I think you document a large number of attempts to meet 12:23  
16 him and you eventually did meet him?

17 A. That's correct.

18 230 Q. You were not able to obtain a written statement from  
19 him confirming in substance what he had told Garda  
20 Keogh, isn't that correct? 12:24

21 A. That's correct. Certainly from our initial meetings  
22 myself and Detective Superintendent Mulcahy, we had  
23 some hope that he would come on board with the  
24 investigation. But having given him some time to  
25 consider the matter and gone back to him and gone back 12:24  
26 to him, he declined to come on board with the  
27 investigation.

28 231 Q. In the final paragraph of this letter Garda Keogh  
29 states:

1  
2 "The official State mobile phone involved in the  
3 conspiracy to supply heroin is vital. It is vital  
4 these phone records should be valuable primary  
5 evidence. I am worried that you have doubts as to 12:24  
6 Ms. B being a heroin dealer. I wish to state that what  
7 went on was criminal and deceitful and the kind of  
8 stuff that Garda A would not have spoken about to his  
9 many friends in Garda management. State mobile phone  
10 plus [blank] equals case." 12:25  
11  
12 He seems to have been re-emphasising the necessity to  
13 get a statement from the witness we have been  
14 previously discussing, isn't that correct?  
15 A. That's correct. The witness that we met in Galway 12:25  
16 would have previously lived in Athlone with another key  
17 witness and he had been arrested and found in  
18 possession of heroin during operation Loki.  
19 232 Q. Yes. One of the complaints made by Garda Keogh both in  
20 his correspondence to the DPP and the Minister and in 12:25  
21 his statement to the Tribunal was that there was a  
22 failure to revisit a crucial witness who had come  
23 forward with vital information. But is it your  
24 evidence you took all steps possible to obtain a  
25 statement? 12:26  
26 A. Absolutely.  
27 233 Q. The interviews with Garda A were arranged in April  
28 2015?  
29 A. That's correct.



1 234 Q. I think you did not provide Garda Keogh's statement but  
2 a statement of allegations made in connection with  
3 Garda A which were anonymised, is that correct?  
4 A. That's correct.

5 235 Q. One of Garda Keogh's complaints focuses on what he says 12:26  
6 was a failure to arrest Garda A and question him in  
7 custody obviously. Could you just explain the thinking  
8 of the investigation team in relation to dealing with  
9 Garda A at this point in time?  
10 A. Yes. Certainly in relation to witness A, we had went 12:27  
11 through the statements of complaint and the evidence we  
12 had and we set out a number of questions that we wished  
13 addressed. We had obviously to afford witness A fair  
14 procedure and natural justice, in that he would have to  
15 be afforded prior to we interviewing him, because we 12:27  
16 intended to interview him after caution. So he would  
17 have to have been afforded an opportunity to speak with  
18 his solicitor and, indeed, in relation to recent  
19 judgments would have been allowed to have a solicitor  
20 present. 12:27

21 236 Q. Yes.  
22 A. So that was our thinking. Indeed, from my experience  
23 of carrying out criminal investigations, the only real  
24 need to arrest anybody for the purpose of interviewing  
25 them when they won't comply. 12:28

26 237 Q. Yes. So is it your evidence that that was always an  
27 option if it had proved necessary to --  
28 A. Well, we never had to visit that because he was, to say  
29 the least, most compliant, as was his solicitor.

1 238 Q. Well, could you just outline then how the process of  
2 obtaining a statement or an interview with Garda A was  
3 achieved?  
4 A. I think I have set it out there in my statement, in  
5 that we had a series of questions that we required 12:28  
6 addressing.  
7 239 Q. Yes.  
8 A. Which basically set out the allegations being levelled  
9 against him. We would have met him with his solicitor  
10 in Oranmore Garda station, the date I just can't 12:28  
11 recall, but it's in my affidavit.  
12 240 Q. The 24th April?  
13 A. Correct.  
14 241 Q. You met him again then on the 24th June?  
15 A. Yes. And he had addressed those questions. I would 12:29  
16 have read over them to him and the caution and invited  
17 him to sign them. I would also have invited him to  
18 have conducted his questions and answers on camera.  
19 But that was declined by his solicitor. We had other  
20 issues to address with him and we formally carried out 12:29  
21 an interview with him, myself and Detective  
22 Superintendent Mulcahy, in the presence of his  
23 solicitor.  
24 242 Q. Yes. I think the notes of that were signed?  
25 A. They were signed. They were read over to him and they 12:29  
26 were signed and were witnessed by myself and Detective  
27 Superintendent Mulcahy.  
28 243 Q. Garda Keogh, he subsequently wrote again to Detective  
29 Superintendent Mulcahy on the 1st July. If we could

1 look at that letter, page 335. This is focusing on the  
2 phone again and it refers some several lines down to  
3 the unauthorised erasing of information from the said  
4 mobile phone SIM card is a form of criminal damage,  
5 theft. He is making the point there, in the second 12:30  
6 paragraph, that:  
7  
8 "It can only have been done in an effort to obstruct  
9 gardaí appointed in the course of their duties."  
10 12:30  
11 Is that something that you concerned yourself with in  
12 the investigation?  
13 A. Well, clearly we had the phone examined and I do not  
14 believe, from my own personal knowledge, that it is  
15 possible to show that data was erased. There was data 12:31  
16 on the phone, I am aware there was data on the phone.  
17 244 Q. He acknowledges, at the bottom there, that you have  
18 worked hard on this investigation and wishes to thank  
19 you for that. Were you ever aware of any accusation  
20 that the investigation was double-crossing him? He has 12:31  
21 recorded an entry to that effect in his diary in July  
22 2014.  
23 A. Sorry?  
24 245 Q. The investigation was double-crossing him?  
25 A. Double-crossing him? 12:31  
26 246 Q. Yes.  
27 A. I was not aware of that, no. And I would like to put  
28 it on the record of this Tribunal that I totally and  
29 utterly refute that allegation. I am actually

1 surprised by that.

2 247 Q. Yes. It's recorded at page 1326, the 22nd July:

3

4 "I am fully aware at this stage that the investigation

5 team is double-crossing me." 12:32

6 A. I am disappointed to hear that.

7 248 Q. Garda Keogh, in fairness, in evidence he wasn't able to

8 explain on what basis he had recorded that at that

9 point in time, but it's not something that was ever

10 said to you, is that right? 12:32

11 A. No. And again, I am disappointed, because we always

12 set out to do our very best to get to the bottom of the

13 allegations that were being made by him.

14 249 Q. I think you became aware of Detective Superintendent

15 Mulcahy obtaining confidential information in relation 12:33

16 to Ms. B in and around October 2015, isn't that right?

17 A. That's correct.

18 250 Q. I think you swore a warrant to ground an application --

19 you swore an information to ground applications for

20 warrants? 12:33

21 A. Yes, both myself and Detective Superintendent Mulcahy

22 attended the District Court and we obtained two

23 warrants to search two specific addresses. One in

24 [address] and another outside of Athlone.

25 251 Q. Yes. I think items were seized and sent for 12:33

26 examination?

27 A. The basis of the confidential information or the kernel

28 of that information stated that there was some

29 electronic devices to be found in that property that

1 could support the allegations being made by Garda  
2 Keogh. A large number of SIM cards, phones, laptops  
3 and electronic devices were seized and examined, but  
4 unfortunately they didn't progress the investigation.

5 252 Q. I think that Detective Superintendent Mulcahy retired 12:34  
6 at a stage after the investigation had been completed?

7 A. He did, yeah, and I'm sure will he answer this for  
8 himself, but he retired on age grounds. He served  
9 right up to his birthday.

10 253 Q. Yes. But I think you became aware of a statement that 12:34  
11 had been provided in the context of a disciplinary  
12 inquiry being conducted by Assistant Commissioner  
13 McMahon?

14 A. I did, yeah. I became aware of that through the normal  
15 reporting channels and it was brought to my attention, 12:35  
16 yes.

17 254 Q. I think on foot of that, I think you acquired a copy of  
18 that statement that Ms. B had made?

19 A. I did, yes.

20 255 Q. You outline in your statement, at page 3893, the steps 12:35  
21 that you took from that point to try and get  
22 confirmation from Ms. B in the form of a statement in  
23 the course of a criminal inquiry?

24 A. Yes. That's correct, yes. That statement, it was --  
25 it set out very, very serious allegations that were the 12:35  
26 subject of our investigation and it was confirming some  
27 of those very serious allegations. But it was made  
28 during the course of what was the disciplinary inquiry.  
29 So, from my perspective, it was not a statement that

1 would hold any great weight in a criminal prosecution.  
2 So as a result I set about again approaching that  
3 witness.

4 256 Q. I think you made a number of attempts, which you  
5 document in that statement, to contact her and make an 12:36  
6 appointment for the purpose of taking such a statement  
7 if possible?

8 A. That's correct.

9 257 Q. Ultimately she referred you to her solicitor?

10 A. That's not correct, no. 12:36

11 258 Q. Is that not correct?

12 A. No. I called to her on a number of occasions and the  
13 reception, I didn't get much reception, to say the  
14 least. The reception was quite hostile. And  
15 eventually I got contact with her daughter at the house 12:37  
16 and I asked her to contact me. She didn't make  
17 contact. I went back on another occasion and again I  
18 had no luck. But I carried out enquiries following  
19 speaking with her daughter that she was on a course in  
20 Athlone and from enquiries I carried out in Athlone 12:37  
21 that day, I established that she was on course. I went  
22 to that location and I seen her car parked in the car  
23 park. I was accompanied on that date by Inspector  
24 Paudie O'Shea. In order to progress the matter, we  
25 waited for a considerable period, some hours actually, 12:37  
26 until she returned to that car, so that I could make  
27 contact, because she was frustrating my meetings with  
28 her.

29 259 Q. Yes.

1 A. On that occasion she said she would wish to speak with  
2 her solicitor.

3 260 Q. Yes. I think you spoke with her solicitor, who told  
4 you that he had consulted with her and that she would  
5 be making a statement through his office to the effect 12:38  
6 that his client did not want anything to do with the  
7 process, and that Gardaí had called to her house with  
8 guns and that she felt compelled to make a statement?

9 A. That's correct.

10 261 Q. He confirmed that position in correspondence to you? 12:38

11 A. He did.

12 262 Q. Isn't that correct?

13 A. He did. Mr. Gearoid Geraghty & Company, yes.

14 263 Q. And then that was followed by a statement to that  
15 effect and signed by her, is that correct? 12:38

16 A. That's correct.

17 264 Q. I think you attempted to pursue the taking of a further  
18 statement from a witness we've referred to earlier that  
19 Garda Keogh had met in Galway on the 9th and 10th May?

20 A. Correct. And having examined that statement that was 12:39  
21 made for the purpose of the disciplinary inquiry, again  
22 because of the content of it, it related to what was  
23 the destruction or the obstruction of a search and the  
24 getting rid of evidence and a particular person was key  
25 to that, that he had spoken with previously. So I 12:39  
26 thought it was only appropriate to afford him a new  
27 opportunity to come on board, to make a statement and  
28 to confirm or deny that it happened.

29 265 Q. He confirmed in a short written statement that he had

1 nothing to say in relation to those allegations in the  
2 past?

3 A. I think his words were something to the effect, and I  
4 did make a note, that that's a long time ago and that  
5 he had moved on with his life and he wouldn't get 12:39  
6 involved. I did read the statement over to him and ask  
7 him to comment.

8 266 Q. Yes. I think you do say that he did sign the notes?  
9 A. He did.

10 267 Q. They were witnessed by yourself and Detective Sergeant 12:40  
11 Burke?

12 A. Correct.

13 268 Q. You then I think attempted to progress the matter by  
14 reverting back to Garda A's solicitor?

15 A. Mr. Dan O'Gorman, I think. 12:40

16 269 Q. September 2018, isn't that correct?  
17 A. That's correct.

18 270 Q. You arranged through him an opportunity to interview  
19 Garda A again under caution?

20 A. Correct. In the office of his solicitor in Limerick. 12:40

21 271 Q. In relation to the statement made by Ms. B in the  
22 context of the disciplinary inquiry, isn't that  
23 correct?

24 A. Correct.

25 272 Q. Garda A denied any wrongdoing? 12:40  
26 A. Correct.

27 273 Q. I think arising out of the fact that Detective  
28 Superintendent Mulcahy had retired, you were, I  
29 suppose, the senior member of the investigating team



1 that had been appointed, you made a report to the  
2 director?

3 A. I did. I deemed it appropriate, the fact that the  
4 original file which we referred to, Assistant  
5 Commissioner Ó Cualáin's file, which had already been 12:41  
6 submitted to the director, that there was new evidence  
7 and I wanted to seek the director's view on whether or  
8 not the assistant commissioner who was appointed to  
9 carry out the discipline, that that statement in  
10 itself, could it possibly be used and I re-briefed the 12:41  
11 director.

12 274 Q. Yes. Did you receive a reply from the director's  
13 office? If we look at page 11307, dated the 1st  
14 November?

15 A. That's correct, yes. 12:42

16 275 Q. I think you had enclosed the further material referred  
17 to in the last statement that I have been asking but?

18 A. That's correct.

19 276 Q. It synthesises what you have described in evidence  
20 there. And it concludes: 12:42  
21

22 "In the light of the above, further investigations have  
23 yielded no new evidence and so the position remains as  
24 set out in my letter of 3rd March 2016."  
25 12:42

26 I think that was the original decision, noting the  
27 position at that stage as a result of which there was  
28 no prosecution for a criminal offence?

29 A. That's correct.

- 1 277 Q. Just revisiting the thrust of Garda Keogh's  
2 allegations, he said there was failure to revisit a  
3 crucial witness, you have taken all of the steps you've  
4 referred to try and get evidence from each of those  
5 three witnesses? 12:43
- 6 A. I believe I took all the steps that I could possibly do  
7 to try and get those witnesses to come on board.
- 8 278 Q. Garda Keogh has suggested that the garda under  
9 investigation was treated unduly favourably in respect  
10 of his interview with the investigation team. Would 12:43  
11 you like to respond to that suggestion?
- 12 A. The witness that is referred to was given fair  
13 procedure and natural justice, as I would give to any  
14 witness.
- 15 279 Q. He points to the fact that the questions were provided 12:43  
16 to him in advance through his solicitor and that he had  
17 advance notice of the questions. Is that an unusual  
18 thing to do?
- 19 A. You must -- you have to take cognisance of the fact  
20 that the witness -- these were matters that weren't 12:44  
21 recent, they were matters -- I suppose I'm reluctant to  
22 say historical, but they were of some age and I think  
23 it was only fair to give him a flavour of what was  
24 being levelled at him.
- 25 280 Q. Garda Keogh raises a concern that himself and this work 12:44  
26 colleague, the subject of the investigation, were left  
27 in too close proximity in the workplace at times. Did  
28 you have any function in relation to that?
- 29 A. That's not a matter I would have any control over.

1 281 Q. In relation to a complaint that the investigation team  
2 should have taken on the task of these side  
3 investigations concerning other parties concerned,  
4 Mr. McHugh, Ms. O'Neill, did you see it as the function  
5 of investigating team to take on the investigation of 12:45  
6 any other matters?

7 A. No, I didn't, no.

8 282 Q. Inspector Coppinger, would you answer any questions  
9 anyone else may have?

10 THE WITNESS: Thank you. 12:45

11

12 END OF EXAMINATION

13

14 CHAIRMAN: Now, yes, Mr. Kelly. Thank you.

15

12:45

16 DETECTIVE INSPECTOR MICHAEL COPPINGER WAS

17 CROSS-EXAMINED BY MR. KELLY AS FOLLOWS:

18

19 283 Q. MR. KELLY: I see from your statement and I hear from  
20 your evidence that you met Garda A and a solicitor at 12:45  
21 Oranmore Garda station on 24th April 2015, is that  
22 right?

23 A. That's correct, yes.

24 284 Q. And Mr. Mulcahy was there as well?

25 A. Detective Superintendent Mulcahy, yes. 12:46

26 285 Q. Yes. The upshot of that was that Garda A asked for  
27 time to consider what was being said to him, isn't that  
28 right?

29 A. That's correct, yes.

1 286 Q. And he was given that time?  
2 A. Correct.  
3 287 Q. He was given until the 16th June?  
4 A. Correct.  
5 288 Q. Nearly two months, is that right? 12:46  
6 A. I wouldn't have thought -- my recollection was it  
7 wasn't quite that long but if those are the dates on  
8 it, I can't dispute that, yeah.  
9 289 Q. Yes. Would you normally give a witness, a suspect,  
10 five to six weeks to consider their response? 12:46  
11 A. Well, as I said in my direct-evidence, they were  
12 matters that were complex matters and they were matters  
13 that were I suppose of some age and I think it was only  
14 appropriate that he would be given the opportunity to  
15 respond and to make -- to seek out his own records, if 12:46  
16 he had any.  
17 290 Q. But what I am asking is, would that be normal in the  
18 case of any other witness or suspect?  
19 A. It wouldn't be not normal, particularly in fraud cases  
20 and cases like that that are complex or particularly 12:47  
21 issues that would require some scrutiny by the witness.  
22 291 Q. Did he ask for this time?  
23 A. Not to my recall, no. I think it would probably  
24 more -- the arrangement for following it was probably  
25 more to fit in with the work programme of his 12:47  
26 solicitor. That would be my recall of it.  
27 292 Q. But what I am trying to understand is, you met him and  
28 his solicitor at the Garda station and you gave him a  
29 list of what Nick Keogh was alleging. That's on the

1 24th April, yes?

2 A. Correct, yeah.

3 293 Q. Garda A doesn't ask for time to consider it but you  
4 give him until the 16th June to consider it. I'm  
5 asking, was that not a little unusual? 12:48

6 A. My only recall for my explanation of that was that it  
7 may have been down to the solicitor, who couldn't  
8 facilitate a meet again until that time. That's the  
9 only explanation I have for that. I'm surprised that  
10 it actually was that time between it. 12:48

11 294 Q. Well can you point me to anything in the evidence, as  
12 far as you're concerned, which indicates that the  
13 solicitor asked for that length of time?

14 A. I don't recall him asking, no, other than that's the  
15 only explanation I can have for it. He may not have 12:48  
16 been in a position to facilitate a meet again until  
17 that date. I can't put it any further, I'm sorry.

18 295 Q. I don't want to be rude.

19 A. I know.

20 296 Q. But that's speculation, isn't it? 12:49

21 A. I know. Well that's --

22 297 Q. You're guessing?

23 A. I'm not guessing, but I'm -- that's my recall of it. I  
24 can't recall it any more than that.

25 298 Q. So you specifically recall the solicitor saying but 12:49  
26 we're going to need five to six weeks to answer this?

27 A. No, I don't recall him specifically saying that.  
28 But my -- no, I don't recall him saying that  
29 specifically, no.

1 299 Q. And we know that it's on the 16th June that Garda A had  
2 prepared answers?  
3 A. Correct, yes.

4 300 Q. And the 24th June, days later, you met with Garda A and  
5 the solicitor again at Oranmore station? 12:49  
6 A. Correct.

7 301 Q. And interviewed him then?  
8 A. Correct.

9 302 Q. That's where we get the 24th June?  
10 A. Yes. 12:50

11 303 Q. I'm looking at your statement, at 3878. If we can go  
12 back up to the top to see what is said in your  
13 statement on the preceding page.  
14

15 "24th April 2015, together with Detective 12:50  
16 Superintendent Mulcahy I met with Garda A and his  
17 solicitor in Oranmore. On this date I served Garda A a  
18 document containing 19 allegations made by the  
19 confidential reporter which alleged malpractice by him.  
20 I invited him to respond to these allegations after 12:51  
21 caution. At this meeting he requested time to consider  
22 the allegations and stated that he wished to address  
23 them. I next met with Garda A and his solicitor at  
24 Oranmore on the 16th June."  
25 12:51

26 what I am wondering about that is, you say there "at  
27 this meeting he requested time to consider the  
28 allegations and stated that he wished to address them",  
29 can you recall or assist the Tribunal as to whether he

1 was asking for time, was it the case that could be  
2 anything, it could range from an hour to a day to a  
3 week?

4 A. I cannot -- I can't help the Tribunal in relation to  
5 how we settled on that particular date, where he was to 12:52  
6 come back. But again, all I can -- I know it's  
7 surmising, but I think it was probably more to  
8 facilitate the solicitor.

9 304 Q. So then "Met again in Oranmore on 16th June 2015,  
10 together with Detective Superintendent Mulcahy. On 12:52  
11 this date [blank] produced to me a document."  
12  
13 I take it that's the solicitor, is it?

14 A. That's correct.

15 305 Q. "Produced to me a document which contained the legal 12:52  
16 caution and it addressed the allegations served on  
17 Garda A on 24th April 2015."  
18  
19 Is that right?

20 A. Correct, yes. 12:52

21 306 Q. Is it normal that the witness himself would have the  
22 legal caution, as it were, self administered on the  
23 document?

24 A. Well it's not self administered when it's read over. I  
25 mean, I read the document over to him. 12:53

26 307 Q. I don't dispute that. I'm just asking in your  
27 experience is it normally like that?

28 A. It is actually not uncommon for a solicitor to prepare  
29 a statement for his client and send it to an

1 investigation team. It's not unusual.

2 308 Q. Oh, I know that. would they normally put the caution  
3 on top of it?

4 A. well, we had told him that any interviews with him  
5 would have been after caution. 12:53

6 309 Q. That you administer?

7 A. Of course, yes, and I did. And I did.

8 310 Q. You then invited him to sign the prepared statement  
9 memo, he signed it and you and Superintendent Mulcahy  
10 witnessed it? 12:53

11 A. Correct.

12 311 Q. You say:  
13  
14 "Prior to this interview and reading over the  
15 allegations, Garda A was invited to have the same 12:53  
16 caught on camera but his solicitors declined to take up  
17 the option."  
18  
19 That seems to be the end of that particular meeting.

20 A. That's correct. 12:54

21 312 Q. Then we move on to 24th June 2015, where you again  
22 connected with the solicitor in Oranmore accompanied by  
23 Superintendent Mulcahy?

24 A. Correct.

25 313 Q. At that stage, was it not a practice for a witness 12:54  
26 being interviewed by An Garda Síochána to be  
27 accompanied as a matter of routine by their solicitor,  
28 we're speaking the period April-June 2015?

29 A. It wouldn't -- again, it would not be terribly unusual



1 for a solicitor -- my experience with solicitor firms,  
2 some solicitors will come in, they will brief their  
3 client, in an arrest situation, prior to a situation  
4 where we now know find where solicitors sit in all the  
5 time on interviews. But it wouldn't be unusual that 12:55  
6 some solicitors would come, brief their client, the  
7 interview will continue and then they may call back at  
8 some other stage. But in a voluntary setting generally  
9 it is my experience that they would sit in, yes.

10 314 Q. It is my understanding at that stage that the solicitor 12:55  
11 of course was afforded an opportunity to advise his  
12 client prior to an interview but was not allowed to sit  
13 in on an interview?

14 A. I see no reason why he wouldn't sit in.

15 315 Q. Neither do I, but I'm asking what the Garda practice 12:55  
16 was at the time?

17 A. Well, this was -- this was a witness who was subject to  
18 very serious allegations presenting for the purpose of  
19 being interviewed and he brought a solicitor along. I  
20 don't see anything wrong with that, I think it's only  
21 fair.

22 316 Q. Judge, I am just about to move on to a different  
23 section.

24 CHAIRMAN: Very good. You will be some time,  
25 Mr. Kelly?

26 MR. KELLY: I may be a little time, yes.

27 CHAIRMAN: Very good, okay. Then we will break there,  
28 if that's convenient. We will say two o'clock. Thanks  
29 very much.

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

3  
4 CHAIRMAN: Now, Mr. Kelly.

5 317 Q. MR. KELLY: Looking at your statement of 26th January 14:05  
6 2016, it's not necessary to call it up, you had said  
7 that Superintendent Mulcahy had got information that  
8 told you effectively Mrs. B possessed a large number of  
9 phones etcetera which might be of use, is that correct?

10 A. Correct, yeah, electronic equipment. 14:05

11 318 Q. And you went off to the District Court and got a  
12 warrant --

13 A. Correct.

14 319 Q. -- to search the property.

15 A. Correct. 14:06

16 320 Q. You say on arrival at the house the occupants became  
17 extremely hostile and had to be restrained, they were  
18 obstructing the search. Were there a large number of  
19 people there or not?

20 A. There was one other individual there who was in a 14:06  
21 relationship with the particular person and he would  
22 have been known to us and, indeed, known to the Gardaí  
23 in Athlone. He would have been involved in criminal  
24 activity.

25 321 Q. I'm not too interested in that, just the number; was it 14:06  
26 two, three, four, five, six?

27 A. There was -- from my recollection, I think there was  
28 four people, four people there including her daughter.

29 322 Q. I see. And how many police officers were there?

1 A. There was myself and Inspector O'Shea and we were  
2 supported by a unit of the armed support unit.

3 323 Q. How many police officers would that be?

4 A. About six.

5 324 Q. I see, okay. And you say that a large quantity of 14:07  
6 phones, SIM cards, laptops and computers were seized.  
7 How many, do you know?

8 A. I don't know exactly how many, but they were bagged and  
9 tagged on the day and taken possession of by Inspector  
10 O'Shea, one of the exhibits officers, Barry Walsh later 14:07  
11 on. But there was a considerable amount of them, yeah.

12 325 Q. Just try and give me a -- I know you don't have the  
13 logbook there, but give me an idea of the approximate  
14 number so I can get a feel for it, as it were? Six,  
15 eight, ten, twelve? 14:07

16 A. I would say in excess of that. I would say possibly  
17 nearer to 20, between SIM cards -- a lot of the  
18 electronic equipment that was taken was quite old, it  
19 was quite old stuff. Some of the SIM cards were found  
20 out in different places within in a particular -- 14:08  
21 within the main bedroom. It was quite a comprehensive  
22 search.

23 326 Q. Yes.

24 A. We didn't leave any stone unturned in that house.

25 327 Q. So you took the old laptops, everything, because they 14:08  
26 might well have useful information on them?

27 A. Indeed.

28 328 Q. That is why you took them, presumably?

29 A. Yeah.

1 329 Q. If I can then turn to the statement you made which  
2 follows on, 29th September 2018. If that could be  
3 called up, it begins at 3879. If we go down to the  
4 bottom of that page, I think that is the beginning of  
5 the statement. Yes, that's the date. Now, if we go 14:08  
6 over to the next page, which is 388, you say there:  
7  
8 "I wish to say as follows. On a date after 15th  
9 February 2018 I became aware that Ms. B made a  
10 statement to Gardaí from Waterford who were conducting 14:09  
11 a disciplinary investigation under the directions of  
12 the Assistant Commissioner Anmarie McMahon."  
13  
14 She forwarded a copy of the statement through official  
15 Garda channels. 14:09  
16 A. Correct.  
17 330 Q. Is that right, yeah?  
18 A. Yeah.  
19 331 Q. 15th April 2018, this investigation had begun, what, in  
20 '14? 14:09  
21 A. Sorry? Yes, correct, yes.  
22 332 Q. And this is four years later nearly?  
23 A. I'm not sure, I'm sure you have it in your documents  
24 there, the actual statement that was taken as part of  
25 the discipline investigation only, as far as I was 14:10  
26 concerned, was generated in the weeks before that.  
27 333 Q. But by this stage the reports had already all gone in,  
28 hadn't they, to the DPP?  
29 A. Oh correct, yes, and a copy of the substantial file,

1           which ran to several volumes, I understand was also  
2           sent to GSOC.

3 334 Q.     So this isn't a typo, a misprint or anything else, it  
4           really was 15th February 2018.

5           A.     Just -- I'd have to go back to when that statement was     14:10  
6           generated. It may be a typo.

7 335 Q.     Well, I think you should, because on the face of it  
8           there is a four year gap here.

9           A.     I have a copy actually of the statement from that  
10           witness and that's dated 15th November 2017.                     14:11

11           CHAIRMAN: 15th November '17?

12           A.     Yeah, that's the date I have on the top.

13           CHAIRMAN: I understand.

14           MR. KELLY: That's is fine.

15           CHAIRMAN: It's all right.   14:11

16 336 Q.     MR. KELLY: We're just interested in the dates.

17           A.     Yeah.

18 337 Q.     CHAIRMAN: Is when that statement was made to  
19           Commissioner McMahon?

20           A.     Correct. Well, it was actually made to some of her --     14:11

21 338 Q.     CHAIRMAN: I'm sorry, to her team.

22           A.     Her team.

23           CHAIRMAN: Sorry, Commissioner McMahon's team sorry.

24           A.     Yeah.

25 339 Q.     MR. KELLY: Give me the date again please, 15th                     14:11  
26           November 2017?

27           A.     Correct. Correct.

28 340 Q.     That's when Ms. B had made that statement.

29           A.     Hm-hmm.

1 341 Q. So then it comes to you sometime after the 15th  
2 February?  
3 A. Yes.

4 342 Q. Why do you use that formulation "on a date after 15th  
5 February"? Do you have a date for when you got it? 14:12  
6 A. Em, I don't know how I come to that conclusion, but I  
7 know that I acted on it quite quickly after getting it  
8 so...  
9 343 Q. So how quickly did you act on it after?  
10 A. I would say within weeks. 14:12  
11 344 Q. Right.  
12 A. Once I got sight of it.

13 345 Q. So that statement that you have there, which I don't  
14 actually have, does it say when you actually received  
15 it? 14:12  
16 A. No, I just have a blank copy.

17 346 Q. There's no date stamp or anything?  
18 A. No.

19 347 Q. It was the 26th April when you called at her home?  
20 A. Correct. 14:13  
21 348 Q. So you get it some time after the 15th February and the  
22 26th April is when you go to her home?  
23 A. Correct.

24 349 Q. You spoke with her daughter and you there detail the  
25 various attempts that you made, the 26th April, the 14:13  
26 30th April, you wrote to her solicitors to arrange a  
27 meeting, 24th May 2018 you approached her in Athlone?  
28 A. Correct.

29 350 Q. 1st June 2018, that's when her solicitors I think

1 informed you that she was going to make a statement as  
2 soon as possible, to cooperate?

3 A. Correct. And also that she was now withdrawing the  
4 statement that she had made to Commissioner McMahon's  
5 team, on the basis that she -- that the team had called 14:13  
6 to her, that they were armed and that they felt  
7 compelled to make a statement.

8 351 Q. Right. But you get notice of that, according to that  
9 statement, on the 1st June, that she's going to do this  
10 and it's the 7th August that her solicitor says that 14:14  
11 she's not in fact going to cooperate, nor was she going  
12 to stand over her statement she made to the waterford  
13 team, is that right?

14 A. Correct.

15 352 Q. So this was long after your inquiry had in fact really 14:14  
16 concluded? Concluded in the sense of the report sent  
17 to the Commissioner, sent to the DPP, decisions made.  
18 Have I got that right?

19 A. Correct.

20 353 Q. Yes. 14:14

21 A. My new approach to her was solely based on the basis of  
22 an inquiry to see would she stand over that statement  
23 or indeed make a new statement to myself that could be  
24 submitted for the purpose of re-briefing the director.

25 354 Q. Was it Superintendent Mulcahy who was the main author 14:14  
26 of the report that ultimately went up?

27 A. Well, the author of the report, the initial report,  
28 would have been Assistant Commissioner Ó Cualáin, that  
29 went to the director. I would have sent the follow-up

1 report in relation to what we will call the new  
2 information.

3 355 Q. well, I will explore it with Superintendent Mulcahy,  
4 but I think it was him that wrote it.

5 A. Yeah. 14:15

6 356 Q. But if you are not able to comment, that's fine. Thank  
7 you.

8 A. Thank you.

9

10 END OF EXAMINATION 14:15

11

12 CHAIRMAN: Thanks very much. Now, who else?  
13 Mr. O'Higgins.

14

15 DETECTIVE INSPECTOR MICHAEL COPPINGER WAS EXAMINED BY 14:15  
16 MR. MÍCHEÁL O' HIGGINS, AS FOLLOWS:

17

18 357 Q. MR. MÍCHEÁL O' HIGGINS: Thank you, Chairman. Detective  
19 inspector, you told the Chairman that you were  
20 appointed I think initially by Inspector Ó Cualáin -- 14:16  
21 by Assistant Commissioner Ó Cualáin to take part in  
22 this investigation and that was in May, 15th May 2014.

23 A. That's correct.

24 358 Q. I want to ask you about the efforts you made to bring  
25 together the central body of information from the main 14:16  
26 protagonists and principally Ms. B and the witness in  
27 Galway?

28 A. Mm-hmm.

29 359 Q. You've mentioned already in your evidence that in April



1           2015 you made efforts to persuade Ms. B to become  
2           involved and to proactively take part in the  
3           investigation, isn't that so?

4           A.     That's correct.

5   360   Q.     We might just have up page 3874, please, just in           14:16  
6           relation to that. I think this is one of the  
7           statements you've made to the Tribunal regarding your  
8           role in the Galway investigation?

9           A.     That's correct, yeah.

10   361   Q.     Looking at that there, on the 9th April it indicates,           14:17  
11           '15, that you went to speak with, at that point a  
12           potential witness, Ms. B, as she had been mentioned by  
13           the confidential reporter, isn't that so?

14           A.     That's correct.

15   362   Q.     And you narrate there in that statement, communications           14:17  
16           and texts with her over that period and promises to  
17           assist and so on?

18           A.     Yes.

19   363   Q.     Would it be fair to say generally speaking it featured  
20           promises to help that didn't always materialise into           14:17  
21           reality?

22           A.     That's correct.

23   364   Q.     I think then moving matters on to the 24th April, over  
24           the next page, you have dealt with the text, you also  
25           met with Garda A, and you have mentioned this already,           14:18  
26           and his solicitor at Oranmore Garda station, on the  
27           24th April?

28           A.     That's correct, yes.

29   365   Q.     Again then in June of 2015 as well you met with Garda A

1 and I think also the solicitor?

2 A. That's correct.

3 366 Q. And then moving matters on then to October of 2015, I  
4 think it's the case that Detective Superintendent  
5 Mulcahy had received certain confidential information 14:18  
6 which tended to indicate that Ms. B was in possession  
7 of certain laptops and phones and so forth, is that so?

8 A. Correct.

9 367 Q. On foot of that -- and I think the gist of it was that  
10 the entail was that they may contain evidence which 14:18  
11 might support the allegations that Garda Keogh had been  
12 making that in a particular guard was compromised by  
13 his involvement with Ms. B?

14 A. That's correct.

15 368 Q. I think it's the case on foot of that then, and this is 14:19  
16 in your statement, you made application for a search  
17 warrant of Ms. B's home. I think that was 9th October  
18 2015?

19 A. That's correct. Myself and Detective Superintendent  
20 Mulcahy, we obtained two warrants on that date before 14:19  
21 the District Court and I executed the one in relation  
22 to the witness that you refer to.

23 369 Q. Right. Having applied for a search warrant, you  
24 carried that out. Can I ask you in a general sense,  
25 without getting into criticism of people who aren't 14:19  
26 present, but what sort of response did this prompt from  
27 the occupants at the house?

28 A. Well, we didn't get cooperation and, indeed, the  
29 occupants had to be restrained for the purpose of

1 carrying out the search and they were restrained for  
2 the period of the search.

3 370 Q. Yes.

4 A. When I say restrained, they were handcuffed.

5 371 Q. Yes. And I think you have told the Chairman already 14:20  
6 that devices were removed at the time of this search?

7 A. Quite a considerable volume of devices. In particular,  
8 SIM cards. There seemed to be a lot of SIM cards in  
9 various locations throughout the house.

10 372 Q. Yes. Just moving the timeline on then, I think the 14:20  
11 position is that you became aware, I think was it  
12 February 2018, that Ms. B had made a statement to  
13 Commissioner Annmarie McMahon's investigation regarding  
14 the discipline investigation that she was carrying out?

15 A. That's correct. That's roughly around that time. 14:20  
16 After that, I would have got sight of the actual  
17 statement. I was aware it may be in existence but I  
18 didn't actually see it after that.

19 373 Q. Yes. What was your hope at this point in terms of  
20 breathing life into the investigation afresh? 14:21

21 A. Well, clearly on reading the statement, it did show  
22 some promise, in that it was very supportive of the  
23 allegations being made by Garda Keogh and it was my  
24 hope when I approached her that she would stand over  
25 that statement and come on board with the 14:21  
26 investigation, so that we could again re-brief the  
27 director.

28 374 Q. I think it's the case, and you have set this out in  
29 your statement, on foot of this development you

1 attempted to re-interview Ms. B, I think on the 26th  
2 April, is that right?

3 A. That's correct.

4 375 Q. Did you call to her home?

5 A. Initially I called to her home, yes. 14:21

6 376 Q. And did that bring progress?

7 A. No, we didn't get any response there. We eventually  
8 didn't make contact with her daughter on another date  
9 and she told us that she was doing a course in Athlone.

10 377 Q. Yes. 14:22

11 A. And as a result of those inquiries, I did locate her  
12 and I located the location where she was doing that  
13 course and I recognised her car parked in the car park,  
14 so I took up surveillance on that car.

15 378 Q. Yes. Did you manage to establish contact with her? 14:22

16 A. Yes. She approached the car, when she did I approached  
17 her and told her my reason for wishing again to speak  
18 to her and again she was evasive and she said she was  
19 going on holidays for ten days and that she would  
20 respond through her solicitor. 14:22

21 379 Q. I think you subsequently made contact with Gearoid  
22 Geraghty, her solicitor, yourself?

23 A. That's correct. I was aware that Mr. Geraghty had  
24 previously corresponded or, indeed, enquired in  
25 relation to the return of her electronic equipment, so 14:22  
26 I knew that he was acting for her.

27 380 Q. Yes. You have told the Chairman I think that you  
28 subsequently received correspondence from Mr. Geraghty  
29 setting out Ms. B's position?

1 A. That's correct, yes.

2 381 Q. Basically she wasn't --

3 CHAIRMAN: I was forced into the statement and I'm

4 taking it back.

5 A. That's it, Chairman, yes. 14:23

6 382 Q. MR. MÍCHEÁL O' HIGGINS: Just in relation to that, what

7 I am building up to asking you, obviously in order for

8 an investigation to flower into a prosecution, there

9 has to be --

10 CHAIRMAN: You needed some evidence. 14:23

11 383 Q. MR. MÍCHEÁL O' HIGGINS: One needs some evidence. But

12 can I ask you firstly, what impact on the viability of

13 a prosecution/the investigation itself, what impact did

14 the reluctance of Ms. B and her decision not to

15 participate ultimately have? 14:23

16 A. Well, it resulted, basically after my submission, of

17 what we will call the mini file to the director, they

18 returned no prosecution.

19 384 Q. CHAIRMAN: It didn't make any difference to the

20 original -- 14:24

21 A. It didn't change the original.

22 385 Q. CHAIRMAN: Of March 2016.

23 A. Correct.

24 386 Q. CHAIRMAN: Detective inspector, I assume you were

25 saying, look, I know this was made, I know this was 14:24

26 withdrawn, but on the other hand, we have an

27 incriminating statement, not only of the person who

28 made it but of another person of interest. We have an

29 incriminating statement, albeit made in a disciplinary

1 and not a criminal thing. How do we stand on this?  
2 Could we proceed on the basis of this statement?  
3 Something of that kind was your query.

4 A. That's correct. And obviously I have a working  
5 knowledge of the law but I needed guidance from the 14:24  
6 director's office as to the usefulness of that.

7 387 Q. CHAIRMAN: Yes. And the director said, look, it  
8 doesn't make any material -- our decision stands, is  
9 what they said?

10 A. Correct. Correct, Chairman. Yes. 14:25

11 388 Q. MR. MÍCHEÁL O' HIGGINS: Just moving matters on then. I  
12 think you didn't rest there, I think you told the  
13 Chairman you also re-established contact with Garda A  
14 with a view to putting this development to him?

15 A. Yes. I thought that that was necessary, because 14:25  
16 clearly Garda A was very much the thrust of the  
17 allegation and what this witness was saying, so I  
18 deemed it only appropriate to afford him an opportunity  
19 to respond.

20 389 Q. Yes. I think you have outlined that in September of 14:25  
21 2018, accompanied by Inspector O'Shea, you travelled to  
22 Limerick to the office of Mr. Daniel Gorman, the  
23 solicitor?

24 A. That's correct.

25 390 Q. where did that process bring you? 14:25  
26 CHAIRMAN: I think we have been over that,  
27 Mr. O'Higgins. It didn't lead anywhere.

28 MR. MÍCHEÁL O' HIGGINS: May it please you, Chairman.

29 391 Q. CHAIRMAN: He denied any criminal involvement.

1 A. Yes.

2 392 Q. MR. MÍCHEÁL O' HIGGINS: You put it to him and he denied  
3 it?

4 A. Indeed, that's correct.

5 393 Q. Lastly then can I ask you this, I asked but the impact 14:26  
6 of Ms. B's reluctance to engage. The witness from  
7 Galway, of whom mention was made earlier, what impact,  
8 if any, did that have on the viability of the  
9 investigation?

10 A. Yes. Again, the witness from Galway, when I sought him 14:26  
11 out, he had moved back to Athlone and, indeed, my  
12 timing was a little off on the morning. I called to  
13 his home house in Athlone and there was actually quite  
14 a tragedy in the family. I walked into it. In any  
15 case, I made arrangements for him to meet me and we did 14:26  
16 meet later and I again put that statement to him.

17 394 Q. Yes. I mean, presumably that was a significant blow to  
18 the investigation, that he was not inclined to  
19 participate?

20 A. Indeed. 14:26

21 395 Q. CHAIRMAN: His attitude was he had moved on with his  
22 life. The implication is that he had left his past  
23 behind him and he didn't want to get back into it in  
24 any shape or form, including making statements.

25 A. That's correct, Chairman, yes. 14:27

26 396 Q. CHAIRMAN: In his case, if I understand it, it wasn't  
27 simply a refusal to sign up, if you like, he actually  
28 had another string to that bow, he had another reason  
29 he didn't want to have anything to do with it, he

1 wanted to put it out of his life, so to speak?

2 A. Correct. At the time you was in a new relationship and  
3 himself and his partner were trying to have a family  
4 and he just did not want to reengage.

5 397 Q. CHAIRMAN: Okay, so there is something understandable 14:27  
6 in a way about at least part of that. Maybe that's an  
7 unnecessary comment. That's a matter for submission  
8 and somebody might agree with it or not agree with it.  
9 It doesn't matter. Anyway, anything else  
10 Mr. O'Higgins? 14:27

11 MR. MÍCHEÁL O' HIGGINS: Just one other matter,  
12 Chairman.

13 CHAIRMAN: Yes, sure.

14 398 Q. MR. MÍCHEÁL O' HIGGINS: Can I ask you about a separate 14:28  
15 matter altogether, detective inspector, and it concerns  
16 the question of holding or not holding the base of the  
17 investigation in Athlone. I think it's the case that  
18 you're aware, are you, that D/Superintendent Mulcahy  
19 met with Garda Keogh and I think also Commissioner  
20 Ó Cualáin in August of 2014? 14:28

21 A. That's correct.

22 399 Q. And an indication or an assurance was given that  
23 insofar as possible to interview people away from the  
24 station, Athlone Garda Station?

25 A. Correct. 14:28

26 400 Q. I think it's the case that in point of fact there did  
27 continue some level, a much lower level, but some level  
28 of interviews did continue from the station, isn't that  
29 so?



1 A. That's correct.

2 401 Q. Insofar as you can, can you assist the Chairman as to  
3 why that was, that that continued, albeit the base  
4 moved away?

5 A. There was a number of witnesses who when interviewed 14:29  
6 would have to rely on certain documentation which would  
7 be within the confines of the Garda station, to which  
8 they would have a right to refer. And it would -- in  
9 some cases it would be quite impossible to take their  
10 statements without they having the opportunity to refer 14:29  
11 to those records. I myself did attend Athlone station  
12 on a few occasions. On one occasion we had reason to  
13 carry out a search of a particular room or cupboard,  
14 which had been mentioned by the confidential reporter,  
15 that could again render evidence. So for certain 14:29  
16 things like that, there was no choice, we had to go and  
17 clear those issues raised.

18 402 Q. would it be correct to say in conclusion then that  
19 while that necessity still remained and led to some  
20 interviews continuing from Athlone, the base of the 14:30  
21 investigation did move away?

22 A. Correct.

23 403 Q. Thanks very much.

24

25 END OF EXAMINATION

26

27

28

29

1 DETECTIVE INSPECTOR MICHAEL COPPINGER WAS RE-EXAMINED  
2 BY MR. MCGUINNESS, AS FOLLOWS:

- 3
- 4 404 Q. CHAIRMAN: Detective inspector, where was the base of  
5 the investigation? 14:30
- 6 A. The base of the investigation was Oranmore Garda  
7 station. We had an incident room there and it was set  
8 aside solely for the purpose of this.
- 9 405 Q. CHAIRMAN: So there was a room set aside in Oranmore?  
10 A. In Oranmore, yeah. 14:30
- 11 406 Q. CHAIRMAN: So when we talk about the base moving away  
12 from Athlone, that's not correct?
- 13 A. Well, I think what we mean by the base there is the  
14 taking of statements. Statements were taken at a lot  
15 of occasions, I can recall we took a particular 14:30  
16 statement, I think a witness may have given evidence  
17 here, and we took it on the forecourt of a petrol  
18 station because that's where he chose to meet us.
- 19 407 Q. CHAIRMAN: I understand, yes, you take it where --
- 20 A. You take it where you are given it, Chairman. 14:31
- 21 408 Q. CHAIRMAN: Yes. But did Oranmore remain from beginning  
22 to end the headquarters, so to speak?
- 23 A. It remained the collating point, for want of a better  
24 word.
- 25 409 Q. CHAIRMAN: collating point, yes. Okay. Thank you very 14:31  
26 much.
- 27 A. Thank you, Chairman.
- 28 410 Q. MR. MCGUINNESS: Detective inspector, just a couple of  
29 further questions. Perhaps on that topic, you have

1 just looked at volume 55, it's pages 15524 onwards.  
2 This is the letter from the Chief State Solicitors  
3 enclosing a table of where the statements were taken,  
4 on the following pages. It goes up to 11534. Were you  
5 involved in the compilation of this to identify what 14:32  
6 statements were taken when and, more particularly,  
7 where?  
8 A. That's correct, yes.  
9 411 Q. You were involved in this?  
10 A. I did see that, yeah, and I would have been involved 14:32  
11 with the IRC in compiling it, yes.  
12 412 Q. Is this accurate to the best of your knowledge?  
13 A. I would say so, yeah.  
14 413 Q. You have seen it before, obviously?  
15 A. I have, yeah. 14:32  
16 414 Q. It identifies the timeline and place at which  
17 statements were taken in Athlone?  
18 A. Correct.  
19 415 Q. Thank you. Could I just ask you to look at another  
20 document which has been adverted to, at page 3949. 14:32  
21 This is first page of a three-page summary of  
22 allegations that were provided to Garda A and his  
23 solicitor?  
24 A. Correct.  
25 416 Q. On the 26th April, isn't that correct? 14:33  
26 A. Correct.  
27 417 Q. If we just scroll down the page.  
28 A. I recognise that document, yes.  
29 418 Q. That is signed then by you on page 3951?

1 A. Correct.

2 419 Q. You've referred earlier to the telephone billing  
3 records from the previous period and the number of  
4 phone calls and contacts apparently had. Is that a  
5 matter that you put to Garda A when you interviewed 14:33  
6 him?

7 A. Yes.

8 420 Q. In relation to the issue of having his solicitor  
9 present, obviously when people are arrested and  
10 detained in a Garda station, am I right in suggesting 14:33  
11 that it was not then the practice to allow members of  
12 the legal profession to sit in on the interviews?

13 A. Not then. The decision would have come in after that,  
14 yes, correct.

15 421 Q. Obviously if you're seeking to have someone attend 14:34  
16 voluntarily and they wish their solicitor to attend,  
17 that's normally permitted and there's nothing unusual  
18 about that, is there?

19 A. Nothing and I don't think you could advance any great  
20 reason to object. 14:34

21 422 Q. CHAIRMAN: well, if you did they would be able to walk  
22 out.

23 A. True, Chairman. Yes.

24 423 Q. CHAIRMAN: And then you would have the choice, arrest  
25 me if you think you enough, if you have a reasonable 14:34  
26 basis and then bring me to the station for charging or  
27 releasing.

28 424 Q. MR. MCGUINNESS: Obviously the report of the assistant  
29 commissioner made reference to the telephone contacts

1 at the time that seemed to have been apparent between  
2 Garda A and Ms. B. But in the absence of the witnesses  
3 themselves confirming the content of any of those, did  
4 it seem that there was not enough evidence to suggest  
5 that anything improper had occurred? 14:35

6 A. Well, obviously I don't want to second guess the  
7 director.

8 425 Q. Yes.

9 A. But certainly they did show that there was an  
10 inordinate amount of contact. 14:35

11 426 Q. Yes. The first mentioned person that you went to see  
12 in Galway, I think that person had never signed a  
13 statement describing what had happened or was alleged  
14 to have happened?

15 A. That's correct. 14:35

16 427 Q. In any sense, isn't that correct?

17 A. That's correct.

18 428 Q. Obviously leaving aside the phone records for the  
19 moment, had you any other evidence of substance to put  
20 to Garda A which would have incriminated him or did 14:36  
21 incriminate him, in the interview?

22 A. Well, we would have obviously gone through the whole  
23 operation locally.

24 429 Q. Yes.

25 A. How the suspects were identified. 14:36

26 430 Q. Yes.

27 A. The target lists for operation Loki and all that kind  
28 of thing, because other allegations were made that  
29 somehow or another, in particular, the particular

1 witness that he referred to was left off that list.  
2 There was certain circumstantial matters we would put  
3 to him.

4 431 Q. You had gathered an awful lot of material relating to  
5 that operation? 14:36

6 A. Correct.

7 432 Q. Which had been a sanctioned operation, isn't that  
8 right?

9 A. Correct. But I would also like to point out that from  
10 our investigation that operation Loki uncovered a 14:36  
11 critical witness that we have referred to here and he  
12 was convicted as a result of that. He himself was not  
13 a target.

14 433 Q. Yes. Thank you, detective inspector.

15

14:37

16 END OF EXAMINATION

17

18 CHAIRMAN: Okay. Thank you very much, detective  
19 inspector.

20 THE WITNESS: Thank you, Chairman. 14:37

21 CHAIRMAN: You are free to go. Thank you very much.

22

23 THE WITNESS THEN WITHDREW

24

25 MR. McGUINESS: The next witness, Chairman, is retired 14:37  
26 Detective Superintendent Mulcahy.

27 CHAIRMAN: Thanks very much.

28

29

1 DETECTIVE SUPERINTENDENT DECLAN MULCAHY, HAVING BEEN  
2 SWORN, WAS DIRECTLY-EXAMINED BY MR. MCGUINNESS, AS  
3 FOLLOWS:  
4

5 THE WITNESS: Declan Mulcahy. 14:37

6 CHAIRMAN: Thanks very much, detective superintendent.  
7 Thank you.

8 434 Q. MR. MCGUINNESS: Could I ask you to outline your career  
9 in An Garda Síochána until you retired?

10 A. Very good. I joined An Garda Síochána in April 1982. 14:37  
11 On completion of training I was assigned to Harcourt  
12 Terrace in Dublin and later that year, on application,  
13 I moved to Castleconnell in Limerick, where I remained  
14 until 1994. I then went as a community policeman in  
15 the Castletroy area of Limerick, assigned to the 14:38  
16 university and the surrounding areas. In early '96 I  
17 was promoted to sergeant and assigned to a unit in  
18 Henry Street. In June of that year I was put on the  
19 team in respect of the Gerry McCabe murder and I worked  
20 with that for some time. In '97, the following year, I 14:38  
21 was appointed as a detective sergeant in Henry Street  
22 in Limerick, and remained there until 2003, where I was  
23 promoted to inspector and moved back to Dublin to  
24 Sundrive Road. In 2005, I think, in there or  
25 thereabouts, I went back to Limerick, Roxboro Road, as 14:38  
26 an inspector, and the following year or so I was  
27 appointed as detective inspector in Limerick, where I  
28 remained until 2009 and I was promoted to  
29 superintendent and went to Ennistymon in west Clare.

1 The following year I went to Galway in 2010 and was  
2 appointed there as detective inspector and finished,  
3 retired there in April of 2018.  
4 CHAIRMAN: I think the last one you meant detective  
5 superintendent. 14:39  
6 A. As detective superintendent.  
7 435 Q. CHAIRMAN: The last one, you were already an inspector  
8 and then you became a detective superintendent.  
9 A. Yes.  
10 436 Q. CHAIRMAN: You retired at that? 14:39  
11 A. Yes.  
12 437 Q. CHAIRMAN: How long are you retired?  
13 A. I am retired two years in April.  
14 CHAIRMAN: Okay.  
15 438 Q. MR. MCGUINNESS: So you spent eight years in Galway as 14:39  
16 a detective superintendent?  
17 A. Sorry.  
18 439 Q. Eight years in Galway as a detective superintendent?  
19 A. There or thereabouts, yeah.  
20 440 Q. And you had served, had you, under Chief Superintendent 14:39  
21 Ó Cualáin while he been there?  
22 A. Chief Superintendent Ó Cualáin was there when I came,  
23 yeah.  
24 441 Q. And then he became the regional commissioner?  
25 A. He became commissioner, yes. 14:39  
26 442 Q. Just in terms of your knowledge of other personnel  
27 involved in the Tribunal, did you know Superintendent  
28 Pat Murray?  
29 A. The first time I ever met Pat Murray was some time in



1           2010, we came to Galway in around the same time.

2 443 Q.    Yes. How long did he serve there?

3           A.    How long did Pat Murray?

4 444 Q.    Yes.

5           A.    Pat Murray was in Galway for -- he initially started in 14:40  
6           Gort, he was in Gort Garda station, and he then moved  
7           to traffic and he then went to Roscommon.

8 445 Q.    Yes.

9           A.    Now, I am not sure how long he was in Roscommon.

10 446 Q.    Yes. Do you know who transferred him to Athlone? 14:40

11          A.    He was subsequently transferred to Athlone, yes.

12 447 Q.    And do you know who was responsible for that transfer  
13          or how it came about?

14          A.    I presume it was HRM. I knew that he had made an  
15          application to get back towards home. I think he is 14:40  
16          from that particular area.

17 448 Q.    Yes. Had you any knowledge of Garda Keogh or Garda A,  
18          as we are calling another guard?

19          A.    Not prior to the disclosure, no.

20 449 Q.    In any event, you were appointed by Assistant 14:41  
21          Commissioner Ó Cualáin to assist him in investigating a  
22          set of allegations made by a confidential reporter at  
23          that time?

24          A.    That's correct.

25 450 Q.    Garda Keogh. Did you become aware of the Dáil debate 14:41  
26          contribution made by Deputy Flanagan about the matter?

27          A.    Yeah, I had heard something in the news in passing. I  
28          hadn't taken a whole pile of notice of it, to tell you  
29          the honest truth, but I had heard it in the public

1 media.

2 451 Q. Yes. Well, did Assistant Commissioner Ó Cualáin phone  
3 you to say, look, I am going to appoint you to this?  
4 A. Commissioner Ó Cualáin made contact with me and  
5 suggested that he wanted me -- both me and Inspector 14:41  
6 Coppinger.

7 452 Q. Yes. Did he tell you what it was about?  
8 A. Initially I don't believe he told us what it was about  
9 until we met him in his office on the morning that he  
10 disclosed what he wanted us for. 14:42

11 453 Q. Was that down in Galway?  
12 A. That was in Galway, yeah.

13 454 Q. You say in your statement:  
14  
15 "On 15th May 2014 AC Ó Cualáin briefed both I and 14:42  
16 Inspector Michael Coppinger on the facts surrounding  
17 this report."  
18 A. Yeah.

19 455 Q. "He subsequently appointed me to assist with his  
20 investigation." 14:42  
21  
22 So, can you recall how he briefed you on the matter  
23 A. I think he had a briefing pack, in actual fact, in  
24 relation to -- which contained the affidavit that Garda  
25 Keogh had submitted to the judge in respect of his 14:42  
26 complaint.

27 456 Q. Yes. And did it contain anything else?  
28 A. I'm not sure, to tell you the honest truth, I just  
29 can't remember, but I know it contained the affidavit,

1            yeah.

2 457 Q.    Yes. You appear to have made a note in your diary  
3            shortly after this that he required you to report by  
4            the 6th June?

5            A.    Yeah, that's possible. 14:42

6 458 Q.    Do you recall --

7            A.    Yeah.

8 459 Q.    So did you envisage taking steps then that would allow  
9            you to make some sort of report to the assistant  
10           commissioner? 14:43

11           A.    Well, we took immediate steps and actually we had a  
12           conference nearly within a short timeframe of it and  
13           selected our team that we would require to investigate  
14           this matter.

15 460 Q.    Yes. But did you take any steps to find out -- knowing 14:43  
16           that this was now Garda Keogh, did you take any steps  
17           to find out anything about Garda Keogh?

18           A.    No. I was aware that AC Ó Cualáin had or was going to,  
19           on that date, was going to phone Garda Keogh, and also  
20           he proposed to write to him on the same day to try make 14:43  
21           an appointment to meet him so that we could sit down  
22           and interview him in relation to his affidavit.

23 461 Q.    Yes. Did he tell you the outcome of that, whether he  
24           got through to Garda Keogh?

25           A.    I know it was some time before he got back to me to say 14:43  
26           that Garda Keogh had got back to him and a date was  
27           appointed in relation to meeting him, which I think was  
28           in around the 7th June, off my head, I'm not sure.

29 462 Q.    On the face of it that appears some distance in time

1 away from the date of his appointment to investigate  
2 the matter. Do you know of any reason why a meeting  
3 was arranged for the 7th June?

4 A. I don't know, only that I was given the date that it  
5 was to go ahead on the 7th June. 14:44

6 463 Q. Yes. But did you yourself take any step to find out,  
7 well what is Garda Keogh on about or what's he like?  
8 Did you contact his divisional officer or district  
9 officer?

10 A. No. I had his affidavit. I read his affidavit. From 14:44  
11 what came up in that, I made arrangements around  
12 obtaining original files in Athlone and tried to take  
13 it from there.

14 464 Q. The affidavit doesn't name other members the  
15 subject-matter of the allegations. Did you take any 14:45  
16 step at that stage to find out who they might be?

17 A. I must have, because I recall -- well, maybe not at  
18 that stage but after the date that we met him, which  
19 was the 7th I think, may have been on a Saturday, I  
20 think that Monday or Tuesday we went to Athlone 14:45  
21 straightaway and I met his superintendent there, Noreen  
22 McBrien. We made arrangements there for a liaison  
23 person to be appointed so that I would have one point  
24 of contact in Athlone, that I wouldn't have to be going  
25 all over the place trying to gather information and 14:45  
26 stuff. I also requested that she make arrangements to  
27 seize the mobile phone from Garda A, who had access to  
28 it. It was a phone allocated to the drugs unit there.  
29 But he would appear to have access to it maybe more

1 often than anyone else.

2 465 Q. Just going back to the 7th June, you met with Garda  
3 Keogh in Portumna?

4 A. Correct.

5 466 Q. Just yourself and the assistant commissioner? 14:46

6 A. Assistant Commissioner Ó Cualáin and myself, yeah.

7 467 Q. And nobody else?

8 A. Nobody else.

9 468 Q. I think you've provided some notes of that, isn't that  
10 correct? 14:46

11 A. Yeah. I took pretty rough notes on the date in  
12 relation to what he had to say.

13 469 Q. Perhaps we will just look at those, at page 3936.  
14 Detective superintendent, if you would prefer to have  
15 the paper volume? 14:46

16 A. No, I don't mind, I don't have anything in front of me  
17 here in at the moment.

18 470 Q. We should have it on our screens. Document 3936.  
19 There's mention of a DVD there?

20 A. Yes. 14:46

21 471 Q. I think he was saying he gave it to the judge, is that  
22 correct?

23 A. That's correct, yes.

24 472 Q. There's the first mention of Garda A, is that the first  
25 time you heard of Garda A? 14:47

26 A. How do I move this down?

27 473 Q. Well, perhaps if we ask Mr. Kavanagh to scroll that  
28 down. Perhaps you will be given volume 30.

29 474 Q. CHAIRMAN: I think you may find it is more convenient

1 to look at it in the paper version.

2 A. Yeah, maybe.

3 475 Q. MR. McGUI NNESS: 3936.

4 A. Thank you.

5 476 Q. I think it became quite evident at an early stage that 14:47  
6 his allegations that he had made in the affidavit were  
7 being expanded on greatly?

8 A. Exactly.

9 477 Q. With a great deal of more detail?

10 A. Yes. 14:48

11 478 Q. And more incidents, isn't that correct?

12 A. That's correct.

13 479 Q. Was there some debate about whether you were just  
14 investigating the affidavit or all of the matters that  
15 he was telling you about? 14:48

16 A. What we were doing was expanding on his affidavit. I  
17 think he mentioned the words that his affidavit may  
18 have been a steppingstone.

19 480 Q. Yes. In any event, as you say, these are rough notes?

20 A. Yes. 14:48

21 481 Q. Just turning to page 3942.

22 A. Okay.

23 482 Q. There's a reference at the bottom of 3942, if you just  
24 go down. This is still the notes of the meeting in  
25 Portumna on the 7th June, is that correct? 14:48

26 A. That's correct, yes.

27 483 Q. "Money mi ssi ng McHugh under pressure. 4,500 mi ssi ng."

28 A. Yeah.

29 484 Q. Can you recollect at this point whether he was making

1 any complaints that he was being required to account  
2 for his interaction with Mr. McHugh?

3 A. No, he wasn't making -- as far as I was concerned it  
4 was just -- how would I put it, it was just another of  
5 the stuff that he was offering to us. 14:49

6 485 Q. Okay.

7 A. Yeah.

8 486 Q. That appears to be the last part of the note on that  
9 day?

10 A. Correct. 14:49

11 487 Q. You don't appear to have made an arrangement at that  
12 point to take a statement from him, is that right?

13 A. We must have made an arrangement because we met him on  
14 the 10th in Athlone Garda Station. Now, while there  
15 mightn't be a note of it there, obviously there was 14:49  
16 something exchanged between us, because we met him in  
17 Athlone, I think it was on the 10th, which was maybe  
18 the Tuesday or that.

19 488 Q. Yes. Just looking at your notes --

20 A. We did exchange phone numbers that day. 14:50

21 489 Q. Is that right?

22 A. Yeah.

23 490 Q. Well, I am just looking at page 11310, which is volume  
24 40. You may prefer to have your paper copy?

25 A. I can read that. 14:50

26 491 Q. Yes. You had had this conference on the 23rd May?

27 A. Yeah.

28 492 Q. What had you been conferring about? Because you hadn't  
29 met Garda Keogh at that stage?

1 A. That was a conference basically to set up our team and  
2 to organise in relation to establishing as to the  
3 whereabouts of the original files and taking custody of  
4 them. They were the files that he would have mentioned  
5 in relation to particular incidents i.e. the Loki 14:50  
6 investigation and the second investigation, if I can  
7 use the name or not, in relation to where he was  
8 alleging that there was a half kilo of heroin planted  
9 in a car.

10 493 Q. But had you been in touch with someone in Athlone to 14:51  
11 determine where those files were --

12 A. Yeah.

13 494 Q. -- at that time?

14 A. Yes.

15 495 Q. And who do you think that was? 14:51  
16 A. Detective Sergeant Eamon Curley.

17 496 Q. Sergeant Curley?

18 A. Eamon Curley, yeah.

19 497 Q. You referred then to having a single point of contact  
20 in Athlone, was that Sergeant Curley? 14:51  
21 A. That was Eamon Curley, yes.

22 498 Q. Was Sergeant Curley designated by somebody for that  
23 purpose?

24 A. By the superintendent.

25 499 Q. By Superintendent McBrien? 14:51  
26 A. Noreen McBrien, yes.

27 500 Q. In any event, if we look at page 11312, there is an  
28 entry there:  
29



1 "10th June."

2

3 We're not quite concerned with the first few lines

4 there. But on the fifth line:

5

6 "Request made for super for seizure of mobile phone." 14:51

7 A. Yes.

8 501 Q. "Presently allocated to Garda A. Spoke to Nicholas

9 Keogh and made arrangements for interview statements on

10 Wednesday 11/6/14 in Tullamore." 14:52

11

12 Were you expecting the phone to be seized on that day?

13 A. The reason why I did was, I didn't want to cause alarm

14 by us being around the station and stuff like that and

15 the easiest way to do it would be for maybe her to meet 14:52

16 with him and, without any warning, just to take it.

17 502 Q. You seem to have become aware, certainly by the 13th,

18 that that hadn't happened. Was there some

19 misunderstanding between yourself and Superintendent

20 McBrien about that? 14:52

21 A. I got an e-mail from Superintendent McBrien on the -- I

22 would think on the 12th, asking was it a phone or SIM

23 card I required.

24 503 Q. Okay. And did you reply to that?

25 A. My reply was to go and get it myself. 14:52

26 504 Q. Yes. In any event, you met Garda Keogh at his home in

27 Tullamore?

28 A. I did, yes.

29 505 Q. And you kept notes of that, I don't think we need to go

1 through them to any great extent. But it continued on  
2 until the 13th. It was suspended for a period  
3 obviously on that day and you got the phone and  
4 notebook of Garda A?

5 A. I did, indeed.

14:53

6 506 Q. Isn't that correct?

7 A. That's correct.

8 507 Q. And eventually the statement was signed by Garda Keogh  
9 on the 18th, the location having moved to Oranmore?

10 A. Well, we went to Oranmore because of the availability  
11 of the video room and we gave him the opportunity, if  
12 he wished, to have it recorded on video, that it was  
13 available. He declined that offer.

14:53

14 508 Q. Yes. Garda A actually had possession of the phone when  
15 you took it on the 13th June?

14:54

16 A. He did.

17 509 Q. Is that correct?

18 A. Yeah.

19 510 Q. You say in relation to the analysis that you:

20

14:54

21 "...arranged for it to be analysed by Garda Walsh and  
22 having completed same, it was found that it did not  
23 contain any text messages, nor did it contain any  
24 contact details for any person named."

25

14:54

26 And there is a redaction there.

27 A. Correct.

28 511 Q. So, are you intending to confirm there that this  
29 contact and only that named contact was not in the

1 phone but there were other contacts in the phone?

2 A. There were, indeed, other contacts, yes.

3 512 Q. Garda Keogh appears to have formed the belief, which he  
4 referred to later in a letter to you, about the phone  
5 having been wiped. Did you ever use that term in 14:54  
6 connection with updating him on the progress of your  
7 investigation?

8 A. No. Maybe it was misunderstood that it was wiped in  
9 respect of the matter that you mentioned there in  
10 relation to the messages and the name mentioned. 14:55

11 513 Q. Yes. Well, did you determine whether texts had been  
12 deleted and if so at any stage?

13 A. It was impossible to do. And in order to try and  
14 establish did that happen, not alone did I get Garda  
15 Walsh to x-ray it, I also sent it to the 14:55  
16 telecommunication section in Dublin, to see if they  
17 could bring up anything and again I was unsuccessful in  
18 that.

19 514 Q. Yes. I think you attended Athlone Garda Station with  
20 Inspector Coppinger on a number of different dates to 14:55  
21 seize a number of different --

22 A. That's correct.

23 515 Q. -- items that you were anxious to obtain. Did it  
24 appear that the items you were interested in had been  
25 in fact securely kept and were in proper custody when 14:56  
26 you were taking possession of them?

27 A. Yes. I suppose one particular visit was to the PEMS  
28 store, which is the store that stores everything  
29 under -- I suppose everything is documented in relation

1 to the movements of it. There we examined the drugs  
2 that were alleged to have been planted in a specific  
3 car that we spoke about, which was the subject of one  
4 of the allegations. We also examined custody records.  
5 In relation to -- Garda Keogh had a number of notebooks 14:56  
6 in the store and we had sought one from him in respect  
7 of any notes that he may have taken in relation to the  
8 accusations being made to him about the drugs being  
9 planted. However, that wasn't there and he  
10 subsequently found it elsewhere and produced it to me. 14:56  
11 There was a number of files had to be got from the  
12 district office.

13 516 Q. Yes.

14 A. And they were only got through the services of the  
15 staff within that office. 14:57

16 517 Q. Yes.

17 A. And another file in relation to Operation Loki that  
18 Garda Keogh had suggested was stolen was obtained from  
19 Inspector Farrell in his office.

20 518 Q. Yes. 14:57

21 A. He had it under lock and key.

22 519 Q. Yes. And did you in fact discover that Garda A had  
23 provided those files to Inspector Farrell for  
24 safekeeping?

25 A. That particular one, I understand that Garda A supplied 14:57  
26 that to Inspector Farrell, yes.

27 520 Q. Now, on the occasion when you were I think looking for  
28 the drugs, was that 26th June of 2014?

29 A. The 26th June?

1 521 Q. When you searched the store for another purpose?  
2 A. I was in the station on the 26th June and I am aware  
3 that the store referred to by the reporter, close to  
4 the detective office or whatever, that was used to  
5 house Loki files, we searched that both for Loki files 14:58  
6 and for video library, so to speak.

7 522 Q. Yes. I think part of Garda Keogh's statement referred  
8 to the practice of DVDs being stolen on searches by  
9 members of the Gardaí, in particular I think Garda A,  
10 and then being kept in this storeroom? 14:58  
11 A. Yes.

12 523 Q. As I understand your search and your statement, you  
13 found no trace of any such DVDs at all?  
14 A. We found nothing to support that.

15 524 Q. You appear to have picked up on a suggestion that Chief 14:58  
16 Superintendent Curran had given instructions or even  
17 attended at Athlone Garda Station on some occasion to  
18 clear out the store?  
19 A. Yeah.

20 525 Q. Have it cleared out, is that right? 14:59  
21 A. That was what Garda Keogh had said to us; that the  
22 chief had been down and removed whatever from the  
23 store.

24 526 Q. Yes. It would appear from your statement that you  
25 contacted him, was that by phone? 14:59  
26 A. It was by phone, yeah.

27 527 Q. Did you ever require a statement from him or would that  
28 be normal course?  
29 A. No, because we --

1 528 Q. To deal with that allegation by way of a written --  
2 A. We investigated the allegation and the houses that were  
3 searched and the people that were in the houses in  
4 relation to specific stuff that was mentioned, there  
5 was a book mentioned about a hundred and something, I'm 14:59  
6 not sure what it was.

7 529 Q. CHAIRMAN: 1001.  
8 A. Whatever it was. We interviewed those people and they  
9 had no recollection of the book ever being in the house  
10 or anything being taken from the house. We interviewed 14:59  
11 the guards involved in the searches and they said they  
12 weren't aware of this kit bag coming back with DVDs and  
13 stuff like that. There was only three or four of them  
14 in the drugs office at the particular time. So we had  
15 no evidence as such to suggest that there was ever 15:00  
16 anything in there other than what Garda Keogh had said  
17 to us and we tried to bring that to a conclusion by  
18 those interviews.

19 530 Q. Yes. I mean, it might be thought to be a lacuna if had  
20 you no written documentation relating to the issue from 15:00  
21 the person he had perhaps suspected of being involved  
22 in it?

23 A. We hadn't anything from them, nor could they recollect  
24 anything of that nature happening. Now that may appear  
25 in statements taken from those people, because they 15:00  
26 would have come up in other matters of the  
27 investigation.

28 531 Q. Yes. Now, you kept in touch with Garda Keogh, is that  
29 correct, and he was seeking the names of the

1 investigation team, is that right?

2 A. Yes, correct.

3 532 Q. Were they provided without any difficulty to him?

4 A. Absolutely, yes.

5 533 Q. Can you recollect was he complaining at this stage in 15:01  
6 June or in early July about any investigations that  
7 were taking place?

8 A. He had made reference to -- which he did on the first  
9 day that we met him, in relation to both McHugh and an  
10 O'Neill, matters that he said that were complaints made 15:01  
11 against him.

12 534 Q. Yes.

13 A. And had stated to us that he had gone to GSOC about  
14 those.

15 535 Q. Yes, that he had gone to GSOC. But was he anxious for 15:01  
16 those complaints to be included within the scope of  
17 your investigation and did you receive correspondence,  
18 indeed, from Superintendent McBrien on that point?

19 A. Yeah. I probably agree that maybe he was anxious that  
20 we do it. But having spoken with the team and spoken 15:01  
21 with the assistant commissioner, we didn't feel that it  
22 would be correct that we would be investigating him and  
23 investigating his complaint. So I know correspondence  
24 -- there was a correspondence exchange in relation to  
25 it and I think I wrote on it to suggest that any 15:02  
26 matters of that nature should be investigated locally,  
27 that we were investigating Garda Keogh's complaint.

28 536 Q. Yes. At that point in time were you aware of any issue  
29 that had arisen in relation to the creation of an

1 intelligence entry or an intelligence check on Pulse  
2 that Garda Keogh had been involved in?

3 A. I was. Garda Keogh advised me that his chief had been  
4 on to the -- or the superintendent had asked him about  
5 it and that the chief was putting pressure on her in 15:02  
6 relation to it. So I explained to him that the chief  
7 had an obligation to ensure that anything that was put  
8 on the system was true and racket.

9 537 Q. Yes. Well, was that with a view to encouraging him to  
10 comply with the requirements of the chief or the 15:02  
11 superintendent?

12 A. But I don't think it was my position to advise him  
13 whether to -- whether or not I advised him as to what  
14 the chief was asking in relation to it. He then  
15 advised me of where the information had come from. 15:03

16 538 Q. Yes. He advised you, did he, of his rendezvous with a  
17 person in the Galway area?

18 A. He did, indeed, yes.

19 539 Q. Earlier, and his note of same, is that right?

20 A. Yes. 15:03

21 540 Q. And he provided that in due course, is that correct?

22 A. He did, yeah, and the intelligence that was created had  
23 come from that same person.

24 541 Q. Well, had you been in contact with Chief Superintendent  
25 Curran in relation to that matter, because Chief 15:03  
26 Superintendent Curran told the Tribunal that he took  
27 some solace in the fact that you had been a CHIS  
28 controller, is that right?

29 A. That's correct, yeah. Yeah.



1 542 Q. Did you have any conversation about that issue?  
2 A. Chief Superintendent Curran rang me in relation to it,  
3 I'm not sure of the dates in relation to it but I know  
4 it wasn't on the same day that I had rang previously,  
5 in relation to the thing, and in fairness to him, he 15:04  
6 said, I'm not asking you about the investigation, I  
7 don't want to know anything about the investigation.  
8 He said, are you aware of the intelligence and are you  
9 aware where it came from? And I told him that I was  
10 aware where it came from and he said, okay. And there 15:04  
11 was no further conversation as far as I'm concerned  
12 after that.

13 543 Q. Yes. But was he concerned to know that there was said  
14 to be an informant for that information, leaving aside  
15 the issue of the identity? 15:04  
16 A. I think he was relieved to know that I was aware of who  
17 this person was, who was the person, I won't say the  
18 author of the thing but who supplied the information to  
19 Garda Keogh. I think he was relieved when I told him  
20 that I was aware of that person. 15:04

21 544 Q. Yes. In any event, I think you received a letter from  
22 Garda Keogh on the 6th August and you've provided that  
23 as an annex to your statement, at page 3945.  
24 A. Yeah.

25 545 Q. We saw the handwritten version of it earlier? 15:05  
26 A. Mm-hmm.

27 546 Q. But I think the first paragraph relates to the person  
28 who he had confirmed had provided the information to  
29 him?

1 A. Correct.

2 547 Q. Were you concerned to take steps then to try and  
3 reassure the person what would happen?

4 A. This person?

5 548 Q. Yes. 15:05

6 A. I tried to reassure him from the very outset, because  
7 from the outset it was obvious that he didn't want to  
8 comply with us, basically, and he didn't want to get  
9 involved. I tried to reassure him in relation to he  
10 getting involved with us, how we would handle it, how 15:06  
11 we would manage it, what supports would be in place in  
12 relation to him.

13 549 Q. I suppose you weren't in a position at this point to  
14 reassure Garda Keogh that matters would turn out  
15 satisfactorily? 15:06

16 A. Sorry, I didn't quite get the question.

17 550 Q. Well, what contact had you had with this person at this  
18 point in time?

19 A. I'm sorry, I'd have to reflect on notes. I just can't  
20 remember dates and stuff. 15:06

21 551 Q. Yes.

22 A. Yeah.

23 552 Q. Well, would you like to look at your notes for this  
24 date?

25 A. The notes have been disclosed. 15:06

26 553 Q. Yes. You've notes for this, 11324. You probably  
27 didn't get the letter on that date. You report  
28 receiving the letter on 11326. It says:  
29

1 "Received letters from garda Nick Keogh re call to --  
2 and his dissatisfaction with investigation. Met AC  
3 with Ó Cualáin and advised him of same. AC advised we  
4 should take no further action until matter is sorted.  
5 Spoke about --"

15:07

6  
7 what is that? After "Nyl and" is that relevant? "And  
8 he confirmed that a report had been sent outlining the  
9 position."

10 A. I'm not sure. That might be prior to -- I think did he  
11 meet him on the 13th August as a result of that letter?

15:08

12 554 Q. Yes.

13 A. Yeah.

14 555 Q. But just going back to the letter for the moment at  
15 3945.

15:08

16 A. Okay.

17 556 Q. In the third paragraph he raises a different issue  
18 here.

19

20 "When I met AC Ó Cualáin and yourself for the first  
21 time in Portumna, I outlined the fact that without a  
22 suspension being issued people would be reluctant to  
23 come forward and that goes for members of the public  
24 such as [blank] and gardaí. I am concerned in  
25 particular that gardaí who tend to volunteer  
26 information have become reluctant to talk to your  
27 investigation team. The manner in which this  
28 investigation is being conducted is actually  
29 obstructing this investigation.

15:08

15:09

1  
2 I do have faith in An Garda Síochána and hope I did the  
3 right thing in volunteering such confidential  
4 information to yourselves. Unlike many other Garda  
5 regions in the country, Western Region has an excellent 15:09  
6 reputation. I feel obliged to again inform you of my  
7 concerns. "

8 A. Yeah.

9 557 Q. Now, it may be that when he's referring to the manner  
10 of the investigation there that he's talking about the 15:09  
11 fact that statements were being taken --

12 A. I think it might be more in relation to the  
13 non-suspension of --

14 558 Q. Is that the way you interpret that?

15 A. I think so, yeah. 15:09

16 559 Q. Had you considered that to be an issue or had you  
17 thought about it?

18 A. Well, I know following this letter that we met with  
19 Garda Keogh.

20 560 Q. Yes. 15:10

21 A. Assistant Commissioner Ó Cualáin and myself.

22 561 Q. Yes.

23 A. That topic came up and the commissioner explained to  
24 him in relation to a high bar that was required.

25 562 Q. Yes. 15:10

26 A. And that there was certain criteria to be met and had  
27 he anything to add to suggest that the suspension  
28 should be -- right. As a result of that, the  
29 commissioner I think wrote to HRM in relation to it and

1 there was a subsequent meeting with Chief  
2 Superintendent Curran and Superintendent McBrien, just  
3 in relation to any issue that had been raised by Garda  
4 Keogh in that regard.

5 563 Q. Yes. Well, you did go on to meet him, as you say, on 15:10  
6 the 13th August?

7 A. Yes.

8 564 Q. There's a typed copy of your note at 3946?  
9 A. I have it here, yes.

10 565 Q. It's a different note from the note in the diary, but 15:11  
11 it was kept as a separate note, is that right?

12 A. That was a note that was taken during the course of our  
13 meeting with Garda Keogh.

14 566 Q. Yes. 15:11

15

16 "the assistant commissioner outlined concerned re  
17 report received from Garda Keogh and meeting with."  
18  
19 Such and such.

20 15:11

21 "Section 5 Disclosures Act 2014 explained and  
22 governance of same - going to GSOC re other  
23 complaints."  
24

25 Now, I think you had become aware that the Act had now 15:11  
26 come into force, isn't that right?

27 A. Yeah, there was a change in or about that time, yeah.

28 567 Q. And the regulations that you were investigating under  
29 had been revoked, did you know that?

1 A. I did, yeah, but it could continue once a complaint was  
2 made, that we could continue in the manner in which we  
3 were going.

4 568 Q. That's what I am just asking you, is that what you  
5 interpret this reference here that you've taken down, 15:12  
6 the governance of same?

7 A. That's how the AC explained it to him.

8 569 Q. Yes. And "going to GSOC re other complaints"?

9 A. Yeah, he stated there, that was in relation to the  
10 O'Neill and the McHugh matters. 15:12

11 570 Q. Yes.

12 A. That he was going to GSOC in relation to those.

13 571 Q. Is that what he was telling you that he was going to  
14 do?

15 A. Yes. 15:12

16 572 Q. And you weren't advising him to do that, is that right?

17 A. No, we told him he's quite entitled to do what he  
18 wished to do.

19 573 Q. Yes.

20 A. I think what was emphasised there was that if he was 15:12  
21 going to go to GSOC, and I think what the AC was  
22 saying, that is it was important that it was documented  
23 and it was got down in writing, whoever he did it with.

24 574 Q. Yes. It goes on to say then:  
25  
26 "AC explains he is investigating original complaint.  
27 Olivia O'Neill is one of the matters he is going to  
28 GSOC about. Nicholas Keogh aware of Act 2014. AC  
29 explains that we will continue. Nicholas Keogh happy

1 and states it is up to [so and so] if he wants to go to  
2 GSOC or not, as long as he gets it down in writing."

3  
4 So were you trying to reassure Garda Keogh or was the  
5 assistant commissioner trying to reassure Garda Keogh 15:13  
6 that the investigation under the regulations was  
7 continuing and that he needed to go to GSOC with that  
8 or that he could bring the other thing to GSOC?

9 A. But it wasn't that he needed to go. I will just read  
10 it here now again. 15:13

11 575 Q. Yes.

12 A. That may not be -- that could be a reference in  
13 relation to the man he had met in Galway.

14 576 Q. Yes.

15 A. Because indicated that he told him to go to GSOC. 15:13

16 577 Q. Yes.

17 A. If he wasn't happy with things.

18 578 Q. But he was talking going to GSOC himself, I thought you  
19 told us that a moment ago, in the third line?

20 A. Oh yeah, that was going to GSOC in relation to McHugh 15:14  
21 and the O'Neill case.

22 579 Q. Yes, okay. The issues raised then.

23  
24 "1. Nobody will talk unless he is suspended. Garda or  
25 public. Re Garda A hanging around during investigation 15:14  
26 concerned about this. AC stated we will try to do our  
27 interviews at another station if we can. Taking focus  
28 of the investigation away from where he works. AC to  
29 write to HRM regarding suspension. High bar. One

1 major concern - do our investigation when he is not  
2 around, rest days etcetera. AC explains that he is  
3 entitled to be there, but that we will try to focus of  
4 investigation. "

15:14

6 Is the entitlement there, the entitlement of Garda A to  
7 be there, is that it?

8 A. I think that's what the AC was suggesting. What he was  
9 saying was that he was around even though he was on  
10 rest days, etcetera, and the AC explained to him that  
11 he's entitled to be there, you know, that we would try  
12 and move our investigation, the focus of our  
13 investigation away.

15:15

14 580 Q. Yes. An issue that has arisen is as to whether Garda  
15 Keogh was told or knew from what was said to him that  
16 he would have to consent to provide a statement, to  
17 allow a statement to be provided to HRM in the context  
18 of a suspension being considered. Do you understand  
19 that?

15:15

20 A. Yeah. I know and I'm not sure when, that he was  
21 advised that there was a very high bar in relation to  
22 suspension and stuff and that his statement would be  
23 required to help him in the process.

15:15

24 581 Q. Yes. There is reference to high bar there in the  
25 middle of the page?

15:15

26 A. Yeah, I see that, yeah.

27 582 Q. So is that the occasion when you think he was informed  
28 that he would need to agree to release a statement to  
29 HRM to enable a suspension to be considered?



1 A. I don't know if it was put like that, that he would  
2 need to agree to it. I would be more of the opinion  
3 that it was suggested that, you know, for them to make  
4 a decision it would be helpful for his statement to be  
5 given or allowed to be given to him, you know. And 15:16  
6 again, we couldn't give his statement without his  
7 consent. I think that is borne out by a text I  
8 received from him at some stage to say that he wouldn't  
9 provide a statement.

10 583 Q. Yes. Perhaps we will just look at that, it's page 15:16  
11 13275, volume 14. It's the entry for the 23rd there.

12 A. The 23rd, yes.

13 584 Q. It says:  
14  
15 "12: 00-10: 00pm PO. " 15:16  
16  
17 Public office.  
18  
19 "14: 44 D/Superintendent rang to say that there was a  
20 meeting today in HQ Phoenix Park, AC Ó Cual áin and 15:17  
21 Superintendent McBrien. I wonder was CS Mullingar or  
22 CS Glacken. Wants to give statement to HRM."  
23  
24 So do you recall raising the issue with him on that  
25 occasion? 15:17

26 A. In relation to the date, I don't know when the issue  
27 was actually risen with him first. But I do recall  
28 getting a text from him to say that he wouldn't  
29 disclose his statement to HRM. I think he had a

1 certain fear of HRM, that his statement could be used  
2 for something otherwise.

3 585 Q. Yes. We will come back then to the issue of the text.  
4 That's just his diary entry obviously there, at the  
5 moment. Just returning to your note of that meeting. 15:17  
6 You have note number 2 there, this is on page 3946,  
7 down the page?

8 A. Yes.

9 586 Q. "2. Suspension. AC invites NK re any other reason -  
10 no just the hanging around. Haven't heard that Garda A 15:18  
11 had asked anyone what they did or said.

12  
13 AC explains that enquiries will be stalled for the time  
14 being."

15 15:18

16 First of all, in relation to that, it would seem that  
17 the assistant commissioner was trying to ascertain were  
18 there some other reasons on foot of which he might be  
19 suspended.

20 A. Yeah, that seems to be what's -- yeah. 15:18

21 587 Q. Had you discussed the basis of suspension with the  
22 assistant commissioner before the meeting?

23 A. I believe we had discussed it at some stage, yes. It  
24 was raised from an early point like and, yes, we had  
25 discussed it. 15:19

26 588 Q. What was the position then at that time when you  
27 discussed it?

28 A. I know advice from HRM was sought and I know that the  
29 AC got a letter indicating the requirements for

1 suspension of anyone.

2 589 Q. Yes. Assistant Commissioner Fanning I think, if I am  
3 not mistaken, sent a letter to the assistant  
4 commissioner drawing attention to the policy document,  
5 is that right? Perhaps I have the personnel wrong? 15:19

6 A. I vaguely remember something like that, yes.

7 590 Q. Did you see the policy document?

8 A. I may have. I may have. I think I may have, yeah.

9 591 Q. Okay. The reference to the assistant commissioner  
10 saying the inquiries will be stalled for the time 15:19  
11 being, could you help explain that?

12 A. Well, I think where that is coming from is that we  
13 would stall until we got a direction in relation to the  
14 suspension. That's my reading of that.

15 592 Q. Until the assistant commissioner got a direction? 15:20

16 A. Yes.

17 593 Q. It then records:  
18  
19 "Happy with investigation. No leaks, etcetera."  
20 15:20

21 Is that Garda Keogh saying that?

22 A. That's Garda Keogh saying that, yeah.

23 594 Q. "Assistant commissioner explains that matter is being  
24 investigated as a confidential reporter and went to the  
25 public forum and know who you are for that reason." 15:20  
26

27 Can you explain the context of that note?

28 A. My understanding of that was that unfortunately Garda  
29 Keogh had gone to a Dáil release in relation to it and

1           it probably would have put us on the back foot from an  
2           investigative point of view.

3 595 Q.    why do you say that or what do you base that on?  
4           A.    I don't know what context that came up on there. I  
5           honestly don't know. Just as I say, they are rough   15:21  
6           notes that I took.

7 596 Q.    Yes. But you are saying it would have probably put us  
8           on the back foot from an investigative point of view.  
9           Are you saying it hampered or might have hampered the  
10          investigation?   15:21

11          A.    I don't think it helped the investigation.

12 597 Q.    Yes. Well, if it didn't help it, did it hinder it?  
13          A.    It possibly did from the point of view in respect of  
14          the phone and the fact that I outlined that we got  
15          nothing text wise in respect of that person named or   15:21  
16          that person's name didn't come up in the contact. Now  
17          I am summarising, I don't know.

18 598 Q.    You are simply saying you had an absence of evidence on  
19          that point, is that right?

20          A.    There seemed to be, yeah.   15:21

21 599 Q.    It concludes on this page:  
22  
23          "Two issues raised in statement explained re disclosure  
24          to DPP. No problem with disclosure of either issues  
25          and statement made and signed giving consent."   15:22

26          A.    Mm-hmm.

27 600 Q.    And that was an issue which related to two court cases  
28          that had been in the pipeline, isn't that right?

29          A.    Yes.

1 601 Q. And prosecuted.

2 A. Yes.

3 602 Q. You had to consult with the DPP about --

4 A. Correct.

5 603 Q. -- the matters raised by Garda Keogh insofar as it 15:22  
6 might affect it, isn't that right?

7 A. Correct.

8 604 Q. And he was prepared to give his consent for that  
9 purpose?

10 A. He was, that his statement would be allowed to be 15:22  
11 disclosed for that purpose, yeah.

12 605 Q. There's some entries then on the next page. He gave  
13 you another number that he had for Garda A. Were those  
14 other numbers then by text that he was passing on to  
15 you, 1 and 2? 15:22

16 A. No. I think that he had got them by text from that  
17 same person in Galway.

18 606 Q. Yes, he had got them.

19 A. Yeah.

20 607 Q. But he was passing them on, is that right? 15:22

21 A. Passing them on, yeah.

22 608 Q. Just before I go to September, Superintendent McBrien  
23 has told us that on an occasion when you were visiting  
24 Athlone, you were coming back from a coffee perhaps,  
25 back to the station or maybe to the car park, and you 15:23  
26 made a remark about Garda Keogh's tax on his car?

27 A. Okay.

28 609 Q. Do you recall doing that?

29 A. I do.

1 610 Q. Okay. Can you help us fix the date of that? Because  
2 we know obviously from your statement you were in  
3 Athlone on the 26th June, 16th July and again on the  
4 6th August of 2014.

5 A. It was in relation to a day that we met Garda Keogh in 15:23  
6 a car park up by B&Q. I think it's B&Q.

7 611 Q. This is some other person we're not concerned with.  
8 You just named somebody there. You met somebody?

9 A. Garda Keogh.

10 612 Q. Garda Keogh, I'M sorry. I thought it was somebody 15:24  
11 else?

12 A. We met Garda Keogh in a car park and he parked near  
13 where I was.

14 613 Q. Yes.

15 A. As he was leaving, I noticed that he had a CVR cert on 15:24  
16 the window, or a cert on the window.

17 614 Q. Yes.

18 A. Because of that, it struck me that he was driving a  
19 commercial vehicle. Now, I had concerns from the point  
20 of view that he was travelling to meet me in a vehicle 15:24  
21 that I didn't know was properly taxed or insured. I  
22 was aware that he would have to get written consent to  
23 use his vehicle to attend such meetings and my concern  
24 was for him. I wasn't aware whether the tax was in,  
25 out, tax was private or commercial. I did not check 15:24  
26 it.

27 615 Q. Yes.

28 A. I said it as a passing comment to the superintendent,  
29 because he told me that he trusted the superintendent

1 and he good time for her.

2 616 Q. Yes.

3 A. It was a remark, I just made it to her because she  
4 would be the one providing consent for him to use his  
5 private car on duty to meet me. 15:25

6 617 Q. Yes. You were obviously familiar with the regulations  
7 that if he was using a private car the issue might  
8 arise of an expense claim in relation to it on duty, is  
9 that it?

10 A. No, it was nothing to do with expenses. 15:25

11 618 Q. Nothing to do with expenses?

12 A. Absolutely nothing, didn't even dawn on me.

13 619 Q. So I just want to be clear then, was this after the  
14 meeting that you had with Garda Keogh on the 13th that  
15 we were just looking at there? 15:25

16 A. No, the 13th was in Oranmore, I understand.

17 620 Q. Yes.

18 A. It wasn't -- I think -- I'm not sure, he turned up at  
19 one stage he told me in his mother's car, that his own  
20 car was -- something was being done with it or 15:25  
21 something like that.

22 621 Q. Yes.

23 A. This was not on that occasion, nor was it in Oranmore.  
24 I am happy that it was in the car park in Athlone, in  
25 Athlone shopping centre. 15:25

26 622 Q. In Athlone shopping centre?

27 A. That's where we would have arranged to meet him.

28 623 Q. Okay. What was the purpose of that meeting, just by  
29 the way?

1 A. I can't recall. I can't recall.

2 624 Q. Right. In any event, the meeting in Portumna was on  
3 the 13th and it was before that, is that right?

4 A. I have a feeling it may have been before that. I'm not  
5 one hundred percent sure and I couldn't swear. I 15:26  
6 didn't make any note of it because it was insignificant  
7 to me, you know. It was just something I had seen. I  
8 couldn't unsee it and I felt I was obliged just to do  
9 something.

10 625 Q. Yes. And just to be clear, you're not relating it any 15:26  
11 way to the propriety of claiming expenses --

12 A. No.

13 626 Q. -- for using the car to come and meet you?

14 A. Absolutely not.

15 627 Q. Or any other official duty? 15:26

16 A. Absolutely not.

17 628 Q. What was the issue then?

18 A. My concern was that he was coming to meet me in a  
19 vehicle that may not be insured properly. Should  
20 anything happen him, I wouldn't have it on my conscious 15:26  
21 and I didn't want to have it on my conscious.

22 629 Q. I see. I see. Is there any reason why you perhaps  
23 wouldn't have mentioned it to him on the occasion of  
24 meeting him in Portumna on the 13th August?

25 A. I wasn't going to get involved in anything personal in 15:27  
26 relation to him. I was investigating his complaint and  
27 I had formed a trust with him and I wanted to maintain  
28 that trust.

29 630 Q. But then the purposes of mentioning it to



1 Superintendent McBrien, can you recollect how many days  
2 after you would have seen the cert that you mentioned  
3 it to her?  
4 A. It could have been on the same day, I don't know. I  
5 don't know. 15:27  
6 631 Q. Okay. Just to go back to the purpose of my question:  
7 what was the purpose of mentioning it to her?  
8 A. Because I felt that she would -- she would look at it,  
9 address it, in whatever way it needed to be addressed.  
10 The fact that he told me that he trusted her and that 15:27  
11 he had good time for her and that he got on well with  
12 her, I assumed it would be the best person to deal with  
13 it. I didn't discuss it with anybody else.  
14 632 Q. Yes.  
15 A. That's the only person I said it to. 15:27  
16 633 Q. Yes. And did you know or did you enquire whether he  
17 had any outstanding claims in respect of travelling  
18 matters?  
19 A. No, no.  
20 634 Q. Or you didn't know whether she had sanctioned any? 15:28  
21 A. No.  
22 635 Q. And hadn't received others?  
23 A. No.  
24 636 Q. Nothing like that?  
25 A. No. She didn't mention it to me any more, I didn't 15:28  
26 mention it to her any more. I didn't follow it up with  
27 paper or I didn't make a note of it.  
28 637 Q. But had it anything to do with his protected  
29 disclosures?

1 A. Sorry?

2 638 Q. Your observation and reporting of it?

3 A. No. No. It was just out of concerned for Garda Keogh

4 himself.

5 639 Q. But I mean, was it your concern that he should rectify 15:28

6 it?

7 A. I didn't know. It could well have been taxed as a

8 private vehicle, I didn't know. But when I saw that

9 there wasn't a cert on it, that it was a CVR cert,

10 whatever the name is for them is, I then realised that 15:28

11 there's a possibility that things mightn't be right.

12 CHAIRMAN: The CVR is commercial aspect of it.

13 A. The commercial, and that's very noticeable on a

14 windscreen. It was beside me, I saw it.

15 640 Q. CHAIRMAN: You noticed that and in your mind, if I am 15:29

16 understanding, is not the question of expenses, but the

17 fact that to use the vehicle for official purposes,

18 i.e. going to meet you, everything had to be in order,

19 is that right?

20 A. Exactly. Exactly. 15:29

21 641 Q. CHAIRMAN: Okay.

22 A. They're matters I am dealing with people myself every

23 day, where I have to get the consent of people, and a

24 lot of the time in respect of insurance, and I have

25 given people advice over the years in relation to it, 15:29

26 for an extra €20 or something the insurance company

27 will put down covered to use vehicle while on duty as a

28 member of the Garda Síochána.

29 642 Q. CHAIRMAN: Okay.

1 A. It gives absolute cover for anybody in your vehicle.

2 643 Q. MR. MCGUINNESS: But was there any part of your concern  
3 that you wanted to have a whistleblower, as it were,  
4 who hadn't got any issues, that you would have a  
5 whistleblower, as it were, with no -- 15:29

6 A. Nothing like that dawned on me. As I say, I saw it, I  
7 couldn't unsee it and I felt I had to do something  
8 about it. I did as little as I possibly could in  
9 relation to it.

10 644 Q. Obviously just from the point of view of your contact 15:30  
11 with Garda Keogh, you were the single point of contact  
12 on behalf of the assistant commissioner in connection  
13 with the investigation?

14 A. That's correct.

15 645 Q. You've documented and he has documented a very large 15:30  
16 number of contacts, one to the other, by phone, text  
17 and letter, etcetera

18 A. Correct.

19 646 Q. And I am just wondering, is there any particular reason  
20 why you maybe didn't raise it directly with him and 15:30  
21 say, look, just in case anything should happen to you,  
22 you should have a look at this now yourself?

23 A. Sorry, I didn't document the thing with the tax?

24 647 Q. That you didn't raise it directly with Garda Keogh on  
25 any of these occasions? 15:30

26 A. No, I didn't want to get involved with Garda Keogh in  
27 relation to his personal aspects of vehicles and stuff  
28 like that. I tried to establish a trust with Garda  
29 Keogh and to do anything like that, I think I would

1 have shattered it from the outset.

2 648 Q. Okay. So you were just focusing on what you were meant  
3 to be doing and nothing else?

4 A. There was no motive behind it or anything like that.  
5 It was something, as I said, I had seen, I couldn't 15:31  
6 unsee it and I felt I had to do something and that's  
7 what I did.

8 649 Q. In any event, I think you gave him, you gave him an  
9 update on the investigation a few days later, is that  
10 right? 15:31

11 A. I would say on every occasion that I spoke with Garda  
12 Keogh that he would have got an update, at least was  
13 brought up-to-date with where we stood on the  
14 investigation.

15 650 Q. Yes. 15:31

16 A. I tried to keep him as updated as possible as I could.

17 651 Q. Yes. Just in terms of the formality of it, did you  
18 understand that you were being required either by the  
19 Commissioner or the assistant commissioner to update  
20 him as confidential reporter under the charter or the 15:32  
21 regulation?

22 A. Well, AC Ó Cualáin had suggested to me that I make sure  
23 that he was kept updated on the progress at all times.

24 652 Q. Yes. In any event, you had a meeting in headquarters  
25 with AC Ó Cualáin, the Chief Superintendent Curran and 15:32  
26 Superintendent McBrien on the 23rd September, isn't  
27 that correct?

28 A. I personally thought it might have been later, but I  
29 will take your word if you say that.

1 653 Q. Well that's what you said in your statement?  
2 A. Is it? Yeah, I just...  
3 654 Q. Perhaps we will just look at that, at the bottom of  
4 page 3901.  
5 A. Yes. 15:33  
6 655 Q. You say, in the second line of the last paragraph:  
7  
8 "A discussion took place around the question of  
9 suspension of Garda A. There was agreement that there  
10 was no local or other issues to justify the suspension 15:33  
11 of Garda A at this time. Neither the chief  
12 superintendent nor the superintendent had received any  
13 complaints regarding Garda A following our  
14 investigation or visit to Athlone Garda Station."  
15 15:33  
16 I think you made a note of that. If we look at page  
17 11329, your note of this meeting. The first part is  
18 what is contained in your statement. I can't quite  
19 make out the rest of it. You see the line after Garda  
20 A there, could you read that out for us? 15:34  
21 A. "At this time"?  
22 656 Q. Yes. "At this time" then continue on. Is that  
23 "neither have received any complaint regarding Garda  
24 A."  
25 A. Yeah, "neither have received any complaints regarding 15:34  
26 Garda A following our investigation or visits to  
27 Athlone station."  
28 657 Q. "They were advised that he had..."  
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A. " -- we had moved our investigation from the station following concerns raised by Nick Keogh. "

658 Q. Yes. "Superintendent McBrien... "

15:34

A. " -- spoke of an occasion when Nick Keogh had mentioned to her that Garda A, who carries a firearm, but stated that he was --"

CHAIRMAN: "Was carrying a firearm".

A. Sorry, "was carrying a firearm." I can't read my own writing. "But he... "

15:35

CHAIRMAN: "But stated that".

MR. McGUINESS: "That he did not feel under any threat".

CHAIRMAN: "But stated that he Nick did not feel under any threat".

15:35

A. Yeah.

659 Q. MR. McGUINESS: was that a concern that Garda Keogh had raised with you at any stage about Garda A and access to firearms?

15:35

A. He mentioned firearms on a number of occasions. On one occasion it was in relation to unnamed persons in a station putting a gun in a mouth. As a result of that I immediately contacted his superintendent in relation to it, out of concern for his welfare and aspects surrounding that. On another occasion he mentioned, I'm not sure was it shots being fired or two people being shot in the Garda station, and again I made contact with his superintendent in respect of that.

15:35

1 660 Q. Yes.

2 A. Both of those might have been when he was under the  
3 influence of drink.

4 661 Q. Yes. Later that month, you do appear to have been  
5 pressing Garda Keogh to disclose his statement to HR, 15:36  
6 because you have a note in your diary at page 11331, if  
7 we perhaps just look at that. 11331?

8 A. Yeah.

9 662 Q. It's an entry for the 28th. Maybe it is the -- the  
10 28th September, if we go up the page, please. 15:37

11 A. Yeah.

12 663 Q. Just in the middle:  
13  
14 "Phone call to Nick Keogh re disclosure of his  
15 statement to HRM. He declined to consent." 15:37

16 A. Yeah.

17 664 Q. So it doesn't appear to be a text as such?

18 A. I think there might be a text preceding that and it was  
19 as a result of the text that I would have made the  
20 call. I think, from my recollection. 15:37

21 665 Q. All right.

22 A. Yeah.

23 666 Q. So you do appear to be have been pressing him on that.  
24 Have you any doubt that you made him aware it was  
25 required for the purpose of suspension consideration? 15:37

26 A. I have no doubt that I said to him that it would help  
27 them in relation to making a decision. But I cannot  
28 recall using that phrase -- that terminology.

29 667 Q. Yes. Well, can you recall what terminology you did

1 use?

2 A. It would be asking him if he wished to disclose his  
3 statement and that it would help HRM in making a  
4 decision as to suspension.

5 668 Q. All right. It was as clear as that then? 15:37

6 A. It would be as clear as that, absolutely, yeah.

7 669 Q. Thank you. Just going back then to your efforts to  
8 contact the Galway person, I am going to refer to the  
9 person as the Galway person.

10 A. Yes. 15:38

11 670 Q. At page 3902 of your statement, you detail attempts  
12 there to contact him and they appear to have been going  
13 on in early July 2014?

14 A. I think even for June sometime, possibly.

15 671 Q. Is that right? You think you started in June? 15:38

16 A. I think it was sometime in June, yeah.

17 672 Q. Okay. You pursued him, if you go down to the bottom of  
18 the page, in August, September, November, and if we go  
19 on to page 3903, I think you succeeded in persuading  
20 him to meet you on 12th December 2014, isn't that 15:39  
21 correct?

22 A. Correct, yeah.

23 673 Q. You set out what happened there, I think the Tribunal  
24 has heard the results of it?

25 A. Just for the record, in relation to this particular 15:39  
26 period, I went to great extremes to try and make  
27 contact with him, having met him first and he  
28 suggesting to us that he didn't want to get involved in  
29 stuff. I was hoping that we could push him that little



1 further. I thought that we might get him.  
2 Unfortunately at the end it didn't happen. I included  
3 even going to his workplace, trying to get him to talk  
4 to us. We visited the house that he had been in with a  
5 partner, but unfortunately he had left that and we 15:40  
6 found a new address for him. So I went to a lot of  
7 effort to try and establish contact with him and to try  
8 and get him on board in the investigation.

9 674 Q. Garda Keogh had, of course, given you his own original  
10 notes of the conversation from the night he had first 15:40  
11 met him?

12 A. Correct.

13 675 Q. Did you bring those to Galway to try and persuade him  
14 to sign those?

15 A. I'm not -- I don't believe we did. What we would have 15:40  
16 done -- in fact, they were original notes.

17 676 Q. Yes.

18 A. And we wouldn't have interfered with them. What we  
19 would have done is brought extracts of what he said or  
20 a copy of what he said and put that to him. 15:40

21 677 Q. Yes. It's just he does appear to have agreed --

22 A. Yes.

23 678 Q. -- that what he had said to Garda Keogh was a true  
24 account. So you must have been able to read something  
25 to him? 15:41

26 A. Well, as I said, we wouldn't have brought the original  
27 notes, we brought a copy of them.

28 679 Q. Is that right?

29 A. Yeah. That would be my recollection.

1 680 Q. In any event, he made his position clear in signing a  
2 statement saying that he didn't want to have anything  
3 said entered in evidence?  
4 A. Yes.

5 681 Q. And he never provided a signed account of anything that 15:41  
6 he had said had happened?  
7 A. No.

8 682 Q. Around this point in time I think you had received a  
9 request from Assistant Commissioner Ó Cualáin to  
10 provide a report in relation to Garda Keogh, isn't that 15:41  
11 right? Could we look at page 10836?  
12 A. Sorry, 10 --

13 683 Q. 10836. That's in a different volume.  
14 A. Okay.

15 684 Q. We will get that for you, if you wish. This was 15:42  
16 Assistant Commissioner Ó Cualáin asking you to provide  
17 a report arising from a copy of a minute from the  
18 office of the Commissioner and it's asking:  
19  
20 "Please confirm contact has been established with Garda 15:42  
21 Keogh in respect of the Commissioner's direction. I  
22 understand you are scheduled to meet him on Thursday,  
23 11th September 2014 in Ballinasloe."  
24 A. Okay.

25 685 Q. Now, this is dated, if we go down to the bottom of the 15:42  
26 page, December 2014. I think you provided a report in  
27 relation to that, isn't that right?  
28 A. I believe so, yes.

29 686 Q. Could we look at page 10832. This is actually the date

1 that you met the other person. It says:

2  
3 "With reference to the above and attached  
4 correspondence dated 27th November 2014, the following  
5 is reported. 15:43

6  
7 On 11th December 2014, confidential reporter was met by  
8 Detective Superintendent Declan Mulcahy and Detective  
9 Inspector Michael Coppinger at Ballinasloe Garda  
10 Station. Confidential reporter stated he had no issues 15:43  
11 with this investigation and was content with how it was  
12 being progressed. Investigating Gardaí highlighted and  
13 showed an article to him from the Daily Mirror  
14 newspaper in which the reporter indicated that matters  
15 highlighted concerned separate issues. He further 15:43  
16 informed Gardaí that he feels he is being harassed by  
17 senior management at Mullingar due to the following  
18 reasons:

- 19 A. A Pulse check he previously done on the Pulse  
20 system. 15:43  
21 B. Intelligence he placed on the Pulse system.  
22 C. Two alleged complaints made by Ms. Olivia O'Neill  
23 and Mr. Liam McHugh.

24  
25 The confidential reporter informed Gardaí he had lodged 15:43  
26 a complaint with GSOC concerning alleged harassment and  
27 is of the understanding that the Ombudsman Commission  
28 will investigate same on termination/conclusion of our  
29 investigation.

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Gardaí also spoke to him with regard to an article that appeared in an edition of the Irish Times newspaper dated 11th December 2014. The reporter outlined that he was surprised by such an article and informed Gardaí that he had not spoken to Mr. Wallace and supplied such information. He informed Gardaí that a second whistleblower may have been responsible for forwarding such information for this article. 15:44

The confidential reporter was reassured by investigating gardaí as to its determination to effectively investigate his allegations, that he will be treated with dignity and respect and informed if he feels that he is being harassed to report the matter immediately. 15:44

He was also once again offered the services of the employment assistance officers. " 15:44

Now, that appears to be a confirmation on Garda Keogh's part that he believed he was being harassed by these matters? 15:44

A. Yes, that's what he said, and I have given as it he said it to us. 15:45

687 Q. I take it at this point in time none of these three matters, A, B, C there were new to you?

A. No.

688 Q. He had previously given you a copy of a Pulse check, I

1 think?

2 A. He had, yeah, or the Pulse intelligence created, yeah.

3 689 Q. You knew that he was complaining to GSOC about the  
4 matters. But did you think that he was requiring you  
5 to do something about his report of harassment? 15:45

6 A. No. Not from -- I didn't take that from him.

7 690 Q. Okay. The second last sentence there, that you have  
8 included that that you've informed him that if he feels  
9 he is being harassed to report the matter immediately.  
10 Would that be to report it to you or to somebody else? 15:46

11 A. The matter -- I don't believe it was -- we had  
12 guidelines in relation to our investigation. I suppose  
13 our points were laid out in relation to it. Anything  
14 that came, you know, was channelled into that that was  
15 written by our investigation, we would look at. These 15:46  
16 were matters that he had said he had gone to GSOC in  
17 respect of and we weren't going to duplicate, I don't  
18 believe, in relation to it.

19 691 Q. Yes.

20 A. You know, if the matter was with GSOC. 15:46

21 692 Q. Yes. But who was he to report the harassment to then?  
22 Because you're not yourself referring to GSOC in that  
23 sentence.

24 A. I can only presume that it would be local management,  
25 if he had a problem. That's where any report would  
26 start. 15:46

27 693 Q. Yes. Obviously you had your point of contact in  
28 Athlone with Sergeant Curley?

29 A. Mm-hmm.

1 694 Q. You knew he had been appointed by Superintendent  
2 McBrien. Did you not think it perhaps appropriate that  
3 you should report this to Superintendent McBrien at  
4 that time? Or did you presume she was aware of it all?  
5 Or did you take -- 15:47

6 A. To be honest with you, I can't recall if I spoke to her  
7 in relation to it. But as I say, I have documented it  
8 here.

9 695 Q. Yes. Just going on to the next page then. I think you  
10 just sent that up then, indicating you would be 15:47  
11 reporting any further developments?

12 A. Yeah. As somebody else gave evidence here yesterday or  
13 today in relation to the hierarchy of An Garda  
14 Síochána, that's how things work.

15 696 Q. Yes. Garda Keogh had at this same period made a 15:48  
16 statement to you in relation to an alleged visit of  
17 Garda A to Ms. B's house in early December, isn't that  
18 correct, and his belief that Garda A had got a hold of  
19 his statement?

20 A. I'm not sure if it was a statement. 15:48

21 697 Q. Right.

22 A. I'm open to correction now, I'm not sure it was a  
23 statement.

24 698 Q. Well he refers to it as some papers in the statement?

25 A. Yes. 15:48

26 699 Q. Elsewhere he refers -- there's a note in the diary --

27 A. Yeah, you're correct.

28 700 Q. -- it's related to a fear that Garda A had been given  
29 his statement?

1 A. Yeah.

2 701 Q. Did he raise that issue with you?

3 A. Did I what.

4 702 Q. Did he raise that issue with you?

5 A. He did. He said it to me, yes. 15:48

6 703 Q. And what did you advise him?

7 A. I told him it couldn't be possible, because the only

8 person that his statement was disclosed to was the

9 DPP's office. Now he had a copy of his statement

10 himself. 15:49

11 704 Q. Yes.

12 A. And I think he may have disclosed that to GSOC.

13 705 Q. Pardon? You think he may have --

14 A. Disclosed it to GSOC himself.

15 706 Q. To GSOC, Yes. 15:49

16 A. Yeah.

17 707 Q. And was that for the purpose of making a complaint to

18 GSOC or just keeping them informed?

19 A. I don't know. But he mentioned at some stage during

20 the investigation that he disclosed his statement to

21 GSOC. 15:49

22 708 Q. Yes. In any event, could we look at a document --

23 A. Just going back to that.

24 709 Q. Yes.

25 A. I think he also said in the same time that there had

26 been a stabbing or something in the locality and that

27 Garda A came from Ms. B's house with paper under his

28 arm and he felt that it was his statement. I think I

29 asked him, why do you believe that it was your

1 statement or how would she have got it, and he  
2 suggested that maybe HRM gave it to her. Now I wasn't  
3 aware that HRM would have had a copy of his statement  
4 at that stage because he hadn't disclosed it himself.

5 710 Q. Yes. And you hadn't provided it to them? 15:50

6 A. Absolutely not. And if there is any reference to  
7 suggest that it was any of my team, that is absolutely  
8 and total nonsense.

9 711 Q. Yes. Could we look at document 8397? This is a report  
10 up to the secretary of the Commissioner. This 15:50  
11 incorporates your previous report that we've seen. If  
12 we just continue down the page. There doesn't appear  
13 to be a reference on that page to further reporting any  
14 harassment.

15 A. Okay. 15:51

16 712 Q. CHAIRMAN: Is that the assistant commissioner adopting  
17 your report to send to the Commissioner?

18 A. Correct.

19 713 Q. CHAIRMAN: It's essentially the same thing?

20 A. Same thing. 15:51

21 714 Q. CHAIRMAN: Only it's under his name.

22 A. Yes.

23 715 Q. CHAIRMAN: It's your draft, so to speak?

24 A. Yes.

25 716 Q. CHAIRMAN: And he is adopting it and saying, here's the 15:51  
26 position; is that correct?

27 717 Q. MR. McGUINESS: well, there's some detail omitted and  
28 there's some extra material. This second last  
29 paragraph wasn't something that was included in your



1 report, for instance, isn't that correct? I am just  
2 wondering, can you enlighten us as to who it was  
3 envisaged would be spoken to there in the near future?  
4 A. Em, I presume it was Ms. B. I don't know off hand but  
5 I presume it might have been. 15:52  
6 718 Q. Well is that something that you would have informed the  
7 assistant commissioner of?  
8 A. The assistant commissioner was fully aware of the  
9 investigation at all times, where we stood.  
10 719 Q. Yes. 15:52  
11 A. Our plan, our strategy in relation to how we deal with  
12 it.  
13 720 Q. It doesn't appear that Ms. B was approached again until  
14 the very early days of April of 2015?  
15 A. Yeah. I suppose the way you look at it, in relation to 15:52  
16 the man from Galway, it took from June to December to  
17 try and see could we get him on board and eventually  
18 finish with him. We then -- there was other matters  
19 around, like all the matters that were investigated are  
20 not here before the Tribunal. 15:52  
21 721 Q. CHAIRMAN: This is not a man from Galway?  
22 A. This is not --  
23 722 Q. CHAIRMAN: We have been through that.  
24 A. We have been through them and we have just finished  
25 with them. 15:53  
26 723 Q. CHAIRMAN: Yes, this is another witness?  
27 A. Another witness, yeah.  
28 724 Q. CHAIRMAN: Okay. And you think it's Ms. B?  
29 A. I am thinking it is Ms. B from the reading of it.

1 725 Q. MR. McGUI NNESS: Can we go back up to the previous  
2 page, Mr. Kavanagh. Thank you. Now, there is the  
3 reference here to harassment in this paragraph there  
4 that's visible at the bottom. It's passed up without  
5 any further comment. Did you discuss the issue of 15:53  
6 harassment with the assistant commissioner prior to him  
7 sending this letter or on foot of your report that you  
8 sent to him?

9 A. To be honest, I am not sure. I received the  
10 correspondence, I wrote out what I did on my reply to 15:54  
11 him..

12 726 Q. Yes?

13 A. And I am not -- I cannot say a hundred percent if I  
14 did.

15 727 Q. Yes, okay. Is it perhaps likely, knowing that it had 15:54  
16 gone to GSOC and knowing that these things had arisen  
17 locally, that you were satisfied that local management  
18 knew about these issues?

19 A. I suppose you're never satisfied, you know. You try to  
20 do your best in relation to it and, you know, put it 15:54  
21 into the picture where somebody will deal with it. And  
22 I think the thing was that it was reported to GSOC,  
23 GSOC had it on their books and I presume it was fair to  
24 assume at that stage that it was being investigated by  
25 them. 15:54

26 728 Q. Yes. Perhaps we will look at a report slightly later  
27 in time then, following a conference that you had about  
28 the case. If we look at document 10839, which is a  
29 report of the 29th January. Again, this is being sent

1 up to keep the Commissioner informed. It's a follow  
2 on, as it says in the first paragraph. And it says in  
3 the second paragraph:

4  
5 "I attended the most recent case conference held on 15:55  
6 29th January 2015 at Oranmore Garda station, which was  
7 attended by all members of the investigation team."

8  
9 Can I just stop there? How many case conferences had  
10 there been by this point in time, do you know? 15:55

11 A. I don't know.

12 729 Q. How many had the commissioner attended? I know he had  
13 been assigned further duties I think which kept him in  
14 Dublin for parts of the working week, isn't that  
15 correct? 15:55

16 A. Again, I am aware that he was at some, he wasn't at  
17 them all, I know that.

18 730 Q. Yes.

19 A. But he was at a fair share of them, in fairness to him,  
20 yes. 15:56

21 731 Q. Yes.

22 A. And if not, I would have private meetings with him to  
23 bring him up-to-date.

24 732 Q. Yes.

25 A. Because he wouldn't have been in Galway every day, he 15:56  
26 might be there maybe on a Monday morning or a Friday  
27 evening or something like that.

28 733 Q. Yes.

29 A. I was also tied up with a lot of work around the

1 country and I mightn't be there. So, you know, when we  
2 did meet, we did discuss.

3 734 Q. Obviously the team assembled under you were doing the  
4 actual -- the work on the street, as it were, if I  
5 could put it that way.

15:56

6 A. Correct.

7 735 Q. In terms of acquiring things and analysing them and  
8 taking statements. You were doing that too, isn't that  
9 right? The assistant commissioner was supervising it  
10 perhaps more -- partly from a distance necessarily and  
11 partly through the conferences?

15:56

12 A. Well, I presume that would be fair to say, but he did  
13 get involved in relation to Garda Keogh on the two  
14 meetings we had with him.

15 736 Q. Yes.

15:56

16 A. And I know there was some personal contact as well with  
17 him.

18 737 Q. Yes. But in any event, he is reporting here:

19  
20 "Was updated and fully briefed on progress to date by  
21 Detective Superintendent Mulcahy. Investigative  
22 strategies were discussed and outlined with new lines  
23 of inquiry being established that will assist the  
24 investigation progressing to a conclusion."

15:57

25  
26 Can you help us there, what he might be referring to?

27 A. Just maybe if we just go back on it again there a  
28 moment.

29 738 Q. Yes. It's the second paragraph, the last two lines of

15:57

1 the second paragraph I was asking you about.

2 A. Okay. That might make reference to when you asked me  
3 about this witness in January and stuff like that,  
4 where I suggested Ms. B. We would have had a strategy  
5 in relation to a timeframe that we would try and 15:57  
6 arrange for that, and that would come after  
7 interviewing the man in Galway because who he was and  
8 what he was, hoping he would have given us a lot more  
9 to interview her about.

10 739 Q. It goes on to detail of the amount of work that had 15:58  
11 been done by that point in time, but at the last  
12 paragraph there that's visible, it says:

13  
14 "A draft of the final report has commenced and it has  
15 been determined by the investigation team it is not 15:58  
16 possible to submit modular files pertaining to each  
17 allegation as previously stated due to the fact that  
18 allegations made are common and interlinked to a number  
19 of persons named by the confidential reporter."

20  
21 Then if we just go on to the next page. 15:58

22  
23 "The investigation team proposes to have all enquiries  
24 completed with a view to then interviewing the serving  
25 member of An Garda Síochána against whom the majority 15:58  
26 of allegations are made. Following the completion of  
27 this interview a final all encompassing file will be  
28 completed as expeditiously as possible. It is expected  
29 that the interviewing of this member and a small number

1 of outstanding witnesses will be completed before the  
2 end of February.

3  
4 I appreciate that this investigation is taking a  
5 considerable period of time and is involving 15:59  
6 considerable resources. However, the time and  
7 resources are required to definitively complete the  
8 investigation to the highest professional standard and  
9 to ensure all of the allegations are being properly and  
10 thoroughly investigated. 15:59

11  
12 I will keep you apprised."

13  
14 Now, I just ask you to comment before we go any  
15 further. The investigation had in a sense really 15:59  
16 kicked off once you got the statement from Garda Keogh  
17 on the 18th June?

18 A. We would have kicked it off prior to that.

19 740 Q. Kicked off, well what had actually in concrete terms  
20 been done prior to that? 15:59

21 A. We had set up our incident room.

22 741 Q. Yes.

23 A. We had created jobs from the affidavit in relation to  
24 that and we had made contact in relation to the phones  
25 and original files. 15:59

26 742 Q. Yes.

27 A. And also in relation to -- I recall now as well, he  
28 hadn't got it on the GNDU in Dublin in respect of the  
29 Loki aspect of it and sought that the original file

1 from their office would be retained.

2 743 Q. Yes. Obviously Garda Keogh had expanded on his  
3 affidavit to a considerable degree, but did you regard  
4 it at this stage as an investigation which was the  
5 subject-matter of any delay, let alone deliberate delay 16:00  
6 or a culpable delay of any sort?

7 A. There was absolutely no delay. I suppose all of us  
8 were doing our day job as well at the same time. Now  
9 if you look at the man from Galway, it took us nearly  
10 seven months to get a final answer from him. When we 16:00  
11 look at Ms. B, who is named as another important  
12 witness, it took considerable time to pin her down and  
13 try to see where we are going in relation to her. So  
14 that took up a lot of our time. Our investigation  
15 sprung from those two potential witnesses, so to speak. 16:00

16 744 Q. Yes.

17 A. So we couldn't do, we'll say, the tail end of our  
18 investigation until we had seen what they could offer  
19 us.

20 745 Q. Yes. 16:01

21 A. Now there was a lot of other investigations in relation  
22 to other aspects of his complaint going on all through  
23 that, some of them pretty substantial, which opened up  
24 into greater channels.

25 746 Q. Yes. Just the reference here at the top of the page to 16:01  
26 having all the enquiries completed with a view to  
27 interviewing the serving member, you were leaving him  
28 until last, it would appear. Would that be a normal  
29 strategy?

1 A. You would try to gather your information first.

2 747 Q. Yes.

3 A. And that you would have your best possible case to put  
4 to him.

5 748 Q. Yes. Obviously the longer it takes and it may take 16:01  
6 however long it does take, but the longer the person  
7 has to prepare for what may be coming. Was that a  
8 concern, that Garda A might have an undue amount of  
9 time to prepare for --

10 A. It was a concern that we all would have had. 16:02

11 749 Q. Yes.

12 A. But unfortunately that was the position.

13 750 Q. Yes.

14 A. Now, if I go back to Garda A, Garda A was a convicted  
15 criminal, a drug dealer, a heroin addict, a person -- 16:02

16 751 Q. If Garda A, is it?

17 A. Sorry?

18 752 Q. CHAIRMAN: Assuming the complaints were true, is that  
19 correct?

20 A. Yes. 16:02

21 753 Q. CHAIRMAN: If the allegations made by Garda Keogh were  
22 true, I think that's the bit you meant to say.

23 A. Yeah.

24 754 Q. CHAIRMAN: Then he was guilty of a lot of serious  
25 things. 16:02

26 A. I suppose just in relation to the whole aspect of  
27 trying to create evidence to put to him.

28 755 Q. CHAIRMAN: Yes.

29 A. You know. And we had to look at where that was coming



1 from.

2 756 Q. CHAIRMAN: Yes.

3 A. And we had to judge that. And also, that person, an  
4 allegation was made by Garda Keogh to suggest that  
5 Garda A conspired with Ms. B to have this fella caught 16:03  
6 for heroin dealing.

7 757 Q. CHAIRMAN: Indeed.

8 A. You know.

9 758 Q. CHAIRMAN: Yes.

10 A. So he was the partner of Ms. B. 16:03

11 759 Q. CHAIRMAN: Yes.

12 A. So there was a lot of things there that we had to try  
13 and balance and, you know, come to a reasonable  
14 decision in relation to what we were getting.

15 CHAIRMAN: You have some distance to go, 16:03  
16 Mr. McGuinness?

17 MR. MCGUINNESS: I have, indeed, Chairman.

18 760 Q. CHAIRMAN: That's fine. Well, we always knew that you  
19 were going to be a witness who took a bit of time. So  
20 we will have to ask you to come back tomorrow. 16:03

21 A. No problem, Judge.

22 761 Q. CHAIRMAN: Can I just ask you before we go, you said  
23 all of us were doing our day job at the same time.

24 A. Yes.

25 762 Q. CHAIRMAN: would you tell me more about that? 16:03

26 A. Well, I was the detective superintendent for the  
27 Western Region. My responsibility was in respect of  
28 Claire, Galway, Mayo, Longford, Roscommon. I was tied  
29 up in a number of serious investigations, parallel

1 investigation was GSOC, supervising investigations with  
2 GSOC.

3 763 Q. CHAIRMAN: And was the same true of your colleagues who  
4 were on your team?

5 A. Well -- 16:03

6 764 Q. CHAIRMAN: I mean not to the same extent but  
7 presumably --

8 A. They all had their work. Well, it wasn't a team that  
9 were sitting down all day every day associated with  
10 this. 16:04

11 765 Q. CHAIRMAN: I was wondering about that.

12 A. Yeah.

13 766 Q. CHAIRMAN: would it have been possible for the  
14 commissioner to say, look, I will appoint Assistant  
15 Commissioner Ó Cualáin, he will pick his team, they 16:04  
16 will then devote themselves exclusively to this -- was  
17 that realistic?

18 A. No, unfortunately.

19 767 Q. CHAIRMAN: could that have happened or would it have  
20 ever happened? 16:04

21 A. I don't believe, unless you were a specific group to  
22 deal with such things and then you could concentrate on  
23 it fully. But unfortunately we had to --

24 768 Q. CHAIRMAN: In other words, if you were the fraud squad  
25 or something like that? 16:04

26 A. Exactly, yeah.

27 769 Q. CHAIRMAN: Is that what you are saying?

28 A. Exactly.

29 770 Q. CHAIRMAN: But if you were assembled as you were, then

1           you had to do your own work and take on this extra  
2           responsibility?

3           A.     That's right.

4   771   Q.     CHAIRMAN:  Is that right?

5           A.     That is the situation.

16:04

6   772   Q.     CHAIRMAN:  Okay, thank you.

7           A.     However, Garda Burke, who was our incident room manager  
8           basically, he would have spent a lot of time and was  
9           our conduit for information.

10   773   Q.     CHAIRMAN:  So he was mostly -

16:05

11          A.     Mostly.

12   774   Q.     CHAIRMAN:  - sort of 90% pretty well on that job?

13          A.     A lot of the time, yeah.

14   775   Q.     CHAIRMAN:  Okay.  Okay, thanks very much.  You  
15           mentioned that and I just wanted to see if I could  
16           clarify that.  Thanks very much.  So we will start  
17           again tomorrow then, okay.  Thank you very much.

16:05

18

19           THE HEARING THEN ADJOURNED UNTIL WEDNESDAY, 12TH  
20           FEBRUARY 2020 AT 10:30AM

16:05

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