

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 WEDNESDAY, 4TH MARCH 2020 - DAY 147

147

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

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I N D E X

WITNESS	PAGE
<u>GARDA FERGAL GREENE</u>	
DIRECTLY-EXAMINED BY MR. MARRINAN	6
CROSS-EXAMINED BY MR. KELLY,	46
CROSS-EXAMINED BY MR. DIGNAM	64
CROSS-EXAMINED BY MS. GLEESON	70
EXAMINED BY MR. KANE	73
QUESTIONED BY THE CHAIRMAN	76
 <u>MR. JOE NUGENT</u>	
DIRECTLY-EXAMINED BY MS. McGRATH	80

1 THE HEARING RESUMED, AS FOLLOWS, ON WEDNESDAY, 4TH
2 MARCH 2020:

3
4 MR. MARRINAN: Good morning, Chairman. The first
5 witness today is Garda Fergal Greene, please. 10:01

6 CHAIRMAN: Thanks very much. Good morning, Garda
7 Greene.

8 THE WITNESS: Good morning, Chairman.

9
10 GARDA FERGAL GREENE, HAVING BEEN SWORN, WAS 10:01
11 DIRECTLY-EXAMINED BY MR. MARRINAN, AS FOLLOWS:

12
13 THE WITNESS: Garda Fergal Greene, Judge, Athlone Garda
14 Station.

15 1 Q. MR. MARRINAN: Garda Greene's statement is at page 3819 10:01
16 and there is a supplemental statement at 7606 of the
17 material. Garda Greene, if you wouldn't mind just
18 giving us a brief outline of your career in An Garda
19 Síochána to date, please.

20 A. Yes, Chairman. I joined An Garda Síochána in 2000 and 10:02
21 I went to Castlebar Garda station as part of my
22 training. I went from there to Longford Garda station,
23 it was my first base. I worked in community policing,
24 drugs units, detective units, traffic corps in Longford
25 and, or in Mullingar, and then I transferred to Athlone 10:02
26 Garda Station and I worked on the regular unit there.
27 I was attached to property management in Athlone
28 station. And I am currently attached to the courts
29 office, dealing with summonses and warrants.

1 2 Q. Garda Greene, your statement to the Tribunal, initial
2 statement to the Tribunal is very short and you covered
3 the matters that you considered might be relevant. But
4 you have been mentioned in dispatches since then and I
5 want to go over some matters with you, where you have 10:03
6 arisen in the course of the evidence. Perhaps if, in
7 the first instance, we could have Day 105 on the
8 screen, of the Tribunal's hearings. This is the
9 evidence of Garda Keogh. Mr. Barnes, if we could go to
10 page 99, please, and if we go down to line 21. This is 10:04
11 a reference to you. He says:

12
13 "Basically, Judge, Garda Fergal Greene was the person
14 who, when I broke trust first within the ranks of An
15 Garda Síochána, to my memory. And I had to do that 10:04
16 because he was in the storeroom where the particular
17 DVD that I had to get -- I was going nowhere until I
18 got the, as I said, primary piece of evidence. So I
19 had to break trust with Fergal, or confide in him,
20 sorry, is the right word. I had to say, look, this is 10:04
21 the story, I have to do this, I need to get that and I
22 need it to be done above board. How will we do it? He
23 said, because you're the investigating officer, you're
24 entitled to sign out, sign out that, at the time,
25 video, which I did, and then when I was finished with 10:05
26 it, I got it copied on to DVDs, signed it back in
27 accordingly. So I was going nowhere without Garda
28 Greene, Judge, my complaint or none of this was going
29 anywhere without Garda Greene."

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Do you see that?

A. I do, Chairman, yes.

3 Q. Were you aware that evidence has been given before I just opened it to you?

10:05

A. I am aware of that evidence, correct, yeah.

4 Q. And what do you say in relation to it?

A. I don't agree with it fully in its entirety.

Basically, Garda Keogh asked me, informed me that he wanted to get a DVD from the property store. I had my suspicions, kind of, from talking to him, I kind of felt there was something going on.

10:05

5 Q. Suspicions of what?

A. Well, I felt that he wanted to get that DVD in -- he seemed adamant that he wanted to get that DVD. He mentioned it to me, that there was some wrongdoing or something in it and he needed to look at it.

10:06

6 Q. Yes. All right.

A. I didn't know -- that was at a very, very early stage. I didn't know exactly what direction he was going with it or was he just doing it to try and box off something in relation to his work, maybe that he made a mistake or whatever. I wasn't fully sure at that stage what actually was going on. What I did say was that any investigating member is entitled to a DVD in relation to -- if they are the investigating member in relation to the case, they are entitled to get the DVD from the property store. But the same applies for everyone, they have to go through the proper procedures in order

10:06

10:06

1 for that to be released. Garda Keogh in relation to
2 this was no different to any other member. Lots of
3 other members, at that time while I was in the
4 property, had got DVDs from the property. They had to
5 apply in writing. It had to be signed out on the PEMS 10:07
6 system, and it had to be signed back in when they were
7 finished with it.

8 7 Q. Yes. If we could just go to page 3822, because we are
9 able to put a date on this. This was a statement which
10 you made on 10th June 2014. I think that that was to 10:07
11 the Ó Cualáin investigation, is that right?

12 A. That's correct, Chairman.

13 8 Q. If we scroll down there to the second line of the
14 statement, we see:

15
16 "On 18th February 2014 I received a typed report from
17 Garda Nick Keogh, requesting copy of video number..."

18
19 And it gives the number, which was an interview that
20 was held in Athlone Garda Station regarding a 10:08
21 particular individual.

22
23 And then accompanying that, if we could go to page 3823
24 of the material, and we scroll down, we see it's
25 stamped 18th February 2014. It's a short statement 10:08
26 from Garda Keogh. He says:

27
28 "I am the investigating member in a case involving..."
29

1 we know the name of the person.
2
3 "...an interview. Request copy of [video number]."
4
5 And that is signed by Garda Keogh. 10:08
6
7 Then if we could just go to page 3824, it seems to be a
8 log and it concerns the working tape. It's the same
9 number. And it indicates that -- sorry, if we turn it
10 around. It indicates that it was returned on 30th 10:09
11 April 2014. And those were documents that you produced
12 to the Ó Cualáin investigation. But what I am really
13 asking you in relation to this, because there's no
14 doubt that you signed it in -- or signed it out and
15 then it came back in and that there was a written 10:09
16 request for it from Garda Keogh. But he is going is
17 little bit further than that in the statement that he
18 has made on it to the Tribunal. He said that he
19 confided in you as to why he wanted it, and you were
20 the one who told him, well, you're entitled to it in 10:09
21 any event; in other words, you don't have to give me a
22 reason because you're the investigating garda. Do you
23 recall that conversation with him?
24 A. I do recall us having a conversation and my
25 recollection of it is, and, as I am sure you can 10:10
26 appreciate, it is some time back, but my recollection
27 of it is that he informed me that he wanted to get a
28 DVD from the property store. He indicated to me that
29 he felt that something wasn't right in relation to the

1 interview or in relation to the investigation and that
2 he needed the DVD in order to clarify whether there was
3 mistakes made or whether there wasn't. That was at a
4 very early -- at a very early stage. I mean, this was
5 at the beginning of all this. And that's my 10:10
6 recollection of it. He did outline that he felt there
7 was a problem or whatever. But I had nothing to do
8 with the case in relation to why he wanted the DVD, so
9 I didn't know the ins and outs of it. I was attached
10 to the property store and it was my job to sign stuff 10:11
11 out and sign stuff in when people wanted it. And he
12 did highlight there was a problem, but the ins and outs
13 of it I wasn't aware of, because I didn't have any
14 involvement in the case.

15 9 Q. Okay. If we just move on then, if we could have page 10:11
16 13260 up on the screen, please. And if we could scroll
17 around, this is Garda Keogh's diary. If we look at the
18 entry there for the 10th June, we see there:

19
20 "22:35 call from Fergal Greene. Informed him about 10:12
21 Liam McHugh complaint. He told me Liam McHugh
22 approached him to say he is under pressure to make a
23 complaint against a garda re theft of €4,500. Didn't
24 know about -- "

25
26 I am not sure what that word is. But in any event -- I 10:12
27 can't make that out. But in any event, do you recall
28 that conversation on the 10th June?

29 A. I don't, to be honest. And it would be very unfair of

1 me to either accept it or deny it, because I don't have
2 any full recollection of it. In relation to Liam
3 McHugh approaching me in relation to information, Liam
4 McHugh would be a person that would, you know, approach
5 guards on a regular basis. It's quite possible he did 10:13
6 approach me. It's possible, and he could have said
7 that to me. I certainly know I wouldn't have rang
8 Garda Keogh to give him this information. But in the
9 course of a conversation where he rang me, I may have
10 said that. It would be unfair of me to deny it or 10:13
11 accept it. I just don't remember. But it is possible
12 that we had that conversation. It is possible. Liam
13 McHugh, you know, in his own evidence he does say he
14 knows me, he would be on the streets of Athlone every
15 day of the week and he would make it his business to 10:13
16 come up and talk to you about things.

17 10 Q. well, surely you'd remember a conversation that you had
18 with him where he said that he was under pressure to
19 make a complaint against a garda concerning €4,500?

20 A. Em, you would imagine I would. 10:13

21 11 Q. Yes, you would.

22 A. You would imagine I would. But with my hand on my
23 heart, I don't, I can't say one hundred percent. Liam
24 McHugh would have had several conversations with me
25 throughout the years. It doesn't stand out, but I 10:14
26 wouldn't like to deny it, because I'm not sure.

27 12 Q. well, if we go to the 10th June and this conversation.
28 Garda Keogh gave evidence in relation to this at Day
29 115, if we could perhaps have it up on the screen.

1 Mr. Barnes, if we could go to page 39, and if we scroll
2 down to question 173. This is where the entry is put
3 to him:

4
5 "Okay. You see the next day you have an entry for the 10:15
6 10th, could you read that out for us?"

7
8 Then he read out the entry that I have just read to
9 you. Then if we scroll over the page and we go to line
10 7, he says: 10:15

11
12 "Yeah, because I obviously was getting documents down
13 about my -- what conversation did I have with Liam
14 McHugh in the last three months. Like I knew -- and I
15 was obviously, Judge, trying to find out what the hell 10:15
16 is going on, what was this about. So, em, Garda Green
17 would know a fair bit of what was going on. Like, he'd
18 know a lot of stuff. I just would have asked him, did
19 you hear anything about it."

20
21 Now, do you recall the issue of Liam McHugh -- 10:16

22 A. I do.

23 13 Q. -- becoming an issue, as it were --

24 A. I do.

25 14 Q. -- in early June of 2014? 10:16

26 A. I do.

27 15 Q. And what did you know about it at that time?

28 A. There was some rumours circulating that there was some
29 issue with money going missing or something like that

1 in relation to Liam MCHugh, or something to that
2 effect.

3 16 Q. Where did you hear from that?
4 A. It would have been general conversation in the station.
5 I can't remember who said it first of all. 10:16

6 17 Q. Do you recall Garda Keogh mentioning it to you?
7 A. Em, I think, yes, he possibly did.

8 18 Q. All right. So we can identify that there was a
9 conversation --

10 A. Yeah. 10:16

11 19 Q. -- between the two of you. He raised the issue of Liam
12 MCHugh?

13 A. Yeah.

14 20 Q. Is that right?
15 A. It's quite -- as I said, it's quite possible. I'm not 10:17
16 disputing that I had this conversation with Garda
17 Keogh.

18 21 Q. It's not a matter of disputing it.
19 A. Yes.

20 22 Q. It's a matter of whether or not you recall the 10:17
21 conversation.

22 A. I can't say I recall the conversation. I know
23 definitely that Garda Keogh would have mentioned Liam
24 MCHugh to me at some point. I have no reason to
25 dispute what Garda Keogh is saying in relation to this. 10:17
26 It's quite possible. But I would be -- I wouldn't be
27 telling you the very truth from my heart if I was to
28 say I remember distinctly the conversation, but I am
29 not disputing it. I have no reason to dispute what

1 Garda Keogh is saying in relation to this matter.

2 23 Q. You told me a moment saying that you recall that there
3 was a conversation?

4 A. He did mention Liam McHugh to me, there's no doubt.

5 24 Q. You recall that he mentioned Liam McHugh? 10:17

6 A. He did, yes.

7 25 Q. All right. He then goes on to say:

8

9 "I would just have asked him, did he hear anything
10 about it. He heard something on the lines of something 10:18
11 to do with a theft of €4,500, but that's all I know,
12 you know."

13 A. Yeah.

14 26 Q. Okay? So he is recorded in his notebook --

15 A. Yeah. 10:18

16 27 Q. -- that you told him that you had met Liam McHugh, all
17 right?

18 A. Yeah.

19 28 Q. And that Liam McHugh had raised this with you.

20 A. Mm. 10:18

21 29 Q. And said that he was under pressure, all right --

22 A. Yeah.

23 30 Q. -- to make a complaint concerning the theft of 4,500
24 and the complaint was to be against a Garda, okay?

25 A. Yes. 10:18

26 31 Q. Does that assist you in your memory of this?

27 A. Em, I am trying to be as honest with you here as can I.

28 32 Q. Yes.

29 A. Liam McHugh would have often spoken to me and it's

1 quite possible that he said this. I do remember Garda
2 Keogh mentioning about Liam McHugh to me. I do.
3 There's no doubt. I am not disputing that whatsoever.
4 And it is possible that I did say that. I am not
5 disputing it whatsoever. But if you are asking me with 10:19
6 my hand on my heart to say, do you remember the full
7 contents of that conversation in relation to this, I
8 can't say I do, but I am not disputing this at all. I
9 just can't put my hand on my heart, remember the full
10 ins and outs of it. But I do remember that he did 10:19
11 mention Liam McHugh to me. I do remember that this
12 scenario or this rumour going around in relation to
13 this 4,5000, and, as I said before, Liam McHugh, you
14 wouldn't be walking in the door of the station and he'd
15 be over and he could be mentioning lots of different 10:19
16 things to you. So it's quite possible. I have no
17 reason to dispute what Garda Keogh has said and that's
18 as far as I can go. But I have no reason to dispute
19 it.

20 33 Q. Yes. So we will move on then into January of 2016. If 10:19
21 we could have page 2529 up on the screen, please. Yes.
22 This is a note of a conversation that Superintendent
23 Murray has with you. He says:

24
25 "Garda Greene called to my office to tell me he had a 10:20
26 long conversation with Garda Keogh who phoned him."

27
28 Were you reporting back to Superintendent Murray your
29 conversations with Garda Keogh?

1 A. If I can just, Chairman, just explain this situation
2 regarding the conversations and there's been a lot of
3 talk about it and a lot of discussions about it here.
4 And so be it. I was faced with a situation -- to just
5 give -- I had my own difficulties in the past in, not 10:21
6 in relation to anybody that's before this Tribunal. I
7 had my own difficulties within the job, which
8 thankfully resolved themselves with change of
9 management and with time. Garda Keogh was fully aware
10 that I had my difficulties. My difficulties were in 10:21
11 relation to someone that he had difficulties with. And
12 we were both at one in relation to that. And that's to
13 be clear.

14
15 When Garda Keogh set out on this road that he went on 10:22
16 in relation to this, at the beginning I understood his
17 issues and his grievances and all that went with it and
18 I knew he was having a tough time and all of that. And
19 I knew there was -- you know, some of it needed to be
20 investigated and it warranted to be investigated, 10:22
21 because, as pointed out, I did make a statement. I
22 have made other statements to the Ó Cualáin inquiry and
23 I had my own views in relation to what was going on and
24 I knew that it needed to be looked at. But as things
25 took off in relation to this and when it started to 10:22
26 come out in the media and in the Dáil, the thing seemed
27 to take on a life of its own. I was worried for my own
28 -- my own career and everything in An Garda Síochána.
29 I took phone calls from Garda Keogh on a regular basis,

1 but as time went on there was stuff being said to me
2 that I was worried about. He felt his phone was
3 tapped. Through his own direct-evidence he accepted
4 that trust had broken down between us in relation to a
5 matter that I told him confidentially and it ended up 10:23
6 coming into the public arena. So trust had broken down
7 between us.

8
9 However, I didn't want to turn my back on him. On
10 several occasions, both Chief Superintendent Murray and 10:23
11 Superintendent Minnock had always said, you know what I
12 mean, people need to be there for him, to support him,
13 to not turn their back on him. I tried to be there as
14 best I could, so did Sergeant Haran, among others. And
15 I received phone calls from Garda Keogh at any time of 10:24
16 the night, sometimes he would have drink on board, more
17 times he'd be sober. And some of the things he was
18 telling me were worrying me and it was constantly in
19 the back of his head, if his phone is tapped and he's
20 saying these things to me, am I being set up? I didn't 10:24
21 know what was going on.

22
23 I often received a call from him late at night. You
24 have to bear in mind, Chairman, that Garda Keogh at
25 this time had several -- there was a few different 10:24
26 phone numbers. So you couldn't keep up with it,
27 because some of the time I didn't know who was ringing
28 until I answered the phone, because he had different
29 numbers. So, what naturally I do, I'm sure we all do

1 it, is when you receive a call from an unknown number
2 you ring it back. And that's what I would have done,
3 and that's how we would have ended up having a
4 conversation.

5 34 Q. I don't want to stop you, but we don't need to go into 10:25
6 the intricate details of that, because my understanding
7 from Garda Keogh's evidence is that he is not critical
8 of you in any sense?

9 A. No.

10 35 Q. And Superintendent Murray isn't critical of you in any 10:25
11 sense in relation to --

12 A. No, I am just trying to -- if you just allow me to --

13 36 Q. Certainly.

14 CHAIRMAN: If you want to explain. Sorry,
15 Mr. Marrinan. If you want to explain, explain away. 10:25
16 This is an inquiry.

17 THE WITNESS: Yeah. I just want to, if you don't mind.

18 CHAIRMAN: I understand. Set the scene, set the
19 context, whatever it is.

20 THE WITNESS: Yeah, because this is very important, 10:25
21 that I get this clear.

22 CHAIRMAN: Okay. So different numbers and you wouldn't
23 be sure --

24 A. So there was different numbers and there was different
25 -- it could be any time of the night, it could be any 10:26
26 time, it could be any time. And sometimes they were
27 numbers I had for him and I knew it was him that was
28 ringing. And sometimes I didn't answer. The reason I
29 didn't answer was because I said to myself, oh no, what

1 am I going to be told this time or where are we going
2 to finish up with all of this? Because it played on
3 me, my mind a lot. But I wouldn't be the type to not
4 ring him back, because I always feared, if anything
5 happens him and I don't answer the phone or whatever, I 10:26
6 feared for his health, you know, the man was going
7 through a hard time. I feared for -- you know, I was
8 worried in case something happened. If I don't ring
9 him back and something happens, I won't be able to live
10 with this. 10:26

11
12 So I did ring him back whenever he would ring me. He
13 was giving me information and he was saying things and
14 the one sad out thing about all of this and these
15 conversations was, that I noticed all along and as time 10:27
16 moved on further in the situation he was becoming more
17 riled up, he was becoming more angry, more agitated, he
18 didn't -- I felt, through the conversations, that he
19 was being fed misinformation, that people were edging
20 him on for their own agendas and that no one had any 10:27
21 account or any understanding of what they were doing.
22 They were driving him out over the edge.

23
24 I could see this going on. I didn't know what to do.
25 I didn't know where to turn. Chief Superintendent 10:28
26 Murray was there at the time, Inspector Minnock was
27 there at the time, now Superintendent Minnock. I had
28 trust -- I had known Superintendent Minnock for the
29 years prior to Chief Superintendent Murray arriving, I

1 had trust in him. I had to tell someone what was going
2 on. And it wasn't out of disloyalty or anything like
3 that, because to this day I would take a phone call
4 from him if he was on the end of the phone and he was
5 in difficulty. But I didn't know where to turn and I 10:28
6 didn't know what to do with this information, because
7 some of it was serious and I didn't know where it was
8 going to finish up. This thing was snowballing at a
9 hundred mile an hour. And there was stuff coming out
10 in the media, every side, some of it was right, some of 10:28
11 it wasn't right.

12
13 Through all of that time and all of these discussions I
14 done my best to advise him as best I could to
15 concentrate on his allegations that he set out with at 10:29
16 the very beginning in relation to the Ó Cualáin inquiry
17 and stick with what he started out with. But for
18 whatever reason or for whatever other -- people were
19 saying to him or whatever else, the thing expanded and
20 he felt that other people were after him and people 10:29
21 were going to do this, that and the other. The man
22 didn't know where to go or where -- he just was just
23 being steered in so many directions, I felt, and he was
24 getting so much misinformation, some of it wasn't
25 always right. And people were using him for their own 10:29
26 agendas, which was an absolute disgrace.

27 37 Q. MR. MARRINAN: Yes. I mean, I think that there was a
28 balance in relation to your interactions with senior
29 management in relation to these matters because we're

1 told by Superintendent McBrien that on 10th June 2014
2 you drew her attention to the fact that Garda A was
3 asking questions about the investigation team and that
4 she requested Sergeant Eamon Curley to do a report in
5 relation to that. Do you remember that?

10:30

6 A. Vaguely, yes. Yeah.

7 38 Q. So if we could just go back to the note, we see here,
8 we will just go through it briefly:

9
10 "Garda Greene called to my office to tell me he had a 10:30
11 long conversation with Garda Keogh who phoned him.
12 Garda Keogh told him he was trying to get something on
13 Superintendent Murray and thought he had something he
14 heard about him and claims was going to get Daly and
15 Wallace to mention it in the Dáil in effort to damage 10:30
16 me and my reputation. However, he found out late it
17 was not true and so couldn't run with it. Was very
18 disappointed but will keep trying. Told Garda Greene
19 to tell Garda Keogh I was not his enemy but was
20 concerned for his welfare and I felt he should take the 10:31
21 CMO's advice and go for the residential treatment for
22 alcohol and perhaps then move from Athlone so
23 whistleblower matters might not bring him down again.
24 Garda Greene said he agreed and Garda Keogh going to
25 stay sick and was getting counselling, but Garda Greene 10:31
26 felt that wouldn't work. "

27
28 Do you recall that conversation?

29 A. I do.

1 39 Q. Is the general thrust of that correct?
2 A. It is correct. Chief Superintendent Murray on several
3 occasions had said to me that he wasn't Garda Keogh's
4 enemy and that he didn't have -- that he felt, you know
5 that he was being targeted and it was kind of unfair 10:32
6 and that, you know, he wasn't his enemy, he was just
7 trying to do whatever he could. Garda Keogh had a
8 different view of it. The interactions was between the
9 two of them, so I was trying to say to Garda Keogh,
10 look, always remember that to sort any problem out you 10:32
11 have to go back to the very beginning, and the
12 beginning was your initial complaint. But now,
13 yourself and Chief Superintendent Murray are into it.
14 The show has moved on to Chief Superintendent Murray
15 and you. I felt that he was taking his eye off the 10:32
16 ball and the thing was expanding and there was no need.
17 I've always felt that.
18
19 Garda Keogh is well aware of my opinion in relation to
20 the way this things accelerated and went off the point, 10:32
21 that I felt was the big point, which was the very
22 beginning. I know there was an investigation carried
23 out, the best that was done, the file went to the DPP
24 and all that, but this thing moved into an area between
25 Chief Superintendent Murray and Garda Keogh and other 10:33
26 people and there certainly was no need for any of it.
27 A lot of it, I felt, could have been avoided.
28 40 Q. We have heard evidence from Garda Keogh that, indeed,
29 he had heard rumour in relation to Superintendent

1 Murray, that he had looked into it himself and
2 discovered that it was false and he put that to bed.
3 Do you remember that conversation with Garda Keogh?
4 A. I do, yeah, I do.
5 41 Q. Then if we could just go forward to the 19th May, page 10:33
6 781 please. These are the notes of now Superintendent
7 Minnock. If we scroll down there, we will see the
8 notes there.
9
10 "Met in corridor. Asked him if he was in contact with 10:34
11 Garda Keogh. He said, yes, funny you should ask."
12
13 He invited you into his office.
14
15 "He said Nick was on to him a few times to meet and 10:34
16 then rang from different numbers."
17
18 well, you have told us that today.
19
20 "He said he keeps changing his mobile because Wilson 10:34
21 told him they could be taping his calls. He said that
22 Nick said that [blank] was on to him looking for dirt
23 on the Commissioner. Nick said they're going to bring
24 her down (Commissioner Nóirín O'Sullivan) and there is
25 something big coming in the next few days. He said 10:35
26 they've all been onto him (Garda Keogh), that Harrison
27 was on and the journalist Mick Clifford and Mick
28 O'Toole.
29

1 Garda Greene said that Clare Daly and Mick Wallace were
2 talking to Nick on a regular basis and they're all
3 looking for dirt. He said Nick is now focusing his
4 attention on Nóirín (Commissioner) because she is
5 condoning what is going on and they want her gone. 10:35
6 Garda Greene said that Nick was on to him to meet up.
7 I said he should meet Garda Keogh if he wants and see
8 how he is. I had concerns for his welfare. Garda
9 Greene said he would meet him and let me know how he's
10 doing. I said I'd appreciate that." 10:35
11
12 That's a note that's already been opened to the
13 Tribunal. Do you agree with that note, is the general
14 thrust of it correct?
15 A. I do. 10:36
16 42 Q. Garda Keogh takes issue in relation to some of this,
17 insofar as he says that the actual language that was
18 used might not necessarily be his. Could it be a
19 situation where you're really repeating in your own --
20 A. Correct, yeah. 10:36
21 43 Q. -- lingo the thrust of what Garda Keogh was telling
22 you?
23 A. More or less.
24 44 Q. Is that right?
25 A. More or less. 10:36
26 45 Q. There doesn't appear to be an awful lot between you in
27 relation to that?
28 A. You see, this is kind of a point of what I made
29 earlier. I mean, we started out with Garda Keogh and

1 his initial complaint and the next minute we found
2 ourselves on to taking -- the Commissioner is being
3 taken down and all this. That was never something that
4 Garda Keogh set out in his initial -- when he set out
5 initially to make his complaint to the Ó Cualáin 10:37
6 investigation and all that, there was no mention of any
7 commissioners or anyone at a high level being taken
8 down or any of this craic. This was excelled to taking
9 down people at the top when other people became
10 involved. His name was out there. His name was being 10:37
11 mentioned in the Dáil. People started to jump on the
12 bandwagon and start talking about wanting to take
13 commissioners down and using Garda Keogh, as I see it,
14 to do it.

15 46 Q. Then if we go on, we see there an entry for later on 10:37
16 that day, at 15:45, Superintendent Minnock says he
17 received a call from you, he stated he tried to ring
18 Nick Keogh and that John Wilson answered the phone and
19 said that Nick wasn't available as he was in a meeting
20 but he would pass on the message. Do you see there? 10:38

21 A. Yes.

22 47 Q. Do you remember that call?

23 A. I do. I do, yes.

24 48 Q. Then if we go to the next day, you will see there 20th 10:38
25 May of 2016, it records that:

26

27 "Garda Greene rang me and told me that something has
28 arisen. I was off on annual leave and asked if Garda
29 Greene could come and meet me to discuss same with me.

1 He called to my house and discussed that he had spoken
2 to Garda Keogh and that Nick said that something big
3 was coming and that they were going to bring the
4 Commissioner down. He mentioned that Maurice McCabe
5 had told Nick Keogh that it was a named sergeant that 10:38
6 was the person who was recorded on tape with another
7 superintendent."

8
9 It's not a matter for this Tribunal, it was resolved
10 elsewhere. So I am not going to open that. Do you 10:39
11 recall that conversation as it's set out there?

12 A. I do. I do.

13 49 Q. And you don't take issue in relation to any of that?

14 A. No.

15 50 Q. If we could have then page 2532 up on the screen. This 10:39
16 is a conversation on the same day that Superintendent
17 Murray has recorded. You viewed all these notes and
18 entries, isn't that right?

19 A. That's correct.

20 51 Q. Do you take issue with any of these matters that 10:39
21 Superintendent Murray has recorded?

22 A. No, I don't. I think I mentioned in my statement that
23 I don't remember exactly saying about the chief and
24 Paddy Guinan calling but I have no reason to dispute
25 what Chief Superintendent Murray was saying. I 10:40
26 suppose, with respect, there was so many conversations,
27 but it's quite possible I said that. It's just a very
28 small point that I don't remember but I'm not disputing
29 any of it.

1 52 Q. If we just control down in relation to it. You see
2 there it says:

3

4 "Met Transparency Ireland with John Wilson. Story,
5 Sun, Business Post, three journalists." 10:40

6

7 They are named there.

8

9 "And a girl who door stepped former Commissioner
10 Callinan. Record that he had sent a letter to the 10:41
11 Minister the previous day re the Athlone file."

12

13 Then he refers to:

14

15 "The Ó Cualáin commissioner can't get a copy of file. 10:41
16 Wants to see report to DPP."

17

18 Do you recall having that conversation with Garda
19 Keogh?

20 A. I do. Vaguely, yeah. I do. I do remember it, yeah. 10:41

21 53 Q. Then:

22

23 "Says Ó Cualáin watered it down."

24

25 Do you see that? 10:41

26 A. I do.

27 54 Q. Do you recall what Garda Keogh said to you in that
28 regard?

29 A. I do, yeah.

1 55 Q. Just tell us what it was that he said.
2 A. Well, he just felt that Commissioner Ó Cualáin had
3 watered down the findings in relation to whatever, the
4 investigation that was carried out. I suppose at that
5 time, I suppose Garda Keogh was kind of second guessing 10:42
6 everyone. And that's understandable, I do get that, I
7 understand that when you're in the middle of something,
8 I was there myself before, you kind of question
9 everything. It kind of goes part and parcel with
10 having difficulties, for anyone, I suppose, in an 10:42
11 organisation or in their own life, you start to second
12 guess anything that anybody does. So I did understand
13 that, where he was coming from. I couldn't comment
14 because I hadn't seen it, so I didn't.

15 56 Q. And then if we could go to 10th October 2016, at page 10:42
16 2560, please. This is a conversation as recorded by
17 Superintendent Murray of a conversation he says he had
18 with you.
19
20 "Garda Greene came to my office circa 6:00pm. He 10:43
21 discussed whistleblower cases and mention of his
22 complaint in newspapers."
23
24 Then he deals with matters that were of concern to you,
25 isn't that right? 10:43

26 A. That's correct. At this, I suppose, particular time I
27 was in the throws of my own difficulties in relation to
28 a traffic accident, which I ultimately was cleared of
29 in the end. The clear as day picture of it became

1 apparent in the very end, thankfully. But I had my own
2 difficulties at the time and, you know, I understood
3 where Nick was coming -- where Garda Keogh was coming
4 from with some of this. I suppose where we were, we
5 didn't -- we were never fully in agreement in relation 10:44
6 to -- and Garda Keogh is well aware of this, in
7 relation to Chief Superintendent Murray. We were in
8 agreement with other stuff, but we weren't in relation
9 to that. I think Garda Keogh went sick not long --
10 within a few months of Chief Superintendent Murray 10:44
11 arriving in Athlone. And the unfortunate thing was
12 that he wasn't around long enough. If he had been
13 around a few months longer in Athlone, he would have
14 seen that Chief Superintendent Murray had a certain
15 style of management, whether people disagreed with it 10:44
16 or agreed with it. He arrived and he introduced new
17 policies, new guidelines, a whole different way of
18 doing business. He was very firm on discipline. I
19 seen several people being disciplined over different
20 things. Something, I suppose, I hadn't seen to that 10:45
21 extent in the past in my years up to that in Athlone.
22 He had a style that if you done wrong there was no
23 doubt you were going to be punished. He had a humane
24 side to him, where you could talk to him if you had a
25 difficulty or whatever and he had understandings of 10:45
26 people in their own lives having difficulties and the
27 devil knows what. But the sad thing was Garda Keogh
28 wasn't around long enough, working with Chief
29 Superintendent Murray, to see that the same -- it was

1 the same for everyone, regardless your rank or
2 whatever, if you made a mistake and it was deliberate
3 and it was wrong, you were going to be disciplined.
4

5 I think whatever difficulties they had when Chief 10:46
6 Superintendent Murray arrived, I think Garda Keogh took
7 the view, well, I am the only one that's getting
8 punished or I'm the only one that's getting hammered
9 here -- to speak -- to say -- and no one else is. But,
10 in the months after that, there was people suspended. 10:46
11 There was people suspended, there was people
12 disciplined. There was lots of people being
13 disciplined and suspended and the place was changing.
14 Whether people wanted it or not, there was a change.
15 And I tried to explain that to him. I suppose he 10:46
16 didn't fully understand it, and I can understand that,
17 because he felt that he was being targeted in his own
18 mind. I mean, I don't the full ins and outs of the
19 interactions between them, but he felt that. But I did
20 on several occasions try and say, look it, you're not 10:46
21 here at the moment, everyone is getting it, if you make
22 a mistake that's the way it is.
23

24 The problem was, you see, we hadn't seen that, I
25 suppose, prior to Chief Superintendent Murray arriving. 10:47
26 You know, we're all different, we're all different
27 people. We had Superintendent McBrien before that, a
28 different style of management, a delightful person to
29 work with, very compassionate, very understanding, very

1 easy to get on with and had just a different style.
2 And then, it just changed. I was trying to explain
3 that as best I could.

4 57 Q. We know that Garda Keogh often did nights and we know
5 that his preference was to be on the beat, as it were. 10:47
6 You said something that's interesting there in relation
7 to the fact that he wasn't around often enough in
8 relation to Superintendent Murray's interactions with
9 other members. I suppose if you get a new
10 superintendent arriving in and all of a sudden there's 10:48
11 a stricter regime and, as you said, other people were
12 being disciplined, other people were being queried in
13 relation to their files, is that right?

14 A. They were being queried in relation to their files,
15 everything was being checked. He was bringing in new 10:48
16 procedures, new ways of dealing with things. Some of
17 it was to protect members. There was a whole different
18 style of management. The whole thing just changed.

19 58 Q. Right.

20 A. And it was something we weren't used to, because, you 10:48
21 know, there was just different styles of management.

22 59 Q. And I suppose if there's an emphasis on the word 'we',
23 something like that would be, I suppose, the talk of
24 the station, would it?

25 A. Oh it was, yeah. 10:48

26 60 Q. It was?

27 A. It was, yeah.

28 61 Q. But you're saying that that word didn't filter through
29 to Garda Keogh?

1 A. No. Because, you see, I can't remember, but I think
2 did Garda Keogh go sick within three or four months,
3 was it, after --

4 62 Q. CHAIRMAN: Nine months. December.
5 A. Yeah. 10:49

6 63 Q. CHAIRMAN: 26th December.
7 A. Yeah. So I suppose by the time Chief Superintendent
8 Murray arrived and by the time he got his feet under
9 the table and he found out what is going on, this is
10 where the problems are, and he figured it all in 10:49
11 relation to what was going on, it took a little bit of
12 time. And by the time people got suspended, by the
13 time things took off, Garda Keogh had gone sick.

14 64 Q. MR. MARRINAN: Yes.
15 A. And he hadn't seen, but I seen it, that there was a 10:49
16 different show in town and if you made a mistake or you
17 needed to be disciplined, that was what was going to
18 happen and it wasn't going to be any other way.

19 65 Q. We also know that from early March, when Superintendent
20 Murray arrived, that Garda Keogh was out sick on 10:49
21 occasions sometimes?

22 A. That's correct, there was.

23 66 Q. On one occasion AWOL, and that he was in and out.
24 Could it be that he had lost touch with the goings on
25 in Athlone Garda Station? 10:50

26 A. Yeah. That was another thing that I suppose played my
27 part in keeping in contact with him as best I could, as
28 did sergeant Haran. Nick didn't keep in contact
29 probably with a lot of people in the station, it was

1 probably just a few. And I suppose, that was because,
2 you know, I suppose he probably didn't trust everyone
3 or he didn't -- whatever, you know.

4 MR. KELLY: Chairman, I hesitate to intervene, but I
5 wonder where this is going. We have travelled well 10:50
6 down this road of speculation and everything else,
7 which I little or, in fact, no notice of. I wonder how
8 it actually helps the Tribunal in the end to have this
9 pile of speculation from this witness.

10 CHAIRMAN: well, what do you say to that, Mr. Marrinan? 10:51

11 MR. MARRINAN: well, I would have thought it was quite
12 informative in terms of advising the Tribunal of what
13 it was like in Athlone Garda Station during a crucial
14 period of time.

15 CHAIRMAN: Yes. I think it could not be said that this 10:51
16 evidence is irrelevant to the subject-matter of the
17 inquiry. I take Mr. Kelly's point, that there is or
18 may be material of which he does not have notice. I
19 take that point. So we will proceed with the evidence.
20 If Mr. Kelly needs some accommodation in order to deal 10:51
21 with it, I will be sympathetic to such an application,
22 because it does seem to me that on one view the
23 evidence it is relevant and important, on another view
24 it is extraneous and speculative. I completely accept
25 that that is a matter of debate and discussion and 10:52
26 somebody may say, well, this is vital information
27 because it fills in a part of the background to Athlone
28 Garda Station following the change over when
29 Superintendent Murray came in. So I think we will deal

1 with it on that basis, Mr. Marrinan.
2 MR. MARRINAN: Yes.
3 CHAIRMAN: Proceed as you are going on. And,
4 Mr. Kelly, if something arises or if you feel that you
5 would prefer to postpone cross-examination, that's 10:52
6 something that I would be sympathetic to.
7 MR. KELLY: I probably will do that.
8 CHAIRMAN: Thank you very much.
9 MR. MARRINAN: Yes.
10 CHAIRMAN: And that doesn't mean that I am assuming it 10:53
11 is relevant evidence.
12 MR. KELLY: Yes.
13 CHAIRMAN: I am certainly assuming on one view it is
14 relevant. Having taken your opportunity, it's equally
15 open to you to submit that it is not relevant. 10:53
16 MR. KELLY: Judge, I don't want to prolong the issue.
17 CHAIRMAN: No, it's all right.
18 MR. KELLY: But had I known that this guard was going
19 to be called to give a load of evidence about the
20 culture in Athlone and so on, I would at least have 10:53
21 expected it to have been in a statement.
22 CHAIRMAN: Yes.
23 MR. KELLY: To have been set out. Instead, what we
24 have is the witness go into the witness box, in my
25 view, come out with all of this, what I regard as utter 10:53
26 speculation. There it is.
27 CHAIRMAN: On a view of the matter, the material that
28 Mr. Marrinan has opened, albeit not in a statement by
29 Garda Greene, is implicitly indicating views of Garda

1 Greene [sic] that do not come as a total shock, it
2 seems to me. But as I say, I am keen to be clear as to
3 what I want to say about it and what I don't want to
4 say about it. I am simply receiving potentially
5 relevant material and I propose to do it. So that is 10:54
6 the way. I mean, you may be right, Mr. Kelly -- sorry,
7 you may be well entitled to make a submission at the
8 end to say that the circumstances of not having a
9 detailed statement along these lines, you may say that
10 undermines the validity, indeed, even the credibility 10:54
11 of the evidence or its materiality. Anything of that
12 kind. However, we will proceed on the basis I have
13 mentioned.

14 67 Q. MR. MARRINAN: At the time Garda Keogh was expressing
15 concerns to you, that he felt as though he was being 10:55
16 targeted because of the criticism he was receiving in
17 relation to his investigations from Superintendent
18 Murray, is that right?

19 A. That's correct, yeah.

20 68 Q. Yes. So it was a live issue for him at that time? 10:55
21 A. It was.

22 69 Q. I think we can just move on then in relation to an
23 entry. If we could have page 785 up on the screen.
24 This is a note of Superintendent Minnock dated the 12th
25 December, if you scroll down there. This concerned an 10:55
26 issue that arouse in relation to a checkpoint. That's
27 not a matter that we are investigating or looking into,
28 all right, but that was a conversation that had you
29 with then Inspector Minnock, is that right?

1 A. Can I just read it?
2 70 Q. Yes.
3 A. That's correct.
4 71 Q. Yes, that's correct. As I said, it's not a matter that
5 we are exploring. Then if we could finally just have 10:56
6 4647 up on the screen, please. This is the -- sorry, I
7 have the wrong -- I beg your pardon, it's 2647. This
8 is a note of a conversation that Superintendent Murray
9 had with you on the 4th September. Just there's one
10 aspect to it that I want to draw your attention to. 10:57
11 It's line six lines down, seven lines down. You see
12 there:
13
14 "He said Garda Keogh..."
15
16 That's you. 10:57
17
18 "-- said Garda Keogh now going after Deputy
19 Commissioner Ó Cualáin and the Commissioner because the
20 investigation of his complaints were not brought to a 10:58
21 conclusion re Garda A and a named superintendent."
22
23 That became translated to, that Garda Keogh had told
24 you he was no longer going after Superintendent Murray
25 and Garda Keogh doesn't believe that this could be 10:58
26 right, because he believes that he was still, as it
27 were, the subject-matter of a complaint being made by
28 Garda Keogh. Do you recall that conversation?
29 A. I do.

1 72 Q. Do you recall Garda Keogh saying that he would no
2 longer be going after Superintendent Murray?

3 A. I do.

4 73 Q. Yes. Thank you very much.

5 A. Thank you.

10:58

6

7

END OF EXAMINATION

8

9

CHAIRMAN: Now, Mr. Kelly. Where do we stand?

10

MR. KELLY: I am going to need time, Chairman, to
11 consider the position and take instructions.

10:59

11

12

CHAIRMAN: Yes.

13

MR. KELLY: I am not in a position at present to
14 cross-examine.

14

15

CHAIRMAN: I understand, yes. Should I suspend the
16 affairs at this point rather than go around the
17 circuit? I don't want to put you in a position that
18 the order has been disturbed. Do you need some time?
19 I mean, if I were to rise and say come back in an hour,
20 would that be convenient? Is that reasonable?

10:59

16

17

18

19

20

10:59

21

MR. KELLY: Well, I am quite happy that you defer mine
22 and if others wish to ask questions now, that's fine.

22

23

CHAIRMAN: So you don't mind if I go around.

24

MR. KELLY: No.

25

CHAIRMAN: Now, the other parties may wish to wait to
26 see what you have said. I am wondering, if we can
27 produce the record, if we can produce the transcript,
28 Mr. Kelly, and give it to you, is that satisfactory,
29 then maybe we will sit in the afternoon and have your

10:59

26

27

28

29

1 cross-examination.

2 MR. KELLY: Yes.

3 CHAIRMAN: Okay. well, who is going to speak?

4 MR. DIGNAM: Chairman, I would be reluctant to examine
5 the witness in circumstances -- 11:00

6 CHAIRMAN: Yes, I understand that. There is no problem
7 about that. Look, I am not going to disturb the
8 sequence but I see Mr. Kelly's point and I have made my
9 decision about Mr. Kelly.

10 MR. DIGNAM: Yes. 11:00

11 CHAIRMAN: So, can we produce this morning's
12 transcript? well, you have the live feed for a start.
13 We will see about producing it. If we can produce it,
14 Mr. Kelly, we will produce it. We can get that. If I
15 said two o'clock. Is that reasonable? I mean, I want 11:00
16 to give you ample time and I don't want you to have to
17 be coming back looking for more time. So for the
18 moment you have the live feed and we will get you a
19 transcript and then we will resume at two o'clock.

20 Okay. All right. Thanks very much. 11:01

21 THE WITNESS: Thank you, Chairman.

22 CHAIRMAN: Okay, so that's the way we will do it. Very
23 good. Thank you very much. Lovely.

24

25 THE HEARING THEN ADJOURNED UNTIL 2:00PM 11:01

26

27

28

29

1 THE HEARING RESUMED, AS FOLLOWS, AFTER LUNCH:

2
3 CHAIRMAN: Thanks very much. Garda Greene.

4 MR. KELLY: Thank you, Chairman. I am in something of
5 a difficult position at the moment. 14:00

6 CHAIRMAN: Yes.

7 MR. KELLY: This witness has been called to give
8 evidence on issue 20, the promotion of Patrick Murray,
9 and that, as I understood it, was some relevance of
10 calling him, hence why he is called on in this module, 14:00
11 or on this issue. His evidence has, of course, gone
12 wider.

13 CHAIRMAN: Yes.

14 MR. KELLY: Yesterday, Chairman, you made a ruling,
15 with which we are all familiar, and one of my concerns 14:00
16 I expressed at the time was that the issue would turn
17 out to be one of credibility. I regret to say, I am of
18 the view that this is where we are at now, an issue of
19 credibility. There are a couple of ways which one
20 could, I suppose, approach this and deal with it. One, 14:01
21 invite you, which is what I am doing, to treat this
22 evidence in relation to issue 20 as irrelevant, which
23 then would be consistent with what was done yesterday.
24 If, on the other hand, that was not a course which you
25 found attractive, I would then have to invite you to 14:01
26 revisit yesterday's ruling. That in a nutshell is what
27 my position is. I have discussed it with my client, my
28 solicitor and junior counsel.

29 CHAIRMAN: So your position, let me see if I understand

1 it, Mr. Kelly.

2 MR. KELLY: Yes.

3 CHAIRMAN: In respect of issue 20, you say Garda
4 Greene's evidence, in light of yesterday's ruling, is
5 irrelevant. 14:02

6 MR. KELLY: Yes.

7 CHAIRMAN: That's your point.

8 MR. KELLY: Yes.

9 CHAIRMAN: And in fact, as matters have developed this
10 morning, Garda Greene has given evidence relating to a 14:02
11 much wider -- not really related to issue 20, the
12 promotion, but relating to much earlier matters and
13 different matters, ranging over perhaps a number of
14 other issues that we have already discussed. I can
15 reassure Garda Greene, this is a discussion we are 14:03
16 having about a thing, don't mind, we're talking as if
17 you weren't there.

18

19 Okay, Mr. Murrinan, what do you say to that?

20 MR. MARRINAN: Chairman, the notice on the website 14:03
21 refers to Garda Greene, issue 20 and other matters.
22 Garda Greene wasn't called earlier on in relation to
23 the other issues and he has been in the case, as it
24 were, since Garda Keogh gave his evidence.

25 CHAIRMAN: Yes. 14:03

26 MR. MARRINAN: Because he was cross-examined
27 extensively in relation to his interactions with Garda
28 Greene and Superintendent Murray's notes of those
29 conversations. In the first instance he gave evidence

1 in relation to his interaction at the very beginning,
2 February of 2014, because Garda Keogh had given
3 evidence in relation to the fact that he was the first
4 person, as it were, that he made a disclosure to or
5 indicated that he had an intent to make a disclosure 14:04
6 to, when he sought a copy of the DVD, I think on the
7 17th February.

8
9 I wouldn't accept that he is confined to issue 20. The
10 position is that I introduced evidence from Garda 14:04
11 Greene at the very commencement of his evidence in
12 relation to that interaction, also his subsequent
13 interaction with Superintendent McBrien concerning the
14 alleged activities of Garda A in asking questions.

15 There was no objection raised in relation to any of 14:05
16 these matters in terms of straying outside the strict
17 confines of issue 20. It only seems to have become an
18 issue when Garda Greene volunteered his evidence in
19 relation to his views on matters, insofar as they are
20 relevant. So I don't accept, as a point of principle, 14:05
21 that his evidence should be confined merely to issue
22 20. That's the first point.

23
24 The second point is, the implication being that he will
25 have to reopen, that Mr. Kelly will have to reopen the 14:05
26 issue of the interaction --

27 CHAIRMAN: The Policing Authority.

28 MR. MARRINAN: -- with the Policing Authority. And I
29 don't see how that can actually arise, because you have

1 ruled that that is irrelevant already. Mr. Kelly is
2 indicating he wants you to revisit that. But I don't
3 see how the issue of credibility as between the account
4 given by Superintendent Murray and his notes of his
5 conversations with Garda Greene can really advance 14:06
6 matters. Because, is a case going to be made that
7 Superintendent Murray's account should be preferred
8 over Garda Greene?
9 CHAIRMAN: Let me go back. Mr. Kelly, what is the
10 credibility issue? 14:06
11 MR. KELLY: The credibility issue is this: That this
12 witness has given a statement in which he has
13 challenged or queried evidence that Chief
14 Superintendent Murray has given.
15 CHAIRMAN: No, he hasn't. Surely not. 14:06
16 MR. KELLY: He has, in his written evidence.
17 CHAIRMAN: Leave that aside.
18 MR. KELLY: Yes.
19 CHAIRMAN: I mean, I've ruled on that.
20 MR. KELLY: Yes. 14:07
21 CHAIRMAN: But as matters stand at the moment, where's
22 the credibility issue? where's the dispute?
23 MR. KELLY: well, the dispute is in relation to his
24 particular view of Nick Keogh's position and his role
25 in it. 14:07
26 CHAIRMAN: There's nothing to stop you cross-examining
27 about that.
28 MR. KELLY: well, to do that I am going to have to
29 cover some of the entries that -- things that are

1 ascribed to him, because I will be saying in effect
2 that he is not right in what he is saying.

3 CHAIRMAN: But sorry, where we are at the moment, Garda
4 Keogh has given his evidence.

5 MR. KELLY: Yes. 14:07

6 CHAIRMAN: He has been cross-examined at great length.

7 MR. KELLY: At great length, yes.

8 CHAIRMAN: And cross-examined in relation to the
9 specific matters that were contained in the notes. And
10 in large part there is a large measure of agreement, as 14:07
11 it happens, as I recall, in the evidence between Garda
12 Keogh and Garda Greene. So I am not seeing -- where's
13 the dispute with Garda Keogh? I mean, he has given his
14 views as to the situation generally and he has given an
15 opinion about his relations with Garda Keogh and that's 14:08
16 largely in line with what Garda Keogh said.

17 MR. KELLY: what he's going on to say also --

18 CHAIRMAN: Am I not right about that?

19 MR. KELLY: He's going on to ascribe to Garda Keogh a
20 change, having veered off, having taken matters much, 14:08
21 much further.

22 CHAIRMAN: Yes.

23 MR. KELLY: That is his view, that's not one which we
24 necessarily accept and I would want to challenge him on
25 that. 14:09

26 CHAIRMAN: But there's nothing to stop you challenging
27 him on that.

28 MR. KELLY: But in order to do that I am going to have
29 to say to him that he is not an accurate historian.

1 CHAIRMAN: There is nothing to stop you saying that.
2 MR. KELLY: well I can do that then.
3 CHAIRMAN: All right. Off we go. We have to respect
4 the ruling I made yesterday about the Policing
5 Authority, but feel free, Mr. Kelly, to do your job as 14:09
6 you see fit.
7 MR. KELLY: well, as I said to you yesterday, Chairman,
8 my view is that whatever interaction there may or may
9 not have been with the Police Authority isn't a matter
10 with which I am concerned. 14:09
11 CHAIRMAN: Yes.
12 MR. KELLY: However, what is recorded as having
13 happened is something which I probably will be
14 covering. Put it this way: It wouldn't make any
15 difference if it was with boy A, it doesn't have to be 14:09
16 the police. I am not challenging, nor have I ever at
17 any point questioned the role of the Police Authority.
18 CHAIRMAN: Yes.
19 MR. KELLY: So it's against that background. No part
20 of my case involves an attack or challenge to them. 14:10
21 Nor does it involve saying that they had got it wrong
22 or anything of that sort. I have never challenged the
23 evidence of Josephine Feehily or any of those, so
24 against that background. Just give me a moment.
25 CHAIRMAN: Yes. 14:10
26 MR. KELLY: Okay.
27 CHAIRMAN: Okay, the situation, Mr. Kelly, is simple.
28 I made a ruling yesterday. That ruling stands. But
29 there's nothing to stop you cross-examining in respect

1 of any issue but what you can't do, obviously, and I
2 know you won't do, is to revisit my ruling yesterday.
3 MR. KELLY: Yes. No, I am not going to do that.
4 CHAIRMAN: No, I understand that.
5 MR. KELLY: But I will be covering some of these diary 14:11
6 entries. If you think I am going too far, just stop
7 me.
8 CHAIRMAN: All right, very good. Thank you very much.
9
10 GARDA FERGAL GREENE WAS CROSS-EXAMINED BY MR. KELLY, AS 14:11
11 FOLLOWS:
12
13 74 Q. MR. KELLY: Garda Greene, as I understand the thrust of
14 what you are saying, your view is that there are
15 entries in Pat Murray's diary that show either he 14:11
16 misunderstood what you were saying or got it wrong, is
17 that right? That's the general thrust of it, isn't it?
18 A. Em, they're Chief Superintendent Murray's notes.
19 75 Q. All right. If you have your statement in front of you,
20 please. It's 7606. Or 7608, we will start with. It's 14:12
21 that middle paragraph, the one which begins "However,
22 Chief Superintendent Pat Murray."
23
24 Have you found it?
25 A. Yeah. 14:12
26 76 Q. There you say -- read it firstly, rather than me having
27 to read it. Read it.
28 A. You want me to read it.
29 77 Q. Yes.

1 A. "However, Chief Superintendent Murray knows that I know
2 of Mr. Johnny Feehily although I was not aware of the
3 significance that he placed on that until I read Chief
4 Superintendent Murray's statement. One day when I was
5 speaking to Chief Superintendent Murray, I said to him 14:13
6 I was sorry to hear about his promotion being delayed
7 but that I had no doubt that he would get it as he
8 truly deserved it. He replied 'what makes you so sure
9 as Nick Keogh is firing on me every chance he gets and
10 there's not a word about who presided over the entire 14:13
11 mess'. I said that the Policing Authority have a
12 difficult job but that I'm sure they will do the right
13 thing. I said I knew Ms. Feehily's brother-in-law
14 Johnny and is he from a decent, honourable family.
15 Chief Superintendent Murray did ask whether I ever 14:13
16 talked to Johnny Feehily about Athlone Garda Station
17 and I said we would bump into each other from time to
18 time and have general conversation. I would bump into
19 him casually during the year and if Chief
20 Superintendent Murray asked me if I had bumped into 14:13
21 him, I would tell him that I had. I was not aware
22 until I read Chief Superintendent Murray's statement
23 that he interpreted this as meaning that I discussed
24 him on each occasion. "

25 78 Q. would you agree that that's an example where you are 14:14
26 saying that there was at the very least a
27 misinterpretation by Superintendent Murray of what you
28 were saying?

29 A. well, as I said, they are Chief Superintendent Murray's

1 notes.

2 79 Q. Look, it's either right or wrong. You were either
3 right or wrong when you said:
4
5 "I was not aware until I read Chief Superintendent 14:14
6 Murray's statement that he interpreted this as meaning
7 that I discussed him on each occasion."
8
9 what is the Chairman supposed to make of that? You
10 don't recall? You don't remember? what? 14:14
11 A. I think it's quite clear what I say in that.
12 80 Q. Yes, which is that Superintendent Murray had
13 misinterpreted what you were saying?
14 A. That's a question you'll have to put Superintendent
15 Murray. 14:14
16 81 Q. I am putting it to you?
17 A. But I am not Chief Superintendent Murray.
18 82 Q. This is your statement and I am putting it to you?
19 A. My statement is my statement and I stand over my
20 statement. 14:14
21 83 Q. And when you say "I was not aware until I read Chief
22 Superintendent Murray's statement that he had
23 interpreted this as meaning that I had discussed him on
24 each occasion", that's saying he had interpreted it,
25 isn't it? 14:15
26 A. I'm not accusing anyone of anything. I stand over my
27 statement. My statement is as it is.
28 84 Q. Are you seriously saying that that is not what you are
29 trying to convey in that paragraph?

1 A. I was asked specific questions from the Tribunal to
2 address and I made my statement on foot of the
3 questions I was asked. And I stand over any questions
4 I was asked. And I answered each of them individually,
5 point for point.

14:15

6 85 Q. If you were to look at page -- if we could call up page
7 2636, please.

8 MR. KANE: Judge, I'm sorry to interrupt, but it seems
9 to me that Mr. Kelly is re-opening exactly the issue
10 that you ruled on yesterday and is he pressing Garda
11 Greene on these issues. It seems to me to be an
12 inevitable consequence if Mr. Kelly is to go much
13 further that --

14:16

14 CHAIRMAN: Let's see 2636.

15 MR. MARRINAN: Sorry, Chairman, I don't interrupt.

14:16

16 CHAIRMAN: No, please do.

17 MR. MARRINAN: But I tend to agree with Mr. Kane.

18 CHAIRMAN: You which?

19 MR. MARRINAN: I tend to agree with Mr. Kane's
20 objection.

14:17

21 CHAIRMAN: Yes.

22 MR. MARRINAN: The problem here is that --

23 CHAIRMAN: Yes, this is right. Mr. Kelly, you can't go
24 there.

25 MR. KELLY: Okay.

14:17

26 CHAIRMAN: We're not into comparing and contrasting
27 this witness' statement with that of Chief
28 Superintendent Murray. Full stop. Not doing so.
29 Because that involves the interactions with the

1 Policing Authority and I have ruled on that. So you
2 can't go there.

3 86 Q. MR. KELLY: Okay. Initially you were supportive of
4 Nick Keogh, is that right?

5 A. I understood Nick's complaints. I made statements to 14:17
6 the Ó Cualáin investigation in relation to them.
7 Statements I stand over. And, yes, I understood his
8 complaints and I understood where he was coming from
9 with some of them.

10 87 Q. Back in 2016 you yourself had, as I understand it, 14:17
11 issues with another senior officer, before then?

12 A. When you say another senior officer, I only had issues
13 with one senior officer.

14 88 Q. Yes.

15 CHAIRMAN: One other than Superintendent Murray. 14:18

16 A. That's correct. I never had any issues with Chief
17 Superintendent Murray. I had issues with --

18 89 Q. CHAIRMAN: No, no, no. When Mr. Kelly said another
19 senior officer.

20 A. Yes. 14:18

21 90 Q. CHAIRMAN: He did not mean that you had trouble with
22 two senior officers.

23 A. Okay.

24 91 Q. CHAIRMAN: He meant you had trouble with a senior
25 officer. 14:18

26 A. Correct.

27 92 Q. CHAIRMAN: Other than superintendent -- I'm sorry to be
28 irritable.

29 A. You're okay.

1 93 Q. CHAIRMAN: I think I am understanding Mr. Kelly. And I
2 don't want to be interrupting.
3 A. That's correct.
4 CHAIRMAN: I am sorry.
5 94 Q. MR. KELLY: You now understand me? 14:18
6 A. I do understand you now, yeah.
7 95 Q. Good. And then the answer is yes, is it?
8 A. That's right, yes.
9 96 Q. Right. Your view at that time was that Garda
10 management in Athlone were out to effectively stitch 14:18
11 you up, isn't that right?
12 A. I had my own difficulties in Athlone, which I resolved
13 and that matter is finalised and over.
14 97 Q. Do you recognise that word 'stitch up', two words?
15 A. I do. 14:19
16 98 Q. Yeah.
17 A. As I said, I had my own difficulties, which were
18 resolved and they're in the past. And that's where I'd
19 like them to be.
20 99 Q. Chairman, there have been additional documents served 14:19
21 at our request today, I think before we came back into
22 court. The relevant one I think I am looking at,
23 forgive me, is 16670. This is, I think, Facebook
24 exchanges between you and Nick Keogh, is that not
25 right? 14:20
26 A. I am just waiting for it to come up on screen now,
27 sorry. Correct.
28 100 Q. And we can see that those exchanges begin back before I
29 think October 2015?

1 A. Correct. 14:20

2 101 Q. And seem to run through to about July, or perhaps even
3 longer, of '16. So we're speaking late '15, early
4 2016, right?

5 A. Correct. 14:20

6 102 Q. And we see there an entry. What page is that? 16671.
7 Do you see an entry down there at the bottom, the
8 second last one?

9 A. I am just trying to -- it's hard to -- yeah.

10 103 Q. Where you have said: 14:21

11
12 "Well, they're certainly stitching me for this accident
13 but I am going to bury all around me for this."
14

15 That's right, isn't it? 14:21

16 A. I sent that message. I stand over it, yeah.

17 104 Q. So at that time you believed there was a conspiracy
18 against you?

19 A. I think, as I said earlier in my evidence, you know,
20 when you're having difficulties, anyone is having 14:22
21 difficulties, sometimes we vent, sometimes we say
22 things maybe we shouldn't always say, we might think
23 that there's all kinds of going on. But as I said, my
24 issues resolved and they're in the past.

25 105 Q. Earlier this morning, you have said this at page 11 -- 14:22
26 page 12 of the transcript, you said at the top, I will
27 read the answer you gave, it's in response to a
28 question from Mr. Marrison:
29

1 "If I can just, Chairman, just explain this situation
2 regarding the conversations and there's been a lot of
3 talk about it and a lot of discussions about it here.
4 And so be it. I was faced with a situation -- to just
5 give -- I had my own difficulties in the past in, not
6 in relation to anybody that's before this Tribunal. I
7 had my own difficulties within the job, which
8 thankfully resolved themselves with change of
9 management and with time. Garda Keogh was fully aware
10 that I had my difficulties. My difficulties were in
11 relation to someone that he had difficulties with. And
12 we were both at one in relation to that. And that's to
13 be clear."

14

15 Do you remember that?

14:23

16 A. That's correct.

17 106 Q. Yes.

18 A. Mm.

19 107 Q. "When Garda Keogh set out on this road that he went on
20 in relation to this, at the beginning I understood his
21 issues and his grievances and all that went with it and
22 I knew he was having a tough time and all of that. And
23 I knew there was -- you know, some of it needed to be
24 investigated and it warranted to be investigated,
25 because, as pointed out, I did make a statement. I
26 have made other statements to the Ó Cualáin inquiry and
27 I had my own views in relation to what was going on and
28 I knew that it needed to be looked at. But as things
29 took off in relation to this and when it started to

1 come out in the media and in the Dáil, the thing seemed
2 to take on a life of its own. I was worried for my own
3 -- my own career and everything in An Garda Síochána."
4

5 Is that right?

14:24

6 A. When things started, once this came out in the public
7 domain and the Dáil and the whole thing took off, I was
8 concerned, because I didn't know where it was going to
9 finish.

10 108 Q. So you were concerned about your career in the Gardaí
11 at that point, is that right?

14:24

12 A. I was concerned about certain information that I was
13 receiving from Garda Keogh. I was concerned about
14 where the thing was going to lead and what way I would
15 be caught up in it.

14:25

16 109 Q. I'll ask you again: Were you at that time primarily
17 worried about your own career in the Gardaí?

18 A. When I say I was worried about my career, I was worried
19 about where this was going to lead. I am trying to
20 answer the question as best as I can. I was concerned
21 about what was going to happen in the future, what way
22 it was going to affect my day-to-day role in the
23 Guards, what way would certain things being
24 interpreted. I didn't know what was going to come out
25 in the media. I didn't know where my difficulties in
26 the past could end up landing into the middle of this.
27 Anyone in Athlone was concerned. Everyone was
28 concerned. It wasn't just me.

14:25

14:25

29 110 Q. How was this going to affect your career?

1 A. My reputation is very important to me.

2 111 Q. No, no, not your reputation, your career?

3 A. Well, my reputation -- my reputation is important to my
4 career, because if my reputation is in any way
5 tarnished, it affects my career and it affects my 14:26
6 standing in the Guards.

7 112 Q. Yes.

8 A. So anyone's reputation affects their job, regardless
9 what job they're in.

10 113 Q. You said this morning "I was worried for my own career 14:26
11 and everything in An Garda Síochána", you've identified
12 -- you've said one, it's my reputation?

13 A. Correct.

14 114 Q. Who was going to take steps to damage your career in An
15 Garda Síochána? who had you in mind? 14:26

16 A. I'm not implying that anyone was going to take any
17 steps to damage my career in An Garda Síochána. But
18 the thing about this is, no one expected -- I certainly
19 didn't expect to be here today. When this thing took
20 off and took on a life of its own and it started being 14:27
21 mentioned in the Dáil and the next minute it was on the
22 newspapers and the next minute Athlone station was
23 known from one end of the country to the other, I did
24 not know what way this was going to impact on me in my
25 career, in my personal life, in any of my life. It got 14:27
26 to the stage where you could not even go out
27 socialising when you weren't working or you were
28 hearing about it from members of the public. So it
29 affected personal lives and it affected private lives,

1 it affected professional lives, it affected lives all
2 over the place.

3 115 Q. So you are saying that this was a widespread feeling in
4 Athlone Garda Station amongst the members?

5 A. It certainly was. And it was there for the members 14:27
6 probably more so, not the new members that arrived, but
7 for the members that had been there when all this
8 started and prior to it starting, it had an affect on
9 everyone. And it still has there, every day.

10 116 Q. I can understand if what you are saying is, well, look, 14:28
11 because this was going on it was affecting morale,
12 people didn't feel comfortable about going out, people
13 were being teased, was it, in public?

14 A. People thought that there was some kind of massive --
15 that everyone in our -- definitely in our station or a 14:28
16 certain portion of them, that there was people doing
17 wrong all over the place.

18 117 Q. Yes.

19 A. That there was all kinds of problems. And people were
20 getting this perception due to all this stuff coming 14:28
21 out. And the sad reality of it, it was only a very --
22 you know, it was just one kind of issue, I know it's
23 surrounding other issues. But everyone was being
24 painted with the one brush by certain people in the
25 community and certain people in the community 14:29
26 understood that innocence and proving guilty needed to
27 be investigated and all this craic. But it definitely
28 carried on every day.

29 118 Q. I can understand that, and that clearly would affect

1 morale. Am I right in that?

2 A. It did, certainly.

3 119 Q. Yeah. But what I am not clear about is how that
4 affects your own career as you saw it?

5 A. Well, I mean, if I can explain it to you this way: I 14:29
6 had my own issues, okay, and eventually, it took some
7 time, I got them resolved, thanks to nobody only
8 myself, through doing my best to get them resolved.
9 And the last thing -- because when you're having
10 difficulties in your work life it affects your private 14:30
11 life and it affects your life in general, and I
12 understand that better than anybody. And when this
13 thing then took off and I knew that my issues from the
14 past had something to do with the same person that
15 Garda Keogh had issues with, I didn't know that the 14:30
16 whole thing was going to be revisited again or where we
17 were going to finish or where we were going to find
18 ourselves. It's not -- I suppose maybe another way of
19 answering your question is, you speak about it
20 affecting my career. I haven't gone for promotion, I 14:30
21 haven't looked for promotion, not in that way. But I
22 am one of these people who wants to go into work each
23 day and do my work as best I can and leave there in the
24 evening and move on with my life. I am not looking for
25 anything off anybody and I certainly won't be now or in 14:30
26 the future.

27 120 Q. Well, I was merely asking you, before I got that long
28 answer --

29 A. Well, I am trying to answer your question as best I

1 can.

2 121 Q. -- about your phrase "I was worried for my own career".
3 we will move on.

4 A. well --

5 122 Q. Yes. You report a variety of conversations that you 14:31
6 had with Nick Keogh to then Superintendent Pat Murray,
7 isn't that right?

8 A. Correct.

9 123 Q. Did you ever at any point tell Nick Keogh that you were
10 reporting all of these conversations back to either 14:31
11 Inspector Minnock or to Superintendent Pat Murray?

12 A. No.

13 124 Q. why not?

14 A. I just want to make one thing clear: I wasn't looking
15 for any of this information. I'd prefer if I had never 14:31
16 received it.

17 125 Q. well why didn't you say to Nick Keogh, look, I'm
18 reporting all this back to Inspector Minnock and to
19 Superintendent Murray, you know?

20 A. He didn't ask me was I. 14:32

21 126 Q. And why didn't you volunteer it?

22 A. The situation is here, and I want to be clear on one
23 thing, I am quite happy any day of the week to hand
24 over my phone to be investigated. It wasn't me ringing
25 Garda Keogh. It was Garda Keogh ringing me, offering 14:32
26 me the information. And my phone is in my pocket and
27 I'll hand it over this minute and people can check it.
28 And it can go up and get analysed. I was not ringing
29 looking for information. I'd prefer if I hadn't got

1 it. But I was caught in a situation where I knew the
2 man was having his difficulties, I knew there was only
3 certain people he was ringing, I did not know what to
4 do and I did not know where to turn. And if you have
5 somebody telling you that they felt their phone was 14:32
6 tapped and, as I point out, as Garda Keogh said in his
7 own direct-evidence, he had betrayed my trust at one
8 point before, so I couldn't trust him one hundred
9 percent either. So what was I to do?

10 127 Q. Before you made that dramatic offer to hand over your 14:33
11 phone, which I am not going to take you up on.
12 A. Okay.

13 128 Q. I will go back to ask you the question. Never at any
14 point did you tell Nick Keogh that you were reporting
15 the conversations you had with him to either Inspector 14:33
16 Minnock or to Pat Murray?
17 A. No.

18 129 Q. That's right, isn't it?
19 A. Correct.

20 130 Q. Good. You were speaking to him, as I had understood 14:33
21 what you were saying, to Nick Keogh to try and support
22 him?
23 A. As best I could.

24 131 Q. You were concerned for his welfare?
25 A. Correct. 14:33

26 132 Q. Can you point me to any steps that were taken to
27 support Nick Keogh's welfare as a result of the reports
28 you made?
29 A. As a result of the report I made?

1 133 Q. The reports you made?
2 A. Which reports?
3 134 Q. That which we've just been speaking about, your reports
4 to Inspector Minnock or Superintendent Murray?
5 A. How was I supporting him? 14:34
6 135 Q. No.
7 A. I don't understand the question.
8 136 Q. Please listen to what I am asking you.
9 A. I am a very good listener, but you need to make it a
10 little bit clearer for me to understand. And I will 14:34
11 answer any question if I understand it fully. But I am
12 not going to answer a question if I don't understand it
13 fully.
14 137 Q. Okay, look, I will do my best.
15 A. Thank you. 14:34
16 138 Q. Can you point to any steps that were taken to support
17 Nick Keogh's welfare as a result of the reports you
18 made to either Inspector Minnock or Superintendent
19 Murray?
20 A. I can. 14:34
21 139 Q. What are they?
22 A. When Nick Keogh reported to me that he -- this incident
23 regarding this drink driving thing, I feared for his
24 safety, his welfare, if he was driving and whatever
25 else, and I didn't want him to come to any harm. So I 14:34
26 reported that to now Superintendent Minnock, to see
27 what he could do or if this was true, could someone
28 speak to him. When I was speaking to Chief
29 Superintendent Murray, Chief Superintendent Murray had

1 relayed to me -- I had relayed to him, which is in some
2 different conversations, that I was concerned for Garda
3 Keogh, that I felt that people were egging him on to
4 such a degree, that, you know, I was worried for him at
5 times. I relayed this to Chief Superintendent Murray. 14:35
6 I relayed it to Superintendent Minnock. You know --
7 140 Q. Sorry, finish. Go on, say whatever it is you want to
8 say.
9 A. If you are trying to portray the thing that there was
10 some kind of disloyalty here, there wasn't. Because 14:35
11 when this thing is over I will still take a phone call
12 from Nick Keogh. And I hope these other people who
13 were ringing him with different agendas are willing to
14 take a call from him. Because I was caught in a
15 situation that I didn't want to be in. But I always 14:36
16 rang back if I had a missed call from him because I was
17 concerned about how he was. I never asked him for any
18 of this information. I merely wish I hadn't received
19 it. But his own words were, he felt his phone was
20 being tapped. I didn't know if I was being recorded 14:36
21 and I didn't want to find myself in a bigger mess than
22 I am already in.
23 141 Q. Right. well, it will all be in the transcript and I
24 look at it in due course, but that's your answer to my
25 question: Can you point to any steps taken to 14:36
26 support Nick Keogh's welfare as a result of the reports
27 you made, is that right?
28 A. Yes, and I can and I have outlined some of it.
29 142 Q. You've outlined to the Tribunal that you listened to

1 these concerns and you reported it to Inspector Minnock
2 or Superintendent Murray, that's right, isn't it?

3 A. It is. And --

4 143 Q. What steps were taken?

5 A. Would it not be fair to say that the fact that I felt 14:37
6 that people were making matters worse, whoever these
7 people were, I can only go on what I was told, were
8 making matters worse and they were making the man more
9 angry and giving him more reason to have concerns. I
10 reported that because I felt it was wrong, and I still 14:37
11 feel today it is wrong. And I felt those people need
12 to examine their own conscience in relation to why they
13 done what they did. And I feel very firmly about that.
14 Because nobody -- I mean, I know I had several
15 conversations with Garda Keogh and I know exactly what 14:37
16 he felt at the time and a lot of it shouldn't have
17 happened.

18 144 Q. Chairman, I think I will just simply move on.

19 CHAIRMAN: Very good.

20 MR. KELLY: I am not sure if the witness is actually 14:38
21 assisting you at all.

22 145 Q. The fact is, you were never present, as I understand
23 it, when Pat Murray met Nick Keogh, is that right?

24 A. No.

25 146 Q. Right. When Pat Murray arrived in Athlone, Nick Keogh 14:38
26 by then, we know, was what is termed a whistleblower,
27 he made protected disclosures?

28 A. Correct.

29 147 Q. That's right, isn't it?

1 A. Correct, yeah.

2 148 Q. He was the only one who made those disclosures at that
3 time?

4 A. Correct.

5 149 Q. So in that sense he was singular in Athlone? 14:38

6 A. Correct.

7 150 Q. You say Pat Murray had a tough management style?

8 A. Correct.

9 151 Q. Would you agree that Nick Keogh perceived Pat Murray
10 was going after him or targeting him after he had 14:38
11 arrived?

12 A. Em, Nick felt that he did.

13 152 Q. Yes. At that time Nick Keogh, would you agree with me,
14 was very vulnerable?

15 A. I would agree. 14:39

16 153 Q. How would you describe the -- we may have covered this
17 already, but I will ask you just to be clear, how would
18 you describe the atmosphere in Athlone station when Pat
19 Murray arrived? If I were to suggest an answer to you,
20 that it was dysfunctional, would you disagree? 14:39

21 A. Em, at that time, in the months leading up to
22 Superintendent Murray arriving and all that, lots of
23 things seemed to happen in Athlone. There was lots of
24 different incidents, different problems and a lot
25 seemed to happen together. When Chief Superintendent 14:39
26 Murray arrived there was issues there to be dealt with.
27 In fairness, the people that were there before that
28 were doing their best to deal with them and they were
29 being dealt with. And just, Chief Superintendent

1 Murray arrived and he went to deal with them. The
2 other previous management were dealing with them and he
3 just continued on and he chose the way he was to deal
4 with them and that was it. But a lot had happened in
5 the period of time and it was a very, very tough time 14:40
6 because everything seemed to go wrong. There was an
7 awful lot happening. It was just a unfortunate time.
8 MR. KELLY: Chairman, I think within the constraints of
9 the various rulings, that's all I seek to ask.

10
11 END OF EXAMINATION

12
13 CHAIRMAN: Thank you very much. Very good. Now,
14 Mr. Dignam. Yes.

15 MR. DIGNAM: Chairman, I have a few brief questions. 14:40

16 CHAIRMAN: Okay.

17
18 GARDA FERGAL GREENE WAS CROSS-EXAMINED BY MR. DIGNAM,
19 AS FOLLOWS:

20
21 154 Q. MR. DIGNAM: Garda Greene, my name is Conor Dignam, I
22 act on behalf of the Commissioner and various other
23 members of An Garda Síochána. I just want to ask you
24 about a couple of conversations that Mr. Marrinan has
25 taken you through, quite a number of the conversations 14:41
26 that had you with Garda Keogh and then with
27 Superintendent Murray. I just want to ask you to look
28 at page 2644. And this is a note of Superintendent
29 Murray of 14th August 2017, where he records having a

1 conversation with you at about 2:00pm that day. Just
2 at the second half of that paragraph, it's the final
3 sentence essentially of that paragraph:
4

5 "Discussed my promotion." 14:42

6
7 And leave out the bit in relation to the Policing
8 Authority.
9

10 "...but that Garda Keogh will probably try and fire a
11 scud before I get promoted." 14:42
12

13 Now, do you remember that conversation in August 2017
14 A. With?

15 155 Q. With Superintendent Murray. 14:42

16 A. I do.

17 156 Q. Yes. Then could I ask you to look at your statement on
18 page 7069?

19 CHAIRMAN: Am I making a mistake? Mr. Dignam, is this
20 not the very thing I made a ruling about? 14:42

21 MR. DIGNAM: I don't think so, Chairman. I am not
22 asking in relation to the promotion issue, Judge.

23 CHAIRMAN: Okay.

24 MR. DIGNAM: It's in relation to the conversation Garda
25 Greene had with Garda Keogh in relation to his attitude 14:42
26 to Superintendent Murray. I am not going to go any
27 further than that.

28 CHAIRMAN: Okay.

29 MR. DIGNAM: Sorry, I should have started at the very

1 bottom of the sentence, Chairman, and avoided the
2 reference to the promotion issue.

3 157 Q. On page 7609, Garda Greene, this is your statement
4 and -- sorry, Chair, I think in hindsight --
5 CHAIRMAN: No, Mr. Dignam, thank you very much. N-O! 14:43
6 MR. DIGNAM: I will move on from that.
7 CHAIRMAN: Thank you very much.

8 158 Q. MR. DIGNAM: If I can then ask you to look at page 7607
9 of your statement. Again, I don't want you to deal
10 with who you were corresponding with anything or like 14:43
11 that. You express certain views towards the bottom of
12 that paragraph in relation to your view of
13 Superintendent Murray. You see the bit beginning:
14
15 "I was aware of media articles giving the public the 14:44
16 impression there were problems in Athlone, etcetera."
17
18 I think you have already given evidence --
19 CHAIRMAN: Mr. Dignam, what do I have to do to say do
20 not pursue this line. Full stop. You may complain 14:44
21 about it, but I have made a clear ruling.
22 MR. DIGNAM: May it please you, Chair.
23 CHAIRMAN: Goodness knows, we have gone from page to
24 page to page, were equally the slightest glance makes
25 it clear that it is contrary to the ruling I made. So 14:44
26 please move to a different area, Mr. Dignam.
27 MR. DIGNAM: May it please you, Chairman.
28 CHAIRMAN: Be it good or bad, that is what I have
29 decided.

1 159 Q. MR. DIGNAM: Yes. Now on a separate topic, Garda
2 Greene, you will have seen Garda Keogh's evidence, I
3 think, from last October/November. I am not sure
4 whether you have had a chance to consider or to review
5 that evidence. But you may have seen Garda Keogh say 14:45
6 that he knew that you were reporting matters to
7 Superintendent Murray and that he was, as he put it,
8 feeding you misinformation. You saw that evidence, is
9 that right?

10 A. That's correct. 14:45

11 160 Q. Were you aware at any stage that Garda Keogh knew that
12 you were reporting matters to Superintendent Murray?

13 A. No.

14 161 Q. And were you aware that he was feeding you
15 misinformation? 14:45

16 A. No.

17 162 Q. And at this stage are you aware of what information he
18 fed you which was incorrect or, as he put it,
19 misinformed?

20 A. No. 14:45

21 163 Q. Finally, Garda Greene, you refer on page 7608 of your
22 statement to a conversation with Assistant Commissioner
23 Fanning, which I think happened on 28th February 2017.
24 I will just call it up. It's page 7608.

25 CHAIRMAN: Don't call it up. Just refer to it, 14:46
26 Mr. Dignam. Just refer to it. Ask him what question
27 you want to ask him about it. I am sorry, if I sound
28 irritable, I don't mean it.

29 MR. DIGNAM: Not at all.

1 CHAIRMAN: I am trying to suppress it. Just ask him
2 the question, Mr. Dignam.

3 164 Q. MR. DIGNAM: In your statement --
4 CHAIRMAN: Even if it's a leading question, we will
5 worry about it. 14:46

6 A. If you just tell me what point in statement, I will get
7 here.

8 MR. DIGNAM: I will just ask you the question. The
9 Chairman suggested I ask the question.

10 A. Yes. 14:46

11 165 Q. So, you record in your statement that you --
12 CHAIRMAN: I want you to ask him a question.

13 166 Q. MR. DIGNAM: Yes. That you said you met Assistant
14 Commissioner Fanning and he said to you "We might be on
15 the outside at the moment but it won't be long until 14:46
16 we're on the inside". The first question is, had you
17 ever met Assistant Commissioner Fanning before?

18 A. No. I never had any conversation with him before that.
19 I would have maybe met him, you know, but we would
20 never have had a conversation or whatever. I'd say 14:47
21 hello, that kind of thing, and I can't even remember
22 when, but that would have been it.

23 167 Q. And do you understand what Assistant Commissioner
24 Fanning meant when he said that to you?

25 A. Yeah. I kind of knew this question was going to come 14:47
26 at some stage. For me to -- I'm -- for me to know what
27 was in Assistant Commissioner Fanning's head, no
28 disrespect, would be very hard for me to know. I can
29 take my own thoughts on it, but I don't know whether

1 that is allowed or not. I can't be sure because he was
2 the one that said it to me.

3 MR. DIGNAM: I can anticipate Mr. McGarry's objection.
4 I am not going to ask any further questions in relation
5 to that. 14:48

6 CHAIRMAN: Thank you very much.

7 MR. MCGARRY: I was going to ask, Chairman, Mr. Dignam
8 to identify --

9 CHAIRMAN: Have you finished, Mr. Dignam?

10 MR. DIGNAM: Yes. 14:48

11

12 END OF EXAMINATION

13

14 CHAIRMAN: Thank you. Now.

15 MR. MCGARRY: I was only going to ask Mr. Dignam to 14:48
16 identify which of the issues that the Tribunal is
17 tasked with investigating that that particular line of
18 questioning relates to.

19 CHAIRMAN: Mr. Dignam, you want -- wait now. You can
20 ask him privately, Mr. McGarry, and he can answer or 14:48
21 not answer. We will await relevance in due course. He
22 has asked a question. The witness has said, I don't
23 know what was in the man's mind. Perfectly reasonably.
24 I'd have been slow to write it down if he suggested
25 that he did know what was in the assistant 14:48
26 commissioner's mind. I'd have been very slow to write
27 it down. Anyway.

28 MR. DIGNAM: Thank you, Chair.

29 CHAIRMAN: All right. Any questions? Have you any

1 questions? Anybody else any questions. Ms. Gleeson,
2 have you any questions?

3 MS. GLEESON: Just very briefly.

4 CHAIRMAN: Certainly, yes.

5

6 GARDA FERGAL GREENE WAS CROSS-EXAMINED BY MS. GLEESON,
7 AS FOLLOWS:

8

9 168 Q. MS. GLEESON: Garda Greene, if I can just ask you, I
10 think some of the diary entries of Superintendent 14:49
11 Minnock have already been put to you and I think you
12 accept their contents, isn't that right? And I know
13 you are interacting during this period with now
14 Superintendent Minnock; isn't that right?

15 A. That's correct. I mean, I felt from my known dealings 14:49
16 with Superintendent Minnock through my own difficulties
17 in the past, I felt he was a very, very fair
18 individual, was a very intelligent man, who would never
19 guide you wrong and would try and do the right thing
20 and had a very humane side to him. That was the reason 14:49
21 I spoke with him, because I had trust in him, I still
22 have trust in him and I knew that he would always try
23 and do the right thing and he was honourable.

24 169 Q. Very good. Well, we have heard from Superintendent
25 Minnock, as are you aware, and he has obviously made a 14:49
26 statement for the benefit of the Tribunal, and that is
27 at page 689. Also we have the benefit of his journal
28 entries, both typed and handwritten. Just in relation
29 to one particular item, which I suppose is clearer in

1 the -- this was put to Superintendent Minnock and I
2 think we all accept that it's is clearer in the
3 handwritten version of his notes, which is at page
4 15823?

5 CHAIRMAN: Is there a question coming, Ms. Gleeson? 14:50

6 MS. GLEESON: Sorry.

7 CHAIRMAN: Could you tell me what the question is and
8 then we can work out how it arises.

9 MS. GLEESON: Apologies, Chairman.

10 CHAIRMAN: No, no, sorry, please don't. Just tell me 14:50
11 what question are you going to ask the witness at the
12 end of the day. Are you going to ask him does he agree
13 with Superintendent Minnock, are you going to ask him
14 does he disagree with it, or are you simply going to
15 tell us what Superintendent Minnock said? 14:51

16 MS. GLEESON: If we could look at the note, if
17 possible, Chairman.

18 CHAIRMAN: Okay.

19 MS. GLEESON: It's page 15823.

20 CHAIRMAN: Right. 14:51

21 MS. GLEESON: And if you don't mind, if we could scroll
22 down to the bottom. That portion there:

23

24 "Nick said he wasn't happy with Lyons and Curley and
25 what they said in disclosure and he seems to suggest he 14:51
26 is going after them now."

27

28 That note is a note and Superintendent Minnock gave
29 evidence in relation to that, this note --

1 CHAIRMAN: Ms. Gleeson, sorry, this witness, what is he
2 going to say about this?
3 MS. GLEESON: To be fair to the witness, I should tell
4 him the date that this note was made.
5 CHAIRMAN: Sorry, would you tell me what question you 14:51
6 are going to ask at the very end of all this?
7 MS. GLEESON: well, I simply want to put to the
8 witness --
9 CHAIRMAN: No, I am not asking what you want to put to
10 him. 14:52
11 MS. GLEESON: Yes.
12 CHAIRMAN: what do you want to ask him?
13 MS. GLEESON: Do you agree with the contents of
14 Superintendent Minnock's note.
15 CHAIRMAN: How does he know? 14:52
16 MS. GLEESON: No, this is a note of a phone call he got
17 from Garda Greene, Chairman.
18 CHAIRMAN: Yes, sorry. So he got a -- yes, I'm sorry.
19 MS. GLEESON: I was trying to put it in context.
20 CHAIRMAN: So, what do you say to that? Do you agree? 14:52
21 A. Are you asking me is this note correct?
22 170 Q. MS. GLEESON: Yes.
23 A. Is that the question?
24 171 Q. Yes.
25 A. Yeah, I have no reason to dispute it. 14:52
26 MS. GLEESON: Thank you very much.
27
28 END OF EXAMINATION
29

1 CHAIRMAN: Thank you very much. Right.

2 MR. KANE: Chairperson, I have a handful of very
3 briefly questions.

4 CHAIRMAN: Yes, Mr. Kane, I keep forgetting you.

5 MR. KANE: I will be five minutes or less. 14:52

6 CHAIRMAN: Sure.

7

8 GARDA FERGAL GREENE WAS EXAMINED BY MR. KANE, AS

9 FOLLOWS:

10

14:52

11 172 Q. MR. KANE: Garda Greene, you've told us that Chief
12 Superintendent Murray had on several occasions told you
13 that he wasn't Garda Keogh's enemy. Can you tell us
14 anything else that Chief Superintendent Murray would
15 have told you in relation to Garda Keogh, please? 14:52

16 A. Well, the chief would have always said to me he wasn't
17 Garda Keogh's enemy and, you know, that he didn't have
18 any grievance with him whatsoever. And that he asked
19 me to relay that message to him, which I did. He said
20 to me that he was just trying to deal with issues that 14:53
21 were faced with him when he got to Athlone and that was
22 all he was trying to do and he was trying to deal with
23 everyone the same.

24 173 Q. Did he tell you anything else in relation to the manner
25 in which you were to interview with Garda Keogh? 14:53

26 A. Well, he just said to me that basically, he said, look
27 it, the man needs support, I mean, don't turn your back
28 on him, you know, keep in contact with him and if he
29 rings you, take the call, don't not take the call. And

1 that's it.

2 174 Q. It has come out in the course of the inquiry that Garda
3 Keogh had expressed a view that he wished for
4 management intervention and management communication to
5 him to stop, and I put that to Chief Superintendent 14:54
6 Murray and Minnock, was that message ever passed on to
7 you?

8 A. No. Nobody ever said to me don't communicate with
9 Garda Keogh. He never said that he wanted want to
10 communicate with me and nobody else told me not to 14:54
11 communicate with him. There was times I wished someone
12 did, because I mightn't be where I am now. But at the
13 end of the day, you know, I had concerns for him, like
14 everyone else did. It was a difficult situation.

15 175 Q. Am I right in saying that you were faced with the 14:54
16 following scenario: That, one, Garda Keogh was telling
17 you information by phone and had told you that his
18 phone was tapped; that two, Garda management was
19 telling you he needs support; that three, Garda Keogh
20 was telling management to stop intervening but that 14:55
21 wasn't being relayed to you; and four, on occasion
22 Garda Keogh was feeding you with misinformation, isn't
23 that right?

24 A. That's correct.

25 176 Q. Can you tell us what sort of position that put you in? 14:55

26 A. Well, it put me in the worst of worst positions,
27 because I'm kind of the type that tries to do -- I
28 don't always get it right, no more than any of us, but
29 I try and do the right thing as best I can. And it was

1 an awkward situation to be in, because I didn't want to
2 turn my back on him. I didn't want the information
3 that was coming to me. I was afraid because he felt
4 his phone was tapped. I was afraid in case he was
5 recording me. I never had met this kind of a situation 14:55
6 in my career of nearly 20 years before, this kind of a
7 whole scenario. It was foreign to me. It's not
8 something that you meet in your career. And I
9 didn't -- I dealt with it as best I could. I am not
10 saying I got it right, I am not saying I got it wrong. 14:56
11 I dealt with it. I had a lot of sleepless nights over
12 all this and I done the best I could.

13 177 Q. Just for clarity, Garda Greene, did you ever meet
14 Deputy Mick wallace or Clare Daly?

15 A. Never. 14:56

16 178 Q. And finally, were you ever acting in concert with Garda
17 Keogh in relation to his substantive complaint?

18 A. Never.

19 179 Q. Thanks.

20 A. To make it clear, my issue was completely separate from 14:56
21 Garda Keogh's and it was long before that. It was
22 completely separate. It had no -- there was no
23 crossover. It was completely separate matter.

24 MR. KANE: Thank you Chairman.

25

26 END OF EXAMINATION

27

28

29

1 GARDA FERGAL GREENE WAS QUESTIONED BY THE CHAIRMAN, AS
2 FOLLOWS:

3
4 CHAIRMAN: So, can I just ask you, Garda Greene, you've
5 just clarified a question that I was going to ask. I 14:56
6 don't want to pry and the last thing I want to do is to
7 open up other issues or to embarrass you or anybody
8 else. You did have an issue?

9 A. Correct.

10 180 Q. CHAIRMAN: It was obviously a serious issue? 14:57

11 A. It was.

12 181 Q. CHAIRMAN: And you felt, if I understand correctly, you
13 felt threatened that if this went wrong it was big
14 trouble for you?

15 A. Exactly. Chairman, you've hit the nail on the head. 14:57

16 182 Q. CHAIRMAN: Okay.

17 A. I had had enough trouble.

18 183 Q. CHAIRMAN: Okay.

19 A. And I didn't want any more.

20 184 Q. CHAIRMAN: Just follow me now just for a second. 14:57

21 A. Yes.

22 185 Q. CHAIRMAN: This is my understanding. So that was in
23 the background. But this was well clear by the time
24 Garda Keogh made his protected disclosure in May 2014?

25 A. It was well clear. 14:57

26 186 Q. CHAIRMAN: You were well finished with that?

27 A. No, Chairman, sorry, I thought I had, but the problem
28 rose its head again.

29 187 Q. CHAIRMAN: That's what I was --

1 A. It did. It rose its head again and the reason it rose
2 its head again was, because certain people would have
3 known that I would have spoken to Garda Keogh and I was
4 trying my best to be there for him. And some people
5 maybe would have taken a certain view of that. 14:58

6 188 Q. CHAIRMAN: would you like to follow me for one moment?
7 A. I will.

8 189 Q. CHAIRMAN: Because I am trying to make sure that I
9 don't get into something --

10 A. Yeah. 14:58

11 190 Q. CHAIRMAN: -- that the Tribunal is not concerned with.
12 Is it right to say is that as far as you were
13 concerned, as of May 2014, as far as you were
14 concerned, the matter, the troubling and serious
15 matter, as far as you were concerned, was finished? 14:58

16 A. More or less, yeah.

17 191 Q. CHAIRMAN: Is that right?
18 A. Correct, yeah.

19 192 Q. CHAIRMAN: If I understand correctly, the events of the
20 protected disclosure made by Garda Keogh and the 14:58
21 repercussions in Athlone Garda Station in some way
22 threatened to resurrect or reignite this problem that
23 you had experienced previously?

24 A. Exactly.

25 193 Q. CHAIRMAN: So this represented not just a general 14:59
26 concern about the impact on morale or whatever in
27 Athlone Garda Station, there was in addition a personal
28 element?

29 A. There was.

1 194 Q. CHAIRMAN: That was particular to you?
2 A. Correct, Judge.
3 195 Q. CHAIRMAN: Okay. And ultimately that matter ultimately
4 resolved itself?
5 A. It did. 14:59
6 196 Q. CHAIRMAN: As far as the protected disclosure made by
7 Garda Keogh, that was published in May, so that people
8 knew about it, there were elements of that that you
9 thought also ought to be investigated, is that correct?
10 Don't just agree with me now because I am saying it. 15:00
11 But I am saying that he was raising at least something
12 or some things that you thought should be investigated?
13 A. Chairman, my view is today and it will always be my
14 view, that when Garda Keogh set out on this road and
15 his initial complaint at the very beginning, before 15:00
16 anyone interfered in any way, had some merit and I
17 understood it and I made statements in relation to it
18 and I assisted the Ó Cualáin investigation as best I
19 could.
20 197 Q. CHAIRMAN: And if I understand, to some extent at least 15:00
21 you were sympathetic to that complaint, regarding it at
22 least as something to be investigated?
23 A. Correct.
24 198 Q. CHAIRMAN: Is that right?
25 A. And at that time I did. 15:01
26 199 Q. CHAIRMAN: Okay.
27 A. And Garda Keogh is well aware of that.
28 200 Q. CHAIRMAN: I know your view, I don't want to revisit
29 it, but your view was that that original complaint

1 altered as time went on?

2 A. Yes.

3 201 Q. CHAIRMAN: And as people became involved. I don't want
4 to get into that?

5 A. That's correct. 15:01

6 202 Q. CHAIRMAN: But that is your view?

7 A. That's correct. We lost -- what happened was, the
8 whole beginning of it, that started off this whole
9 scenario, got lost and it took off in several different
10 directions and people got sucked into it. 15:01

11 203 Q. CHAIRMAN: But apart from your individual and specific
12 anxiety or concern about your matter, there was in
13 general in Athlone Garda Station a discomfort, an
14 apprehension, we're under scrutiny, we're being
15 accused, whatever it is. There was a more general one, 15:02
16 in other words, that all the Gardaí -- is that right?

17 A. There was. There was times it was just a cloud hung
18 over the place.

19 204 Q. CHAIRMAN: Okay.

20 A. People had a perception that everyone was doing things 15:02
21 wrong and it was hard on everyone.

22 205 Q. CHAIRMAN: Okay.

23 A. It still hangs -- to a certain degree, it's improving,
24 but it still hangs a bit to this day. It's going to
25 take time to repair itself. 15:02

26 CHAIRMAN: Thank you very much.

27

28 END OF QUESTIONING

29

1 CHAIRMAN: Mr. Marrinan, have you any questions?
2 MR. MARRINAN: No questions.
3 CHAIRMAN: Okay. Thank you very much. Any questions
4 arising out what I asked? I think I am simply
5 following up on what has gone ahead, so I don't expect 15:02
6 that anybody would have. Okay, thank you very much.
7 THE WITNESS: Thank you, Chairman.
8 CHAIRMAN: Garda Greene, thank you, and you're free to
9 go.
10
11 THE WITNESS THEN WITHDREW 15:02
12
13 MS. McGRATH: Chairman, thank you. The next witness is
14 Mr. Joe Nugent, please.
15 CHAIRMAN: Thank you very much. 15:03
16
17 MR. JOE NUGENT, HAVING BEEN SWORN, WAS
18 DI RECTLY-EXAMINED BY MS. McGRATH, AS FOLLOWS:
19
20 THE WITNESS: Joseph Nugent. 15:03
21 CHAIRMAN: Thank you very much. Good afternoon,
22 Mr. Nugent. Please sit down there and make yourself as
23 comfortable as can you in the circumstances.
24 206 Q. MS. McGRATH: Thank you, Mr. Nugent. I think,
25 Mr. Nugent, just to start with your history in An Garda 15:03
26 Síochána, I think at the moment you're the chief
27 administrative officer for An Garda Síochána, is that
28 right?
29 A. That's correct.

1 207 Q. And I think you have been in that role since August
2 2016; is that correct?
3 A. That's correct.

4 208 Q. And I think prior to that you have a history in the
5 civil service, in a number of departments, is that 15:03
6 right?
7 A. Yeah. I have probably held senior management positions
8 for about 17/18 years.

9 209 Q. Okay. So, as you say, you came into An Garda Síochána
10 in August 2016 and I think your office, chief 15:04
11 administrative officer, is the most senior civilian
12 office in An Garda Síochána, is that right?
13 A. That's correct.

14 210 Q. Okay. Now, just to get a very brief picture of where
15 that sits in the institution, I think you're a member 15:04
16 of the senior executive management team, is that
17 correct?
18 A. That's correct. I report directly to the Commissioner
19 at the equivalent of deputy commissioner rank, if you
20 can look at it that way. As we speak today there is 15:04
21 one other deputy commissioner, so myself, the deputy
22 commissioner and the Garda Commissioner from what's
23 called the executive or the Gardaí executive.

24 211 Q. Okay. Well, we have heard references colloquially to
25 the top three? 15:04
26 A. Yeah, I think colloquially that's the phrase that has
27 been used.

28 212 Q. Okay. Can I ask you, in some of your correspondence,
29 just before we get going, I see that there is a

1 reference to chief administrative officer for deputy
2 commissioner of Governance and Strategy what, does that
3 mean?

4 A. So, in September 2017, Commissioner O'Sullivan had
5 resigned and Deputy Commissioner Ó Cualáin, as he was 15:05
6 at the time, was appointed Commissioner. At that point
7 some of the responsibilities which would have vested
8 with Commissioner Ó Cualáin moved to myself. So
9 essentially I was carrying two hats. So chief
10 administrative officer and was also taking those 15:05
11 responsibilities that sat with the deputy commissioner
12 for Governance and Strategy.

13 213 Q. Okay. You outline in your statement, which I should
14 say, Chairman, is at 7304 of the book?

15 CHAIRMAN: Thank you very much. 15:05

16 214 Q. MS. McGRATH: You outline in your statement that you
17 had a number of senior both executive directors and
18 assistant commissioners reporting in to you, isn't that
19 right?

20 A. That's correct. So my responsibility is essentially 15:05
21 for those who look after, who are charged with
22 non-policing services will all report to me, led in
23 general terms led by executive directors, equivalent,
24 say, assistant secretary grade in the civil service and
25 by an assistant commissioner at different moments in 15:06
26 time.

27 215 Q. Okay. And one of those persons was the executive
28 director for HRPD, Mr. Barrett, whom we will be hearing
29 from, is that right? He reported directly in to you?

1 A. He reported directly to me, or he reports directly to
2 me.

3 216 Q. I think you say in your statement in July '17 that the
4 CMO also then started reporting directly in to you at
5 executive level, is that right? 15:06

6 A. That's correct.

7 217 Q. And you say then after --

8 A. Just to clarify, there was an appointment made to lift
9 the rank of Chief Medical Officer, so there had been a
10 Chief Medical Officer, who up to that point would have 15:06
11 reported to Mr. Barrett. So with effect from this
12 date, when Dr. Oghuvbu was appointed, he was appointed
13 at another level, at executive director level, hence
14 he's reporting to myself.

15 218 Q. Okay. And you also mention in your statement that 15:06
16 assistant commissioner Governance and Accountability,
17 Assistant Commissioner Corcoran, reported in to you, is
18 that right?

19 A. That's correct.

20 219 Q. And later Assistant Commissioner Sheehan; is that 15:07
21 right?

22 A. That's correct.

23 220 Q. Okay. Now, with regard to your office, you say that
24 you have responsibility for leading the organisation's
25 administrative functions. What does that mean in real 15:07
26 terms?

27 A. So essentially, as I described, all of those who had
28 line responsibility at executive director level for
29 areas like finance, HR, ICT, legal, report in to me.

1 So I take the managerial responsibility for the
2 delivery of those services or ensuring that those
3 services are delivered by those executive directors.

4 221 Q. And you are immediately reporting in to the Garda
5 Commissioner effectively in relation to those issues, 15:07
6 is that correct?

7 A. That's correct.

8 222 Q. Okay. Now, what I want you to start with is, as I say,
9 you were appointed in August 2016, and basically we
10 just want to look at the periods of 2016 and 2017 15:07
11 primarily in your evidence, okay?

12 A. Okay.

13 223 Q. Now, one of the things I want to ask you about is your
14 knowledge of Garda Keogh, particularly the bullying and
15 harassment issue arising in 2016. Can I ask you this 15:08
16 though, before we go into him specifically, can I ask
17 for page 11373 to come up on the screen, please? And I
18 just want to ask you if you remember this. This is
19 shortly after you have been appointed into your
20 position. This is a text message I think that you sent 15:08
21 to Assistant Commissioner Donal Ó Cualáin on 7th
22 October 2016. Do you see it there?

23 A. I do.

24 224 Q. You say:
25
26 "I think Tony/Alan."
27
28 I think that's Chief Superintendent McLoughlin and
29 Mr. Mulligan, would that be right?

1 A. That's sounds correct, yeah.

2 225 Q. "...should be thinking of documenting the chronology of
3 their interactions was PDs given the letter in today's
4 papers."
5
6 Now that might have nothing to do with Garda Keogh but
7 I just want to ask you what does it have to do with or
8 is it relevant to us?
9 A. I don't think it's particularly relevant. I think it
10 was just a general press commentary on protected
11 disclosures issues, and I felt it would be important
12 that the sequence of information that would be known by
13 the two individuals, who also held responsibility for
14 managing protected disclosure within the organisation,
15 should be provided to -- should be provided. So that
16 we could see or it could be seen that they were being
17 properly managed. So not getting into the detail and
18 certainly would not have got into the detail of the PDs
19 at all, but rather to ensure that matters were
20 progressing and they hadn't -- they weren't left lying.
21 If you ask -- if I am correct, did you also ask my
22 knowledge of the relevance or are you going to come
23 back to that?
24 226 Q. No, just at this particular time?
25 A. So I wouldn't have known who the PDs are bar what was
26 in the public domain. I wouldn't have known what the
27 nature of the protected disclosures are. And that
28 would still be the case too today.
29 227 Q. would you have had Garda Keogh on your mind or not?

1 A. No.

2 228 Q. Okay. Now, we know from the evidence that we have
3 heard, in particular from Chief Superintendent
4 McLoughlin, we have heard about various chronologies
5 and timelines for Garda Keogh's bullying complaint. In 15:09
6 particular, we are aware, particularly, as I say, you
7 came in in August 2016. As it went into November and
8 December 2016 there's a lot of involvement in relation
9 to this complaint and we see some of it coming through
10 your office. I am just going to use a letter that 15:10
11 Mr. Mulligan drew up and we have seen in evidence
12 already. It's at 12496. This is Mr. Mulligan's
13 letter. Now it's not addressed to you but, as I say, I
14 just want to use it as an example. He talks about
15 chronology of reports. And if you go into the next 15:10
16 page, if you see there, it's really the fourth
17 paragraph, if you can, the little one at the top:
18
19 "Correspondence from Mr. Cullen."
20
21 Do you see that? 15:10
22 A. Yes.

23 229 Q. "Was received in this office."
24
25 Now, his office, we know Mr. Mulligan is HRPD. It's 15:10
26 via e-mail the CAO's office, your office.
27
28 "On 30th November 2016 the CAO was informed that this
29 was the first correspondence received from the

1 solicitor and that no correspondence had been issued
2 from Mr. Barrett's office to the solicitor. The CAO
3 was advised that I contacted Mr. Cullen on 25th
4 November 2016, as outlined. I was provided with a copy
5 of correspondence, which was provided to the
6 Commissioner on 25th November 2016. "

15:11

7
8 You see there the next paragraph:

9
10 "16th December 2016, the Commissioner's office directed
11 that arrangements should be made to take a statement
12 from Garda Keogh as a matter of priority."

15:11

13
14 So just to confirm effectively that your office is
15 aware at this stage of the correspondence coming in on
16 the bullying and harassment issue in respect of Garda
17 Keogh, is that right?

15:11

18 A. Yeah, in the generality. We wouldn't have been getting
19 into the detail of that but we would have made sure
20 that the matters were being passed on.

15:11

21 230 Q. Okay. So your own personal knowledge that this is a
22 live issue then at this stage?

23 A. Just, I'm aware it's a live issue, I'm not aware of the
24 detail of the nature of the bullying and harassment
25 complaint or any of the other matters that Garda Keogh
26 may have raised.

15:11

27 231 Q. Would you have been aware then in December there that
28 the Commissioner's office had directed that a statement
29 be taken?

1 A. Yes, so as is said there. But again, my role was
2 merely to make sure that Mr. Mulligan progressed the
3 matter.

4 232 Q. Okay. Is it fair to say that are you all the time kept
5 updated as to what's happening, because if we go 15:12
6 through this letter and, as I say, Mr. Mulligan has
7 given evidence in respect of it, but you see that
8 you're aware, you may agree or disagree with me, that
9 someone has been designated to take a statement during
10 the March period, and we know that that was Chief 15:12
11 Superintendent Scanlan. Would you have been aware of
12 all of that and all the various movements?

13 A. Yeah. But again, I suppose the purpose of the
14 chronology was to try and refresh, because clearly just
15 the volume of materials that would relate to those 15:12
16 various areas, you know, would not have been on my
17 table and certainly I would not have been aware of the
18 detail associated with it. There is a reference there,
19 Chief Superintendent Healy's comments, I would not have
20 been aware of the details of that, other than 15:13
21 arrangements had been made for a statement to be taken.

22 233 Q. Can I ask you then, just, as I say, we're in that early
23 period. Can I ask you to look at page 3522, please?
24 This is coming from the Commissioner's office,
25 Inspector Séan O'Riordan to yourself, and it's 15:13
26 referencing the bullying complaint. Now this is quite
27 early on, it's 7th February 2017, and the Commissioner
28 has asked that you convene a case conference in this
29 matter in order to ensure that this complaint is

1 managed and pursued appropriately.

2

3 why was your office being asked to convene a case
4 conference?

5 A. In essence, that was an instruction to arrange that a 15:13
6 case conference take place and it would have been
7 handed over to Mr. Barrett for that to be actioned. So
8 we wouldn't -- my office, neither myself or my office
9 at this point in time would have been involved in
10 organising a case conference. 15:13

11 234 Q. Okay. So are you a conduit then?

12 A. A conduit, yes, correct.

13 235 Q. Okay. We see then at 3523. So this is 3523. We see
14 that Mr. Barrett is coming back effectively and he is
15 saying: 15:14

16

17 "In the light of the fact that this matter is being
18 progressed by the assistant commissioner Eastern
19 Region, I do not believe that it is prudent at this
20 juncture to have a case conference." 15:14

21

22 So this makes its way back through you, is that right

23 A. That's correct.

24 236 Q. I think the issue falls away or seems to fall away; is
25 that right? 15:14

26 A. That's correct, yes.

27 237 Q. Do you hear anything more about it at that stage?

28 A. No, I don't.

29 238 Q. You know, from your office's perspective, just looking

1 at disclosure, we don't see effectively much coming
2 through your office after this for a number of months,
3 would that be right?

4 A. That's correct.

5 239 Q. You see the issue going quiet?

15:14

6 A. The issue had gone quiet. As far as I was concerned
7 the matter was being handled by HRPD and by assistant
8 commissioner Eastern Region.

9 240 Q. Okay. Now, you get a letter then, at 3532. This is to
10 yourself again, it's deputy commissioner policing
11 security, chief administrative officer. Again it's
12 coming from Inspector O'Riordan at the Commissioner's
13 office. It says:

15:15

14

15 "Please provide an update on all matters under your
16 remit insofar as they relate to Garda Keogh, to include
17 but not confined to Garda Keogh's bullying and
18 harassment allegation, his submission regarding work
19 related stress and pay issue."

15:15

20

21 So this is coming in to you from the Commissioner's
22 office. What do you understand you are being asked to
23 do at this stage?

15:15

24 A. Well, at this point in time there had been certainly a
25 very large amount of commentary around the issue. From
26 memory, I think the Minister's office or the department
27 were asking for an update around a range of issues. So
28 I was being asked to understand exactly what had
29 happened. There had been a lot of commentary. Again,

15:15

1 things had gone very quiet and I was being asked to
2 assess and understand what was happening around the
3 range of matters insofar as they related to Garda
4 Keogh. So not just confined to bullying and
5 harassment.

15:15

6 241 Q. Okay, you're tasked with this. Now, we know that the
7 following day or two days something else overtakes it,
8 but you are tasked with this, what do you do, what is
9 your response to it?

10 A. So at this point in time things did -- you know, events
11 did change. We were in -- (a) it was August, when
12 people were on leave, so I'm not sure if I was in the
13 office even at that time on that particular day. But
14 matters do progress. Commissioner O'Sullivan moves on
15 very quickly. Commissioner Ó Cualáin was appointed
16 very shortly after that, within a month of that, if I
17 am not mistaken. Commissioner Ó Cualáin has now -- who
18 has now become Commissioner Ó Cualáin at that point.

15:16

15:16

19 242 Q. We see from the letter these are live issues, the
20 bullying and harassment allegation, the submission
21 regarding work related stress and pay issues. So these
22 live. These are the top three level we talked about
23 earlier, isn't that right?

15:16

24 A. That's correct. Would it be possible to see the
25 correspondence that's associated with that, with that
26 cover note?

15:16

27 243 Q. What do you mean by --

28 A. Well, it says:

29

1 ""I am directed to forward the attached
2 correspondence. "
3
4 Could I just see what the attached correspondence is?
5 244 Q. I don't think we were provided with that. We will see 15:16
6 if we can look for that in disclosure?
7 A. Okay. It's for the purpose of just refreshing my mind
8 about it.
9 245 Q. It's the next one there. That's right.
10 A. So could we scroll down. Can we just look at this. So 15:17
11 this came from the Department of Justice, if I am not
12 mistaken.
13 246 Q. That's right, sorry.
14 247 Q. CHAIRMAN: would you like to have the hard copy?
15 A. No, it's fine. 15:17
16 248 Q. CHAIRMAN: You're happy with that.
17 A. Thank you, Chairman. No, I just wanted to --
18 CHAIRMAN: No, no, I understand exactly, that's no
19 problem.
20 249 Q. MS. McGRATH: You are absolutely right, it's triggered 15:17
21 effectively by the Department of Justice.
22 A. By the Department of Justice, who are asking for an
23 update in relation to -- in relation to the matter.
24 And that's -- so at that point in time clearly it's of
25 concern, you know, across the organisation and was to 15:17
26 be progressed with a view to obtaining an update in
27 respect of that, in respect of that piece of
28 correspondence. As well as the generality of the
29 issues. So clearly at that point in time it was of

1 concern to the department, it was of concern to the
2 Commissioner and I was being asked to establish what
3 was going on. As you have mentioned, matters had gone
4 quiet. And that leads us very quickly into the
5 arrangement of a case conference then later. 15:18

6 250 Q. Well now, this is 16th October 2017 and we know there
7 are no -- sorry, 16th August 2017, and we know that the
8 case conference issue doesn't raise its head until
9 October, isn't that right?

10 A. There is a case conference organised by Mr. Barrett, as 15:18
11 I understand it, on the 3rd October.

12 251 Q. That's right.

13 A. Then following from that, we have the case conference
14 that I organised later that month. So again just to
15 explain the context of what was happening at that time. 15:18

16 252 Q. CHAIRMAN: Yes.

17 A. Commissioner O'Sullivan had resigned. So clearly the
18 organisation was in a very different place.
19 Commissioner Ó Cualáin had been appointed. And the
20 management of the organisation was having to address 15:18
21 and deal with a lot of matters that were going on. If
22 I was to step back and look, you know, at that period,
23 if you like, a peregrine falcon in the sky looking down
24 at what had going on, in the last few months we had
25 dealt with, you know, industrial action, we'd had 15:18
26 issues around the public accounts committee, issues
27 associated with Templemore College, we had these issues
28 associated with breath tests, we had then the issues
29 associated with the various protected disclosures.

1 It's fair to say that it was a very challenging time.
2 There was an awful lot going on. There was a lot of
3 moving chairs at that moment. So issues associated
4 with this, with no disrespect to Garda Keogh, they were
5 one of a number of issues that were being examined at 15:19
6 that moment in time.

7 253 Q. We will just move through the sequence.
8 A. Sure.

9 254 Q. And you can correct me as we are going along.
10 A. Okay. 15:19

11 255 Q. But I don't think in fact that letter is effectively
12 actioned in any real sense at that time; is that right?
13 A. Em --

14 256 Q. Would you accept that?
15 A. No, well, I would have expected that it would have been 15:19
16 sent to Mr. Barrett.

17 257 Q. We move on, because, as I say, what happens then is
18 that on the following day, the 17th October, at 3541.
19 Now we have already seen this with Chief Superintendent
20 McLoughlin. This is a letter from Garda Keogh and he 15:19
21 is copying the Garda Commissioner, the Policing
22 Authority and the Minister. He is outlining issues
23 there with regard to bullying and harassment. He
24 expresses, in fact, if you see there in the paragraph
25 just near the top there where Mr. Kavanagh stopped, he 15:20
26 is talking about the whereabouts of this form of
27 complaint. Next he is talking about misrecording of
28 sick leave. At the last paragraph he is talking about
29 ongoing detriment, etcetera. He mentions at the top of

1 the next page an issue of -- if you can go to the next
2 page:

3
4 "It appears that on the one hand for over 18 months any
5 investigation into this grave and systematic bullying 15:20
6 has been officially camouflaged, secreted and placed on
7 hold, while on the other hand the promotion of
8 Superintendent Murray to chief superintendent has been
9 covertly preferred, protected from the inside and
10 furtively advanced." 15:20

11
12 So he is mentioning -- so it's raising its head there
13 on 17th August 2017. Now, we know that this
14 correspondence is passed to you, at 3538. Do you
15 remember this letter coming into your office? 15:21

16 A. I don't remember it off hand. But, yes, it would have
17 come to my office. Can we go back to the
18 correspondence. I mean, there are a series of comments
19 being made on behalf of Garda Keogh. So, (a), I would
20 have to say that the selection process at that point in 15:21
21 time was being organised by the Policing Authority, it
22 wasn't being organised by An Garda Síochána. So, from
23 an independence point of view, the suggestion that in
24 some way that there was an attempt to influence the
25 promotion process, I would absolutely refute. It was 15:21
26 an independent process run by the Policing Authority
27 and I think that's where it was.

28 258 Q. Okay. We will come to that in due course.

29 A. Okay.

1 259 Q. But at the moment I am just trying to establish, you
2 know, the knowledge and the function of your office
3 vis-à-vis these matters that you are becoming live
4 issues?

5 A. Okay.

15:21

6 260 Q. And as I say, this letter makes its way to you, 3538:

7

8 "I am directed by the acting commissioner to forward
9 the attached correspondence for your attention.

10

15:22

11 Previous correspondence from this office of the
12 16th..."

13

14 which we've just seen.

15

15:22

16 "...in which an update in respect of Garda Keogh is
17 requested. Please ensure that a suitable response
18 issues to John Gerard Cullen Solicitors in due course.
19 A copy of this should be forwarded to your office."

20

15:22

21 Now, I think that you send this on to Chief
22 Superintendent McLoughlin. Now, I think this is what
23 you were -- this was effectively your office --

24 A. A conduit, yeah.

25 261 Q. -- would channel this documentation in to HRPD?

15:22

26 A. Absolutely.

27 262 Q. Is that right?

28 A. A conduit, absolutely, and then, you know, to keep an
29 eye on the progression up to when it was channelable.

1 263 Q. I think we have seen in the papers that you do look for
2 -- you're using the words "urgent attention". For
3 example, even if we look at a letter of 3544, because,
4 I mean, we will see another letter coming in from Garda
5 Keogh, again you are channelling them in to HRPD. At 15:23
6 this stage you're drawing these things to HRPD's urgent
7 attention, is that right?
8 A. That's correct.

9 264 Q. Is that how you saw it, that it was something that
10 needed to be addressed urgently? 15:23
11 A. Yes, I did.

12 265 Q. One of those letters again that came to you, we will
13 just open it briefly. There was another one from Garda
14 Keogh on the 21st September. So now we are moving into
15 September, at 3538. Now, you might remember this one. 15:23
16 It's coming in from Garda Keogh, he is talking about
17 the human cost to him of what is happening to him. He
18 attaches a handwritten letter. Do you remember that?
19 A. I don't.

20 266 Q. If you just flick down there, Mr. Kavanagh, you should 15:23
21 see it coming up. Do you remember that?
22 A. I don't. But, you know -- I don't remember it.

23 267 Q. He is raising very detailed issues there in relation to
24 the Ó Cualáin investigation. You see paragraph 2, he
25 is talking about having made a statement in respect of 15:24
26 the bullying and harassment matter on the 27th March.
27 And again, this is dated the 21st September and there's
28 a letter at 3545. So again this comes in to you. And
29 has:

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"I am directed to refer to the above. The acting commissioner sought a report on the present position of the bullying and harassment complaint of Garda Keogh. In addition, a response is outstanding in respect of this office minutes of the 16th August." 15:24

what we have seen.

"The 18th August." 15:24

what we have seen.

"And 8th September 2017. Please treat as urgent." 15:24

Now, that is 25th September 2017. Again, you were passing these on to HRPD; isn't that right?

A. That's correct.

268 Q. In fact, that's at 3555. Again, you are marking it for urgent attention of HRPD, is that correct? 15:25

A. That's correct.

269 Q. Now, we started around the 16th August, we're now at the date of that, for example, I think it's the 10th October, if I am right. What is your role in following up the responses? Because you're sending them on, you're looking for an urgent response and we don't see one coming back in to you. What is your role in relation to that? 15:25

A. So I would have spoken to Mr. Barrett. As I'm aware,

1 Mr. Barrett arranged a case conference on the 3rd
2 October, where the issues in this area were arranged.
3 So I am aware that Mr. Barrett had arranged a case
4 conference and was progressing the issues that are
5 referenced.

15:26

6 270 Q. Okay. So would you have been aware -- if you just look
7 at the dates chronologically. We're aware from the
8 material and from Chief Superintendent McLoughlin's
9 evidence that there was a telephone call between Chief
10 Superintendent McLoughlin and Mr. Barrett with John
11 Gerard Cullen on the 2nd October, did you know about
12 that?

15:26

13 A. So, I wouldn't have known the detail and I am not even
14 certain that I would have been told anything about the
15 conversation other than contacts had been made. And
16 again, if I am not mistaken, was there a reference in
17 the notes of the case conference for the 3rd October.

15:26

18 271 Q. Okay. I think, as you've mentioned there a few times,
19 there was a case conference convened on the 3rd
20 October. If we just open the minutes, the Chairman has
21 seen these, 10118. 10118. Do you see those minutes?

15:26

22 A. Yes, I do.

23 272 Q. Now, I just want to clarify something for the record.
24 It says:

25
26 "Present: Mr. Barrett, AC Fanning, Mr. Mulligan, Chief
27 Superintendent McLoughlin, Sergeant Doolin, Sergeant
28 Broderick, Inspector McCarthy and Kenneth Ruane."
29

15:26

1 You were not at that meeting, is that right?

2 A. I was not at the meeting.

3 273 Q. Okay, because, just for the record, on Day 112 it was
4 put to Garda Keogh that you would speak to the notes of
5 this conference. But I think you did not attend the 15:27
6 conference?

7 A. There's seem to be some -- there's a reference, I have
8 seen a reference in the transcripts to two case
9 conferences organised by myself. There was one case
10 conference I organised, which is later in October. If 15:27
11 there's a reference -- if this is the second one, I
12 wasn't involved in the meeting, I wasn't even aware
13 that the meeting had taken place and the first time I
14 would have seen the minutes was probably in this
15 process. 15:27

16 274 Q. So any reference in the transcript, Day 112, page 12,
17 that this happened under your watch, that's incorrect?

18 A. That's incorrect.

19 275 Q. Okay. Now, just looking at the minutes there, because
20 this is something that becomes an issue that's on your 15:27
21 table subsequently later in the month. You see there,
22 midway down the page that Mr. Kavanagh has opened:
23

24 "Assistant Commissioner Fanning outlines that there
25 needs to be a bigger investigation carried out as 15:28
26 previous cases. "

27 A. And he raises this issue --

28 276 Q. Again?

29 A. -- at my meeting, at the case conference that I

1 organised.

2 277 Q. Okay. would you have been aware, for example -- if we
3 just open -- they are -- I suppose an actions sheet was
4 drawn up after the 3rd October. 10102. You see there
5 at the very first one:

15:28

6

7 "An assistant commissioner to be assigned to conduct an
8 investigation. This needs to commence with a statement
9 from Garda Keogh.

10

15:28

11 Mr. Barrett to appoint an assistant commissioner."

12

13 Do you see that?

14 A. Yes, I do.

15 278 Q. Then there is a letter to Garda Keogh and it is from
16 Inspector James McCarthy, who is in Assistant
17 Commissioner Fanning's office. 10103. And if you go
18 down there, it's to Garda Keogh. It says there at the
19 last paragraph:

15:28

20

15:29

21 "It was also agreed that an assistant commissioner
22 would be appointed to conduct an investigation into
23 these matters."

24

25 So, at the 3rd October then, what's your knowledge that
26 this is the plan of action effectively

15:29

27 A. I wasn't aware of that at that point.

28 279 Q. Okay. Do you know when you became aware of the details
29 of the 3rd October?

1 A. So it would have been in the build up to my case
2 conference later that month. So at that point in time
3 Commissioner Ó Cualáin had spoken to me about his
4 general concerns about press commentary associated
5 matter, not that it was in the press but more that he 15:29
6 was concerned was there anything happening in this
7 regard. It was for that reason that I organised a case
8 conference to look at the various issues and the
9 various strands of issues that had been brought forward
10 by Garda Keogh. 15:29

11 280 Q. Well, just before we get to your case conference, which
12 was on the 23rd October, we also know that Mr. Barrett
13 wrote to -- I am opening this letter because you are
14 subsequently asked about this letter. It's a letter of
15 13th October 2017. 3592. If we can just -- sorry, it 15:30
16 starts on 3590. Sorry, Mr. Kavanagh. So this is
17 effectively a response to the queries in the letter of
18 the 21st October, or sorry, 21st September 2017, the
19 one we looked at, which had the handwritten letter
20 attached, do you see that? 15:30

21 A. I do.

22 281 Q. If you go on to the next page. He talks about
23 paragraph 2 -- as I say, I'm concentrating on these
24 because are you subsequently asked about these.

25 15:30
26 "With respect to the bullying and harassment complaint,
27 I am to advise that there has been extensive
28 correspondence from Garda HRPD seeking clarification
29 from Garda Keogh as to who specifically he was naming

1 as the subject of his complaint. We are now aware from
2 both the correspondence and the telephone conversation
3 who that individual is and we will proceed
4 accordingly."

15:31

5
6 That is Mr. Barrett to Mr. Cullen and this letter then
7 makes its way to you from Chief Superintendent
8 McLoughlin on the 19th October. And that's at 3589.
9 Do you remember it making its way to you?

10 A. Well I have seen it in evidence, yes.

15:31

11 282 Q. And you're told here:

12
13 "On 3rd October 2017, a case conference was held at
14 officer of executive director HRPD in respect of Garda
15 Keogh. Resulting from conference a number of actions
16 are currently being undertaken."

15:31

17
18 So is that all you're told about this effectively?

19 A. Yes, that's correct.

20 283 Q. And, as you say, you then get a letter from the
21 Commissioner's office about this. 10132. Do you see
22 this? This is coming in to you?

15:31

23 A. Yeah.

24 284 Q. This is coming in from --

25 A. From the Commissioner's office.

15:32

26 285 Q. -- superintendent Mahon. Yes. He's referring to the
27 letter of the 21st September, that's Garda Keogh's
28 letter. He is referring to Mr. Barrett's letter there
29 in the second last paragraph. He is asking you:

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"Clari fication is sought as to when this letter was received by Mr. Barrett and by what means."

He goes on to the next page and he says:

15:32

"Garda Keogh states that he made a formal internal complaint of bullying and harassment in accordance with the Garda poly document Working to Create a Positive Working Environment.

15:32

The acting commissioner has enquired as to the present position in the investigation of Garda Keogh's allegation of bullying and harassment. Who are the people complained of and on what date were they provided with a notification of the allegations? Who has been appointed to carry out the investigation? When were they appointed? What enquiries have been carried out to date? When is it anticipated this investigation will be finalised?

15:32

15:33

He is also looking for a chronological account of who was in possession of the complaint."

Do you see that?

15:33

A. Yes, I do.

286 Q. Now, is this now a cause of concern at Commissioner level?

A. Yes, it is.

1 287 Q. Can I ask you.
2 A. And a concern for myself.
3 288 Q. Okay. Can you just tell us a little bit about that?
4 A. Well, clearly, when you look at the range of questions
5 that are being asked, a very serious issue, where it is 15:33
6 of concern that Garda Keogh's allegations and
7 particularly those relating to bullying and harassment
8 had not been progressed to where it should have been.
9 So it was of obvious concern around that, that issue.
10 So in that regard, I sought a chronology of events and 15:33
11 the case conference takes place four days later.
12 289 Q. Okay. So at this stage, at a very senior level,
13 there's an awareness that there's an issue regarding
14 this and, in fact, the question is asked?
15 15:34
16 "When will the investigation be finalised."
17
18 Were you aware that it hadn't been started at that
19 point?
20 A. I wasn't aware that it hadn't started at that point. 15:34
21 The chronology then brings out the fact that it hadn't
22 started.
23 290 Q. Okay. Now what is happening then in the meantime? So
24 that is correspondence on the 19th October. Now at
25 this stage, can you explain to the Commissioner, as you 15:34
26 say, are you in a managerial capacity, is that right?
27 A. That's correct.
28 291 Q. Okay. But at this stage you have actually, as of the
29 17th October, two days before, you have been asked to

1 take charge of Garda Keogh's files almost in their
2 entirety, is that right?

3 A. I have been asked by the Commissioner, who feels that
4 he is conflicted in dealing with this, Commissioner
5 Ó Cualáin, that I would take responsibility for dealing 15:34
6 with -- for ensuring that Garda Keogh's matters are
7 progressed and, in parallel with that, that any queries
8 in relation to -- from the Policing Authority in
9 relation to the appointment of or the promotion of
10 Patrick Murray to chief superintendent would be managed 15:35
11 by myself.

12 292 Q. In his statement former Assistant Commissioner Ó
13 Cualáin says -- if you want to see it there, 3967. Go
14 down the page please, Mr. Kavanagh. If you stop there.
15 He says: 15:35
16
17 "In October 2014, given my prior involvement in certain
18 matters pertaining to the CR and on the basis of legal
19 advice from the head of legal services..."
20 15:35
21 Now, in fact, that's October 2017, I think; is that
22 correct

23 A. That would sound correct.

24 293 Q. Okay. He says: 15:35
25
26 "I instructed the chief administrative officer Mr. Joe
27 Nugent to oversee all matters pertaining to the CR
28 without recourse to me."
29

1 A. That's correct.

2 294 Q. Now what did he mean by that? Was he completely
3 stepping back?

4 A. Yes, he did. It meant that he was essentially
5 delegating the responsibility for resolving or dealing 15:36
6 with these issues to myself.

7 295 Q. And did he explain to you why?

8 A. Well, he explained that having been involved, as it
9 says here, having been involved in certain aspects
10 related to complaints made and his investigation into 15:36
11 those issues, he felt it would be more appropriate for
12 accountability and transparency reasons that he would
13 not be involved in this stage of the process itself.
14 So I took those responsibilities as they related, as I
15 said, to the matters associated with the complaint, the 15:36
16 complaints, plural, and those associated with the
17 correspondence between the organisation and the
18 Policing Authority related to the appointment of Pat
19 Murray. And those matters were dealt with by myself
20 and would not have been involved with retired 15:36
21 Commissioner Ó Cualáin in relation to the issues from
22 that point forward.

23 296 Q. Well, I think he was asked in his interview by the
24 Tribunal investigators did you keep him updated and he
25 said, in a general sense, yes. 15:37

26 A. Yeah, I think that's fair, a general sense. We did not
27 get into any detail. He wanted as Commissioner to make
28 sure that as far as I was concerned matters were
29 progressing.

- 1 297 Q. Did you see it as you now having full responsibility
2 from that day onwards in respect of how Garda Keogh was
3 going to be dealt with by the organisation?
- 4 A. I felt it my responsibility to ensure that those
5 complaints made by Garda Keogh were being properly 15:37
6 addressed by the organisation, and that those issues
7 and those queries that had come from a Policing
8 Authority would be addressed by myself on behalf of the
9 organisation.
- 10 298 Q. Now, I think we have seen Assistant Commissioner Ó 15:37
11 Cualáin's diaries and he has an entry for the 19th
12 October. So you had the executive meeting on the 17th,
13 where you are put into that position, is that right?
14 Do you accept that?
- 15 A. Yeah, I accept that. 15:38
- 16 299 Q. Then on the 19th he has a diary entry, where he says he
17 asks you to arrange a case conference with all
18 concerned on the Nick Keogh file?
- 19 A. If my memory serves me right, around that time, I can't
20 say between those dates, but around that time there was 15:38
21 considerable press coverage that Garda Keogh's matters
22 were not being addressed. There were a variety of
23 strands associated with that, so not just those related
24 to bullying and harassment. And the conversation with
25 Commissioner Ó Cualáin was that he wanted me to be 15:38
26 satisfied that all of the strands were properly being
27 addressed.
- 28 300 Q. And so, it was on his instructions that you organised
29 the case conference on the 23rd, is that right?

1 A. That's correct.

2 301 Q. Okay. Now, moving then on to the 23rd and coming to
3 your case conference. 10143, please, Mr. Kavanagh.
4 Okay. So this is from yourself on the 19th October.
5 You are asking to convene the conference. You say
6 there:

15:39

7
8 "You are asked to attend a meeting in my office on
9 Monday at 12:15 to prepare a status update in respect
10 of the issues associated with the Nicholas Keogh
11 matters."

15:39

12
13 You're asking for a status update from all these
14 people; is that right?

15 A. That's correct.

15:39

16 302 Q. "The purpose of the meeting is (1), to confirm the
17 chronology of actions to date in addressing the issues
18 raised. And (2), agree the next steps in addressing
19 the issues outstanding."

20 15:39

21 Now, you send it to Mr. Barrett HRPD, is that right?

22 A. Yes.

23 303 Q. Chief Superintendent McLoughlin?

24 A. Yes.

25 304 Q. Who is again HRPD. Assistant Commissioner Corcoran,
26 you said earlier he was in Governance and
27 Accountability, is that right?

15:39

28 A. That's correct.

29 305 Q. Assistant Commissioner Fanning, who is assistant

1 commissioner of the Eastern Region at that point; is
2 that right?

3 A. Yes.

4 306 Q. Mr. Gallagher?

5 A. Mr. Gallagher was working in the office of the then
6 deputy commissioner of Governance and Strategy and
7 Mr. Gallagher's role was to organise the meeting but
8 secondly, to minute the meeting itself.

15:39

9 307 Q. And we do have minutes on the file, which we will get
10 to in a moment. All right. So you are then provided,
11 you get two things effectively. That's on the 19th,
12 you set out the minute. At 10147, Assistant
13 Commissioner Fanning come back to you. 10147. He
14 says:

15:40

15

15:40

16 "I refer to the above and also to our meeting on the
17 23rd October."

18

19 And he attached a number of files, do you see that?

20 A. That's slightly confusing. I mean, it's reference --
21 the date, it was sent on the 20th October, yet he
22 references our meeting on the 23rd. So there is
23 something peculiar about that, but notwithstanding that
24 --

15:40

25 308 Q. I think it's in anticipation of the meeting of the
26 23rd, is it?

15:40

27 A. Well, I am just curious. It says it's sent on the 20th
28 October and yet it's referencing the meeting of the
29 23rd. So there's something just a bit odd about that.

1 I am not sure how that has occurred. Am I reading that
2 correctly?

3 309 Q. Well, I think we can only go by the e-mail date and
4 time?

5 A. Sure, I accept that. 15:41

6 310 Q. It would look like it's sent in advance of the meeting,
7 would you accept that?

8 A. Well, except that he references our meeting of Monday,
9 the 23rd.

10 311 Q. Okay. Well, down at the second last paragraph, he 15:41
11 says:
12
13 "I am quite concerned and have been for a considerable
14 period of time regarding the issues emanating from
15 Athlone district, many of which predate my arrival in 15:41
16 the Eastern Region."
17

18 Do you see that?

19 A. I do.

20 312 Q. He deals with an issue with divisional officers. So, 15:41
21 it would appear to this Tribunal that this came in to
22 you in advance of the meeting of the 23rd and he was
23 raising concerns about issues emanating from Athlone,
24 would that be correct?

25 A. Well, I won't argue the point, but it just is peculiar. 15:41
26 I don't understand that.

27 313 Q. CHAIRMAN: Could you go back to that for a moment?
28 Peter, just go back up to the reference. On the face
29 of it, it can't be dated the --

1 A. No, it seems peculiar. But whether he is referencing
2 that he's looking forward to the meeting on the 23rd
3 perhaps, that's possible I suppose. But I guess what
4 he is doing is, attaching a range of documents that he
5 believes are relevant to the issues at hand. whether 15:42
6 there's anything of substance in relation to the dates,
7 I don't know. So he may well be referencing in advance
8 the meeting that is to take place.

9 CHAIRMAN: Yes, that probably makes sense actually,
10 Ms. McGrath, to the meeting that we're going to have. 15:42

11 314 Q. MS. McGRATH: well, it was certainly my understanding.

12 A. Okay, that's fine.

13 CHAIRMAN: That is probably right.

14 315 Q. MS. McGRATH: Do you remember receiving this e-mail?

15 A. I do. There was a series of emails that would have 15:42
16 been provided by Assistant Commissioner Fanning around
17 these issues.

18 316 Q. We know from disclosure, we know that this material is
19 extensive, is that right?

20 A. It's enormous in fact. I went back looking for 15:42
21 material yesterday and it was so voluminous that we
22 just couldn't print it down, it's too voluminous. So
23 in that regard, do I remember seeing the e-mail? Yes.
24 Did I look at the full detail of this? No, I did not.
25 I didn't see it as my duty or, indeed, my 15:43
26 responsibility to get into the issues associated with
27 that. I felt that from a privacy point of view that
28 there is material there that really was not for me to
29 see. My role in this was process related, it wasn't

1 related to the specific issues that had been raised.
2 My only role here was to ensure that the matters were
3 progressing and not to look at the detail of the
4 various complaints that had been made by Garda Keogh.

5 317 Q. Okay. Here you have an assistant commissioner 15:43
6 attaching this volume of information, making that
7 statement of concerns, is this passed on by you?

8 A. No.

9 318 Q. No, okay. Now, I think also on the 23rd October, which 15:43
10 is the morning, it seems, of the meeting, you get a
11 chronology of Garda Keogh's files from Chief
12 Superintendent McLoughlin, is that right?

13 A. That's correct.

14 319 Q. And that's 10166. Now we won't go through the 15:44
15 chronology, in fact, it would have been dealt with by
16 Chief Superintendent McLoughlin in his evidence. But I
17 think it's a very detailed chronology, outlining the
18 dealings with Garda Keogh, and particularly the
19 dealings in relation to the receipt of his bullying and
20 harassment claim, isn't that right? 15:44

21 A. That's fair. And it gave me, I must say, some comfort
22 that there had been a level of work that was going on
23 around this. Whereas there had been some concerns that
24 all had gone quiet, in fairness, in looking at the
25 chronology, it certainly showed that Chief 15:44
26 Superintendent McLoughlin and HRPD had been engaged on
27 the issues at hand.

28 320 Q. Did it give you any concerns that there was an enormous
29 issue of delay here?

1 A. Of course, yeah, absolutely. And like, that comes out
2 at the case conference itself, where it is apparent
3 that the bullying and harassment claim has not
4 progressed where it should and an action out of the
5 meeting is to progress the issue, because that was 15:44
6 there. But I was at least -- I was at least comforted
7 that there had been a level of engagement around the
8 issue, albeit the substantive complaint had not been
9 addressed.

10 321 Q. I think they're -- they seem to me -- I will just put 15:45
11 it to you, are they not inconsistent positions? How
12 could you be comforted and concerned on the same issue
13 at the same time?

14 A. No, I was comforted there had been a level of
15 engagement between HR and Garda Keogh around issues of 15:45
16 concerns. Of course. Absolutely. My primary concern
17 was that the matter hadn't been addressed, hadn't been
18 progressed and, indeed, you know, if we look at the
19 minutes of the meeting itself, there was some
20 discussion about the complexities of bringing forward 15:45
21 the matters. But what was agreed was a way forward
22 from that point. I would like to think that the result
23 of the case conference did progress the matters and
24 gave them a kick start, if that is an appropriate
25 phrase. 15:45

26 322 Q. Okay. Let's go to the case conference itself. We have
27 the minutes of the case conference. These are, I
28 think, the official minutes. They're at 10149. And
29 you are chairing the case conference; isn't that right?

1 A. I am.

2 323 Q. You have outlined the attendees there. I think at the
3 top, the last person should be Ken Ruane, is that
4 right?

5 A. Ken, yeah. 15:46

6 324 Q. who is the legal adviser; isn't that right?

7 A. That's correct.

8 325 Q. Okay. So the agenda is, the Commissioner requires an
9 update for the department?

10 A. Just pause for a second, I just have a slightly 15:46
11 different version of that. It looks slightly
12 different. So I just want to flag that.

13 326 Q. Sure.

14 A. The version I have here in front of me is formatted
15 slightly differently. So the Ruane piece is not on the 15:46
16 version that I have here. So just to flag that.
17 Again, I have no issue if we go through these. So just
18 to point that out.

19 327 Q. CHAIRMAN: what you might do, Mr. Nugent, is to make it
20 available? 15:46

21 A. I will.

22 328 Q. CHAIRMAN: Make it available and we can take a copy of
23 it then.

24 A. That's fine. Sorry, if any issues surface through this
25 -- 15:46

26 CHAIRMAN: I'm not sure anything arises.

27 329 Q. MS. McGRATH: Just to clarify, Mr. Nugent, is there a
28 page number on the one you're looking at?

29 A. It says 186 on the top of this, that's all. But I am

1 happy, as I said, to make it available.

2 CHAIRMAN: That's all right, yes, thanks very much. Is
3 that okay?

4 A. So what I have here are minutes and also includes
5 actions. So these are done after the event, and 15:47
6 includes some additional views and comments on the
7 above minutes. So that is the version I have here.

8 CHAIRMAN: That doesn't sound like yours, Ms. McGrath.

9 MS. McGRATH: No.

10 A. No, it's completely different, that is why I just want 15:47
11 to flag it.

12 CHAIRMAN: Thanks very much, that's very helpful.

13 MR. DONAL MCGUINNESS: Chairman, maybe I can assist the
14 Tribunal here.

15 CHAIRMAN: Thank you, Mr. McGuinness. 15:47

16 MR. DONAL MCGUINNESS: There are two minutes, Chairman.
17 There's minutes that Ms. McGrath has referred to,
18 10149.

19 CHAIRMAN: 10149.

20 MR. DONAL MCGUINNESS: which is the one that 15:47
21 Ms. McGrath is about to open.

22 CHAIRMAN: And?

23 MR. DONAL MCGUINNESS: And there is another set of
24 minutes, more detailed, which is perhaps what the
25 witness is referring to, it's at 10150. 15:47

26 CHAIRMAN: 10150.

27 MS. McGRATH: That's right, yeah.

28 CHAIRMAN: Okay.

29 MR. DONAL MCGUINNESS: Just in case, that's the two.

1 CHAIRMAN: Peter, would you turn up 10150, please.

2 A. That's the version that I have.

3 MS. McGRATH: And that's absolutely correct.

4 CHAIRMAN: That's, okay. It is just a question of
5 reconciling the two. Thanks very much, Mr. McGuinness. 15:48

6 330 Q. MS. McGRATH: Can we go through three things. Can I
7 just ask you, one -- the first thing to look at is
8 10149?

9 A. Okay.

10 331 Q. This is just a page which is separate in some ways but 15:48
11 it was disclosed together, which seems to just be a
12 summary?

13 A. Okay.

14 332 Q. At the front there?

15 A. Can I just confirm, who supplied this? Was that 15:48
16 supplied from myself, from my office?

17 CHAIRMAN: Peter, would you put up 10149, please, and
18 we can see. Scroll down to the bottom of it. It's a
19 one-page document; is that right?

20 333 Q. MS. McGRATH: That's right. And it seems to just be a 15:49
21 very briefly summary and we have it, if you go to the
22 next page, if you keep scrolling down, you will see the
23 minutes that you're looking at.

24 A. Yes.

25 334 Q. The formal minutes? 15:49

26 A. Yes, I see it.

27 335 Q. So do you have any knowledge of the first page?

28 A. As I said, it doesn't ring a bell, and certainly in
29 preparing for here I hadn't come across it. It may be

1 that it was put, but I would be interested in who
2 provided those.

3 336 Q. Okay. We can clarify where the first page comes from?
4 A. Okay.

5 337 Q. If we can look at the first page? 15:49
6 A. Okay.

7 338 Q. You can simply, as I say, accept or reject.
8 A. Hm-hmm.

9 339 Q. Under the agenda there, it says:
10
11 "Commissioner requires an update for department."
12

13 So is this why the meeting was being held effectively?
14 A. Yeah. Would you mind just scrolling up just to the top
15 of that. I am wondering if that's actually an agenda 15:49
16 rather than minutes.

17 340 Q. It's an agenda.
18 A. Apologies, no, that's okay.

19 341 Q. CHAIRMAN: No, it says minutes?
20 A. It says minutes, okay, that's fine. Yes, I do accept 15:49
21 that there was an update required. The Minister had
22 south that and we discussed that earlier, just a few
23 minutes ago.

24 342 Q. And it seemed that there were three issues, main issues
25 really. Number one, you're looking at HR strand, 15:50
26 welfare strand, etcetera?

27 A. Yes.

28 343 Q. And protected disclosure, AC Ó Cualáin?
29

1 "2. Criminal discipline B&H. FOI requests. Current
2 possible liquidator Tribunal GSOC.

3
4 3. Absence files sickness."

5 15:50

6 So are they the three main issues? You didn't draw up
7 this agenda, did you? You didn't chair the meeting?

8 A. No, it doesn't ring a bell. It's certainly not a style
9 that I would use and it's not one that I would -- so I
10 am going to speculate, I am wondering if it came from 15:50
11 Mr. Ruane, but I don't know.

12 344 Q. Okay. Well, we can certainly find out who drafted
13 them?

14 A. Okay.

15 345 Q. If you just go to your own piece there, CAO, seen down 15:50
16 at the end?

17 A. Yes.

18 346 Q.
19 "Fact-Finding piece. Do we have grounds to proceed to
20 B&H. Each segment is being dealt with. Adhere to 15:50
21 policy."

22
23 Now, this was opened by counsel for AGS in
24 cross-examination of Mr. Keogh, and I think -- Garda
25 Keogh, sorry, Garda Keogh queried "fact-finding piece". 15:51
26 Does this ring a bell to you? Is this language that
27 you used?

28 A. And I don't think it appears in the next set of
29 minutes, I think we use the word scoping. I am not

1 going to fall out over language on this. The purpose
2 of what was being discussed is: Can we be certain that
3 all of the issues of concern to Garda Keogh were being
4 addressed. So, as I said, without getting into worries
5 about what does fact-finding mean versus what does 15:51
6 scoping mean or whatever, what was intended in this
7 part was to ensure that all those issues that Garda
8 Keogh was concerned about were being addressed. So the
9 various strands, so whether as criminal, discipline,
10 bullying and harassment or whatever else, was there 15:51
11 somebody tasked and dealing with those particular
12 matters.

13 347 Q. And if you just go up above there, you have Assistant
14 Commissioner Fanning, just the last -- just go up a
15 little bit. 15:51

16 A. Yes.

17 348 Q. Assistant Commissioner Fanning, in the last two lines
18 there he says:
19
20 "A lot of allegations - not just B&H - multiplicity. 15:51
21 Other than B&H - are notes being taken of this meeting?
22 CAO - yes."
23
24 would you dispute those?

25 A. No. 15:52

26 349 Q. Or accept them?

27 A. Oh absolutely. I think Mr. Fanning at that point in
28 time was making the point that the specificity of the
29 bullying and harassment element was difficult to

1 quantify, and that certainly surfaces as part of other
2 matters that go on in parallel with that. He also
3 references this Byrne/McGinn approach, which, as I
4 understand it, Mr. Fanning was suggesting that we
5 essentially start the process all over again, take all 15:52
6 of the matters in their entirety and look at a holistic
7 inquiry, but essentially start the matter again. An
8 approach which I rejected.

9 350 Q. Okay. Now, if we go into the notes of the meeting on
10 the next page. These are the ones that we just 15:52
11 mentioned there. 10150. You have the attendees all
12 set out there. In fact, there's a lot more people
13 referenced there. You talk about the purpose of the
14 meeting. JN is yourself; isn't that right?

15 A. That's correct. Can I just correct as well, I just see 15:53
16 Ms. Kathleen Hassett is appearing there as GS, but
17 she's actually referenced in the minute as KH.

18 351 Q. That's right.

19 A. So just for clarity.

20 352 Q. Okay. Now, you see: 15:53

21
22 "The purpose of the meeting set out to gather a
23 holistic picture of the general status of issues,
24 noting a lot of strands in play raised by Garda Keogh
25 and his solicitors. Allow for necessary response on 15:53
26 the matter to be provided to the Department of Justice
27 and Equality. Highlighted no discussion of sensitive
28 material etcetera. Just need very broad sense of where
29 each area/strand of the issues raised is at to ensure

1 all matters are being addressed and actioned
2 accordingly from an organisational perspective. "

3
4 Can I just ask you, first of all, an issue has arisen,
5 and we have seen it in the papers, about the 15:53
6 confidentiality of this meeting and whether or not it
7 was appropriate in the context of a protected
8 disclosure, whether there were so many so attendees and
9 whether it was confidential. Now, it's marked
10 confidential at the top. What's your view on that? 15:54

11 A. Okay. So a few things. Firstly, at the very outset of
12 the meeting I made it very clear that I had no wish or
13 desire to get into any of the detailed matters of the
14 complaints of Garda Keogh, respecting his privacy and
15 respecting the confidentiality of that, it was 15:54
16 imperative that we were talking here process related
17 and not getting into the detail of those matters.
18 There were large numbers of people, it was a large
19 meeting. There were individuals there who weren't in
20 the previous one. So, for example, Ms. Hassett is a 15:54
21 member of Garda staff, a civilian, who had
22 responsibility for the bullying and harassment policy
23 within -- of managing bullying and harassment
24 complaints in the organisation. That's the reason for
25 her attendance. So just to give one example of that, 15:54
26 of those there. I understand that we have referenced
27 there Inspector McCarthy, he was brought along by
28 Mr. Fanning, I think, I assume for the purpose of
29 taking notes. But at the very outset of the meeting I

1 was adamant that I wanted everyone in the room to
2 recognise and respond to the sensitivity and the
3 privacy of the issues there. That's the first point.
4

5 Secondly, it would not be uncommon to have case 15:55
6 conferences relating to a variety of HR issues. I
7 know, again referencing the transcript, that there were
8 suggestions that Garda Keogh should be made aware of
9 this at this particular meeting. As I said, this is
10 normal HR practice, where those who are looking at a 15:55
11 range of issues associated with a particular case would
12 come together to make sure that they were properly
13 addressed. And in this particular case we had the
14 added complexity that at this point in time there was a
15 civil litigation matter at play, and therefore, it 15:55
16 would just be inappropriate to have the individual
17 involved in the room. This was about the
18 organisational response and ensuring the organisational
19 response was put in place to the matters of concern.

20 353 Q. But with respect, I think, Mr. Nugent, it says at the 15:56
21 outset:

22
23 "It is to allow for the necessary response to be
24 provided to the Department of Justice and Equality."
25

26 Is that why the meeting was being held? 15:56

27 A. It was one of the reasons of why it was there. It was
28 there, it says, "and then allow", so it wasn't purely
29 for that purpose. So the purpose of the meeting was to

1 gather an holistic picture of general status of issues
2 and then allow, so it wasn't a singular issue, it
3 wasn't singularly for the purposes of the Department of
4 Justice, it was equally important for us as an
5 organisation and primarily important for us as an 15:56
6 organisation to ensure that the matters were being
7 properly addressed.

8 354 Q. Well, I suppose I have to ask you was this happening
9 because the Commissioner felt the organisation was
10 coming under pressure? 15:56

11 A. The Commissioner wanted assurances that the concerns
12 that Garda Keogh had raised, that all of them were
13 being addressed. There was press commentary on the
14 issue at the time, but it wasn't there, it was setting
15 off an alarm that something should be done and he 15:57
16 wanted some assurances that the organisation was
17 properly addressing and dealing with matters that had
18 been raised.

19 355 Q. Okay. And the reason I ask you at the outset about the
20 confidentiality issue, I think you will be aware, and 15:57
21 we will come to it in a moment, that there were media
22 leaks in relation to this meeting; isn't that right?

23 A. I joined the organisation in August 2016. We had a
24 management meeting I think within a week of that date.
25 The day after the management meeting there was a report 15:57
26 in the media of the events that went on at that
27 management meeting. Completely unrelated. We worked
28 in a time and through this period of time, an
29 extraordinary period, where people felt it appropriate

1 to make comment to the media about matters that were
2 going on. It is something in my long public service
3 experience that I have not come across before, and it's
4 certainly something that I don't think is helpful to
5 the organisation at large. The purpose at the outset 15:57
6 was to make sure that people were aware and I was
7 flagging in advance these matters were confidential and
8 sensitive, they were private to Garda Keogh and I did
9 not want the matters discussed outset of the room at
10 that time. 15:58

11 356 Q. Okay. We will come to the press release in a moment.
12 But just staying with the meeting itself, I think we
13 have heard the meeting described in various ways, there
14 is a disagreement, it was fractured, I think Chief
15 Superintendent McLoughlin said there was healthy 15:58
16 discourse. How would you describe it?

17 A. Healthy discourse is what the organisation needs. We
18 have to challenge each other and we should respect and
19 be in a position to challenge it. There were opposing
20 views put forward. As I say, Mr. Fanning put forward 15:58
21 an approach. In a respectful way I disagreed with it
22 and we pursued a different line. But for any
23 organisation to proceed there has to be healthy
24 discourse. There has to be the opportunity to
25 challenge it. It would not be a very good place if 15:58
26 people weren't to do it. To describe it as fractious,
27 I think would be unfair, but I think there were
28 respectful challenges around the approaches that were
29 being suggested.

1 357 Q. And when you talk about those approaches, I think at
2 the bottom of page 10150 we see your contribution in
3 there, in about the fourth last line. If you just keep
4 going down, please. It says:

15:59

5
6 "JN aware of correspondence in August 2017 that now had
7 a name and can marry together with the B&H claim."

8
9 You did on to say:

10 15:59

11 "JN querying if there is grounds to have a B&H
12 investigation done to which FF responds that he is the
13 one to decide given that he has been tasked with that."

14
15 Can you just tell the Chairman a little bit about that 15:59
16 exchange?

17 358 Q. CHAIRMAN: He is the one to decide that, given what he
18 has been tasked with?

19 A. Mr. Fanning was making it very clear, Mr. Nugent, it is
20 not your responsibility to appoint an investigator, 15:59
21 that's my responsibility.

22 359 Q. MS. McGRATH: were you querying whether there were
23 grounds to appoint an investigator for the B&H?

24 A. Well, I wanted to make sure why had somebody not been
25 appointed. That was really the pressing point. As I 15:59
26 said, from a process point of view it was irrelevant to
27 me who was going to make the appointment. But at that
28 point in time nobody had been appointed. There had
29 been a reference, I think Ms. Hassett had said

1 previously or may have said at the meeting that that it
2 was only recently that the specifics had come out
3 around the named individual against whom the
4 allegations were made and there was certainly an
5 absence of clarity. That is certainly something that 16:00
6 Mr. Fanning would have referenced as well. So we now
7 had confirmation that a name had -- given together, I
8 was asking the point, can we progress the investigation
9 at this time.

10 360 Q. Well, you have just mentioned it there and let's look 16:00
11 at precisely what she said. It's up at the start of
12 paragraph D:
13

14 "KH (Kathleen Hasset) noting no details or specifics
15 until got the statement dated 27th March 2017 and to 16:00
16 her knowledge no investigation carried out into same to
17 date."
18

19 So, with respect, she is not saying only recently.
20 We're now in the 23rd October. She is saying "no 16:00
21 specifics until got the statement of 27th March 2017"
22 A. And I think at the meeting there were discussions and
23 it was put forward and I said further down, I think it
24 is about four or five lines from the bottom:
25 16:01

26 "JN aware of correspondence in August 2017 that now
27 have the main and can marry all together with the
28 bullying and harassment claim now."
29

1 366 Q. CHAIRMAN: You say only one of the purposes?
2 A. Yes.

3 367 Q. CHAIRMAN: Okay. A second one was to say, how are we
4 going to deal with this?
5 A. Yes. 16:02

6 368 Q. CHAIRMAN: Because Assistant Commissioner Fanning was
7 of one view as to the nature of the investigation that
8 took place?
9 A. Yes.

10 369 Q. CHAIRMAN: And others clearly were of a different view, 16:02
11 including yourself?
12 A. Yes.

13 370 Q. CHAIRMAN: So that nothing could happen until somebody
14 decided what sort of thing was going to happen, is that
15 right? 16:03
16 A. That's fair.

17 371 Q. CHAIRMAN: So Ms. Hassett is saying, but we did have
18 the statement since the 27th March?
19 A. That's correct.

20 CHAIRMAN: Okay. 16:03
21 MS. McGRATH: So, Ms. Hassett is taking the position
22 that when we got it on the 27th March, we got specifics
23 and details.

24 CHAIRMAN: I imagine you will be some time,
25 Ms. McGrath. 16:03
26 MS. McGRATH: I certainly will and we certainly won't
27 finish this evening. But if I could finish maybe the
28 next five or ten minutes, just on the case conference
29 perhaps.

1 CHAIRMAN: No, absolutely. I am not rushing you. We
2 will start tomorrow at 10:30 I think, it's a little
3 easier all round. So 10:30, it's official, tomorrow.
4 Thank you very much.

5 MS. McGRATH: Okay.

16:03

6 CHAIRMAN: Now, of course, Ms. McGrath, stop a
7 convenient time to you and Mr. Nugent.

8 372 Q. MS. McGRATH: Okay. So, Mr. Nugent, just to be very
9 clear, Assistant Commissioner Fanning is staying with
10 the position that he had on the 3rd October, where he
11 is looking for this wider investigation, isn't that
12 right?

16:04

13 A. That's correct.

14 373 Q. Okay. Now, you're at odds with him in relation to
15 that, is that right?

16:04

16 A. That's correct.

17 374 Q. Okay. So you're at odds with him in the sense that,
18 whether we use the word fact-finding or scoping, you
19 believe there's more work to be done, is that right?

20 A. My primary concern here was that I had been told before
21 the meeting that we had sufficient specifics to enable
22 us to progress the bullying and harassment complaint.
23 It seemed to me that what was being proposed by
24 Assistant Commissioner Fanning was to start all over
25 again. To take the entirety of all of the matters
26 together --

16:04

27 375 Q. CHAIRMAN: Throw everything out on the floor or on the
28 table and start again?

29 A. And start again.

1 376 Q. CHAIRMAN: Okay. That was your understanding of the
2 position.

3 A. That was my understanding.

4 377 Q. CHAIRMAN: He may agree or disagree?

5 A. Absolutely, yes. My view was that there were other 16:04
6 matters that were progressing, they had already been
7 addressed. And you can see some others who are
8 involved in some of those. My view was, there is a
9 bullying and harassment complaint, can we get on with
10 it. 16:05

11 378 Q. MS. McGRATH: Okay. Because it's not entirely clear
12 from the minutes. So you are accepting that you're
13 good to go on the bullying and harassment side of this?

14 A. Yes.

15 379 Q. Okay. So what are your references to fact-finding or 16:05
16 scoping then? Because Garda Keogh is quite exercised
17 by the references to scoping, as you will probably have
18 seen from the transcripts.

19 A. So my concern there was, there were clearly matters
20 that were bullying and harassment, there were other 16:05
21 matters that were matters of a criminal nature, there
22 were matters that were related to discipline and so on.
23 What I wanted assurances on, is that for any of those
24 particular elements that were there, was somebody
25 addressing and dealing with all of those concerns. So, 16:05
26 as I said, we can call it scoping, we can call it
27 fact-finding. My point was: Can we confirm that
28 everything, all of the concerns, all of the individual
29 strands of concerns from Garda Keogh were progressing?

1 It was in that context that I put forward the
2 suggestion that somebody take a look at this coldly.
3 380 Q. CHAIRMAN: Somebody take a look at?
4 A. Coldly. So look at it dispassionately.
5 381 Q. CHAIRMAN: The last word? 16:06
6 A. So to look at the entirety of all of what Garda Keogh
7 was saying dispassionately and say, okay, are there
8 strands, what strands are there. We know that bullying
9 and harassment needs to be addressed, but is there
10 anything else that is not proceeding. And that's the 16:06
11 piece that was being --
12 382 Q. MS. McGRATH: Okay, well let's look at the next page,
13 10151, the very bottom of the next page. You have two
14 entries there at the end. It says:
15 16:06
16 "JN clarifying earlier suggestion that the assistant
17 commissioner could take and compartmentalise the
18 statement to do fact-finding scoping exercise of the
19 whole landscape of the complaint. JB discussed the
20 same. FF highlighting that two statements exist and 16:06
21 what are we doing with same."
22
23 what is this talk with compartmentalising the statement
24 and what statement are we talking about?
25 A. So, the statement that had been taken by Superintendent 16:06
26 Healy, Chief Superintendent Healy, apologies.
27 383 Q. CHAIRMAN: Scanlan?
28 A. Scanlan, apologies.
29 CHAIRMAN: No, that's all right. I know there is a

1 Chief Superintendent Healy, but Chief Superintendent
2 Scanlan had taken -- the 27th March.

3 A. Absolutely. And assess whether there were pieces of
4 that that had not been picked up by any individual. So
5 the compartmentalising was to take elements of that and 16:07
6 put them into the relevant pots where individuals would
7 be tasked with progressing the relevant investigations.
8 No more than that. I am aware that people are, you
9 know, referencing the scoping and fact-finding. That
10 was what was -- I was very clear on. If others didn't 16:07
11 see that that way, that's fine.

12 384 Q. Okay. And you say:
13
14 "JN raises a query as to whether we can defend not
15 initiating the B&H investigation by way of 16:07
16 Byrne/McGinn."
17
18 what do you mean by that?

19 A. Well, as I said earlier, what was being proposed was
20 that essentially we start all over again. That's what 16:08
21 was being proposed. I was saying, is it defensible
22 that Garda Keogh, who had concerns about bullying and
23 harassment, would expect that all of the other matters
24 would be brought in and ultimately delay the
25 progression of the bullying and harassment -- his 16:08
26 complaint of bullying and harassment.

27 385 Q. CHAIRMAN: Your understanding of Byrne/McGinn approach
28 and starting all over again, meant what, Mr. Nugent?

29 A. It meant that essentially we would have one person who

1 would investigate everything.

2 386 Q. CHAIRMAN: Everything being?

3 A. Everything being discipline, crime, bullying and

4 harassment, all of those individual elements.

5 387 Q. CHAIRMAN: And where were all those coming from? 16:08

6 A. So, in the statement that had been taken, there are --

7 they're matters that are referenced, you know, through

8 that. So the statement talks about a range of

9 different issues.

10 388 Q. CHAIRMAN: Garda Keogh had made a statement. 16:08

11 A. Yes.

12 389 Q. CHAIRMAN: We know about a handwritten or a written

13 version.

14 A. Yes.

15 390 Q. CHAIRMAN: We're not worried about that for the moment. 16:08

16 A. Yeah.

17 391 Q. CHAIRMAN: By the 27th March, this was complete and

18 there were exhibits with it?

19 A. Yes.

20 392 Q. CHAIRMAN: Isn't that right? 16:09

21 A. That's correct.

22 393 Q. CHAIRMAN: So there was a compendium of I think about

23 150 pages?

24 A. Yes, that's correct.

25 394 Q. CHAIRMAN: So, that was going to be investigated by 16:09

26 somebody?

27 A. Yes.

28 395 Q. CHAIRMAN: Is that right?

29 A. That is correct.

1 396 Q. CHAIRMAN: The question was, what's the best way of
2 investigating this?

3 A. That's correct.

4 397 Q. CHAIRMAN: And it came in under the bullying and
5 harassment, working together, etcetera, etcetera? 16:09

6 A. That's correct.

7 398 Q. CHAIRMAN: The bullying and harassment policy.

8 A. Yes, that's correct.

9 399 Q. CHAIRMAN: So the debate was: Do we look -- tell me
10 what the debate was? 16:09

11 A. Yeah. So the bullying and harassment policy requires
12 that you name what the exact nature of the bullying is
13 and against whom you are alleging as bullying. In the
14 statement, the statement goes into a variety of
15 different areas, it talks about different people, it 16:09
16 talks about a range of different matters. The concern
17 that had been brought to my attention was that there
18 wasn't -- it wasn't sufficiently specific to deal with
19 it purely in the bullying and harassment domain, and
20 that there were other matters related to other people 16:10
21 and other issues that weren't bullying that needed to
22 be addressed.

23

24 Assistant Commissioner Fanning was suggesting that one
25 person -- that we stop, so that people who would be 16:10
26 looking at some of those strands would stop and that
27 the matter would be taken by one person who would look
28 at all of those strands together.

29 400 Q. CHAIRMAN: Okay.

1 A. My alternate approach, which I suggested we proceed
2 with, was that there was a recognition that Garda Keogh
3 feels he has been bullied and harassed.

4 401 Q. CHAIRMAN: And somebody would go to him and say, who is
5 bullying and harassing you, in what way? 16:10

6 A. Absolutely yes, in what way and --

7 402 Q. CHAIRMAN: So those are the two, as you saw it?

8 A. As I saw it.

9 CHAIRMAN: Okay. Thank you. Sorry, Ms. McGrath.

10 403 Q. MS. McGRATH: I think what I am trying to clarify and 16:10
11 maybe I'm not understanding your evidence correctly,
12 Mr. Nugent. You said earlier, you said, we have a
13 bullying and harassment complaint list, just get on
14 with it. Okay. Now, just having listened to you
15 there, you're saying, well, it's very broad, there's 16:11
16 this and that in it and we have to separate it out and
17 we have to decide. I mean, which was it?

18 A. Well, I think what we can say is, Garda Keogh said he
19 had been bullied and harassed and he had made a
20 complaint. I think the nature of the complaint was 16:11
21 what was causing the difficulty, because it dealt with
22 a range of issues that went beyond that and went into
23 other domains. So, we were absolutely aware that he
24 had made a complaint. The question was: Was the
25 nature of the complaint so specific that would allow it 16:11
26 be progressed through the organisation's bullying and
27 harassment policy. I was aware that there was a
28 complaint. I was absolute that I wanted the complaint
29 investigated.

1 404 Q. Can I just ask you, in the middle of the page, and I am
2 sorry now just to stay with this?
3 A. Okay.

4 405 Q. I just want to clarify this. If you go back up, there
5 is a blackout at the top of the page. Don't move it, 16:11
6 Mr. Kavanagh, please. Just there, there was a blackout
7 there.
8
9 "JN confirmed by KH. "
10 16:11
11 It seems:
12
13 "As confirmed by KH, that provide them, Garda Keogh's
14 solicitors, with B&H policy and can we not go back and
15 say to them to provide us with the specific 16:12
16 allegations. "
17 A. Yes.

18 406 Q. So you are on the one hand saying, we have a B&H
19 complaint, let's get on with it. She is telling
20 you that we have the complaint since March, and yet 16:12
21 here we have this prevarication or this inconsistency
22 in the notes, it would seem.

23 A. Okay. No, I don't agree with you. What I am saying,
24 to go back to my point, it was clear that Garda Keogh
25 felt he had made a complaint. The concern related to 16:12
26 the specific nature of the complaint and whether that
27 specific nature could be investigated as it stood.

28 407 Q. CHAIRMAN: Did it fit into the B&H policy?
29 A. In the policy. What was being suggested was, that we

1 go back to the individual to get it clarified and
2 specifics so that the specific issues related to
3 bullying and harassment would be addressed.

4 408 Q. CHAIRMAN: As I understand it, where we stand at this
5 moment, as I understand it is, the debate was between 16:12
6 the position that you adopted, which is, look, we have
7 a complaint, it is expressly made under the bullying
8 and harassment policy, let's treat it as bullying and
9 harassment and go and check it out and say who is the
10 bully, who is bullying and what is the harassment, or 16:13
11 whatever. The alternative was, hold on, we have a
12 complaint, it's a much bigger complaint than obviously
13 or comfortably fits into the bullying and harassment
14 issue, therefore we need to really investigate the
15 whole thing. Are those the two correct positions? 16:13

16 A. That's correct. Absolutely correct. And, Chair, if
17 you go back to the start of the minutes, we go through
18 the various strands. And you can see that there are
19 individuals who are dealing with different elements of
20 that. So there were concerns, some of the issues 16:13
21 related to the absence of appropriate HR welfare
22 supports, that was being addressed. Matters had been
23 put forward in relation to associated work that retired
24 Assistant Commissioner Nolan was dealing with, which
25 Assistant Commissioner McMahon was dealing with, that 16:14
26 was progressing. The main issue, the elephant in the
27 room, if you like was: why had the bullying and
28 harassment complaint made by Garda Keogh not progressed
29 to the point of a proper investigation?

1 CHAIRMAN: Okay.

2 409 Q. MS. McGRATH: If we just go to the last page of those
3 notes. If we keep scrolling down please, Mr. Kavanagh.
4 So, it's just noted there in decision:
5
6 "Agreed that given the previous involvement in the
7 matter with the acting commissioner, that JN is best
8 placed to in charge."
9
10 So that's noted in the minutes, is that right? 16:14
11 A. That's correct.

12 410 Q. Actions, you are to speak further with AC McMahon in
13 respect of the investigation she is carrying out, and
14 that's immediately. You are tasked with that. Now, I
15 just note that because Garda Keogh, it's one of his 16:14
16 complaints, that you were to contact him about the AC
17 McMahon investigation and you never did?

18 A. I was to contact -- I have never spoken to Garda Keogh.
19 No, I would never -- it wouldn't be -- I would never
20 see it as my role to contact Garda Keogh on that issue. 16:15
21 where is it suggested that I --

22 411 Q. Well, did you speak to Assistant Commissioner McMahon?
23 A. Yes, I did. So Assistant Commissioner McMahon
24 confirmed to me that she was progressing her matters.
25 what she was doing or the detail of what was involved, 16:15
26 I just wanted certainty that that matter was
27 progressing. No more than that.

28 412 Q. Okay. And you didn't see it as your --
29 413 Q. CHAIRMAN: whatever inquiry she was carrying out, it

1 was progressing?

2 A. It was progressing, yes. The detail of what she was
3 doing, what she was looking into was not, I felt was
4 not my responsibility. So, Ms. McGrath, if your
5 question is did I feel it my responsibility to contact 16:15
6 Garda Keogh about that, no, I didn't.

7 414 Q. MS. McGRATH: Okay. Just there, these minutes were
8 e-mailed out to people and I think Assistant
9 Commissioner Fanning came back with some queries, is
10 that right? They're at 10155. There, at the bottom. 16:15

11 A. Yes.

12 415 Q. 10155. There at the end. In particular, Kathleen
13 Hassett comes back and she says:
14
15 "Confirmed B&H policy already provided. I didn't agree 16:16
16 that we go back to them for specifics of complaints.
17 What I said was that no specifics have been provided.
18 I also stated that we appear to be going over ground
19 already covered."
20 16:16

21 Do you see that?

22 A. Yes, I do.

23 416 Q. Do you accept her correction there?

24 A. I do.

25 417 Q. Okay. Then we have Assistant Commissioner Fanning on 16:16
26 the 6/11 came back, he said that the introduction of JN
27 -- that the Commissioner has requested an update for
28 the Department of Justice on all strands in relation to
29 Garda Keogh is not included, but we did see that in the

1 minutes there.

2 A. We did.

3 418 Q. "That concerns expressed by JN about the delays is not
4 included."

5

16:16

6 Okay. So, did you express concern about delays?

7 A. I expressed this question and, you know, as I said, we
8 had this statement from March and here we were in
9 October and the bullying and harassment, you know,
10 issue hadn't progressed.

16:16

11 419 Q. And was it as neutral as that or was it a stronger
12 concern?

13 A. I can't, I can't -- I can't say exactly what I said. I
14 can't remember what I said, but we'll at least say that
15 I was concerned.

16:17

16 420 Q. And he also had an addition:

17

18 "...that proposal of JN to strip the bullying and
19 harassment issues from the reports of Garda Keogh is
20 not included."

16:17

21

22 Did you use that language?

23 A. I don't remember using that language.

24 421 Q. Okay. Now, just finally then this evening, just so
25 that we can move on from the actual minutes of the
26 conference, I don't know if you have seen them, but
27 Mr. Gallagher kept written notes, have you seen those
28 in the brief?

16:17

29 A. If you can put them up on the screen, I think so. I

1 certainly struggled to read the -- if it's what I was
2 looking at, which was a light blue colour, it was
3 difficult to read.

4 422 Q. Okay. As I say, this is the final thing that we will
5 deal with. It's at 10174. They come in from Elaine 16:17
6 wims, I think she works in that office as well; is that
7 right? Do you know her?

8 A. Possibly, I don't know.

9 423 Q. Okay. So we understand that these are Mr. Gallagher's
10 notes, starting at 10175, do you see that? 16:18

11 A. Okay. It surprised me, I mean, I can't recall
12 Mr. Gallagher taking the notes in typed format at the
13 meeting. I would have thought he would have taken them
14 in handwritten form.

15 CHAIRMAN: I am sure this is a typed version of what he 16:18
16 had written down. At least that's what I am guessing,
17 Ms. McGrath.

18 MS. McGRATH: Okay. So if we go down there, you see
19 the various strands?

20 CHAIRMAN: I am sure there is a version in handwritten 16:18
21 form.

22 A. I see there is a reference there to Kate McElaney, if
23 I'm not mistaken.

24 CHAIRMAN: There is.

25 A. Sorry, apologies, I didn't it. Apologies, my mistake. 16:18

26 424 Q. MS. McGRATH: Okay. We see there, it seems to be the
27 agenda, a brief analysis of it or a brief note of it.
28 If you go on to the next page, if you go into --
29 there's the GSOC issue, the welfare issues, the

1 bullying issues, where Ms. Hassett is saying:
2
3 "Statement received on the 27th March. Only received
4 in summer. Kathleen Hassett said AC Fanning was of the
5 view that the investigation was bigger." 16:19
6
7 So here we are getting into the same material that we
8 have been talking about, okay. We have Assistant
9 Commissioner Fanning referring to Chief Superintendent
10 Scanlan took a four page statement supplemented by 20 16:19
11 pages from solicitor. You say there that there is a
12 multiplicity of issues, do you see that?
13 A. Yes, I do.
14 425 Q. You are asking has he made a bullying complaint. You
15 are told yes. Would that be right? Would you just be 16:19
16 asking that at that meeting? I think you knew that, is
17 that right?
18 A. Well, I wanted confirmation.
19 426 Q. Okay. On the next page you are saying -- and I will
20 just do your -- because I think you can only speak to 16:19
21 your own entries there that are recorded?
22 A. Okay.
23 427 Q. "Can we proceed with bullying?"
24
25 Do you see that? 16:19
26 A. I do.
27 428 Q. Assistant Commissioner Fanning says:
28
29 "I cannot make a decision."

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You say:

"Do we not have grounds to proceed with bullying."

16:19

And we have Mr. Barrett then asking:

"Can we be satisfied that each of the segments is identified."

16:20

Assistant Commissioner Fanning says:

"No."

Then if you go down to you again:

16:20

"Nobody has been tasked to investigate bullying."

You are asking as a question. Are you unhappy with the situation as it develops?

16:20

A. Yes, absolutely.

429 Q. We have Mr. Barrett breaking it up into areas. You have Assistant Commissioner Fanning talking about harassment, exclusion.

16:20

"Management didn't prosecute people. It's much bigger than bullying and harassment."

Ms. Hassett is saying:

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"At face value this is a bullying and harassment case.
JN: What does he mean?"

Can I ask you about the next one:

16:20

"He is saying publicly bullying and harassment. He is also saying publicly we're not investigating that. Can we say that we have sufficient to investigate the bullying, yes or no."

16:20

what is the reference to the public there?

A. So press commentary on this. So again, I am not putting words into Garda Keogh's mouth -- but certainly the perception that I had was that Garda Keogh was dissatisfied that his bullying and harassment claim was progressing.

16:20

430 Q. Okay. And you say that:

"Have we gone back to him for clarification and specifics.

16:21

Assistant Commissioner Fanning: We have always written to him, he has never anything to us.

16:21

JN: He has said it publicly and has complained to the Commissioner. Do we need to consider that he has specific allegations."

1 So this is really an issue for you, is that right?

2 A. Yes.

3 431 Q. The specificity of the issue, is that right?

4 A. Yes. So the bullying and harassment policy is clear,
5 it says you must say who bullied you and what was the
6 nature of the bullying. And what was being suggested
7 was that that was broader than that issue.

16:21

8 432 Q. And you say at the end:

9

10 "Can we give him the policy. Your complaints go beyond
11 that. Can we go to him and ask him to identify."

16:21

12

13 I mean, that's clearly your preference, is it, to go
14 back to Garda Keogh's solicitors at that date?

15 A. Yes, it was. I mean, as I keep saying, it didn't seem
16 to me that since March that we had made any reasonable
17 -- if I was Garda Keogh, it didn't seem to me that we
18 had been reasonable in terms of progressing the
19 complaint that he was making of bullying and
20 harassment.

16:22

21 433 Q. Can I ask you just about the next page, the third --
22 your first -- sorry, you say -- just stop there,
23 Mr. Kavanagh, a couple of lines down:

24

25 "We are exposed re bullying."

16:22

26

27 what do you mean by that?

28 A. The organisation. Garda Keogh had made a complaint.
29 In my view the organisation had not addressed and I

1 felt that he were exposed for not progressing it
2 further. Therefore, to continue not to address and
3 deal with the matter was not acceptable from my
4 perspective.

5 434 Q. Okay. In the next page you're talking about:

16:22

6
7 "We need to progress the bullying."

8
9 This is coming from you. Then at the very end of the
10 page you are saying:

16:22

11
12 "We need to action the bullying."

13
14 Then can I just ask you about the last page there.

15
16:22

16 "JB: We need to clarify.

17 AM: Statement is very broad.

18 JN: We don't need to. We can go back to them for
19 specifics. I am suggesting an AC examines statement to
20 do a fact-finding scoping exercise."

16:23

21
22 So this again is going back to your evidence earlier?

23 A. It's going back to -- like, what was being suggested
24 was the statement was very broad, and I was saying, can
25 we go back and just get clarity around what are the
26 nature of the specifics. And furthermore, are there
27 other elements that have not -- of concern to Garda
28 Keogh that have not been progressed by any individual.
29 were all of his complaints being addressed and dealt

16:23

1 with.

2 435 Q. Okay. Now, after the meeting there are various e-mail
3 exchanges between yourself, Mr. Barrett and Assistant
4 Commissioner Fanning, and I think we will start with
5 those in the morning. 16:23

6 436 Q. CHAIRMAN: Can I just ask, did everybody at the meeting
7 have the statement of the 27th March?

8 A. I couldn't say that off hand.

9 437 Q. CHAIRMAN: No.

10 A. I suspect not. In fact, I am pretty sure they would 16:23
11 not have.

12 CHAIRMAN: Thank you very much.

13 438 Q. MS. McGRATH: I think was the chronology --

14 A. The chronology was certainly provided, yes.

15 439 Q. It was circulated at the meeting, was it? 16:23

16 A. The chronology was circulated, but the actual -- I
17 don't believe the --

18 440 Q. CHAIRMAN: The actual matters that Garda Keogh had
19 complained of?

20 A. No, I'm pretty sure not. 16:23

21 CHAIRMAN: Okay. Thanks very much.

22 MS. McGRATH: Thank you, Mr. Nugent.

23 CHAIRMAN: So we will say then 10:30 tomorrow. Lovely.

24

25 THE HEARING THEN ADJOURNED UNTIL THURSDAY, 5TH MARCH 16:24
26 2020, AT 10:30AM

27

28

29

'15 [1] - 52:3 '16 [1] - 52:3 '17 [1] - 83:3 'stitch [1] - 51:14 'we' [1] - 32:22 'what [1] - 47:8	150 [1] - 134:23 15823 [2] - 71:4, 71:19 15:45 [1] - 26:16 16 [2] - 1:5, 3:10 16670 [1] - 51:23 16671 [1] - 52:6 16th [5] - 87:10, 93:6, 93:7, 98:6, 98:22 16th.. [1] - 96:12 17 [2] - 1:9, 3:11 17/18 [1] - 81:8 173 [1] - 13:2 17th [5] - 42:7, 94:18, 95:13, 105:29, 108:12 18 [2] - 3:11, 95:4 186 [1] - 115:29 18th [3] - 9:16, 9:25, 98:10 19 [1] - 3:12 1921 [1] - 1:9 19th [7] - 24:5, 103:8, 105:24, 108:11, 108:16, 109:4, 110:11	2018 [1] - 1:9 2020 [3] - 1:18, 6:2, 148:26 20th [3] - 26:24, 110:21, 110:27 21 [2] - 3:13, 7:10 21st [5] - 97:14, 97:27, 102:18, 103:27 22 [1] - 3:13 22:35 [1] - 11:20 23 [1] - 3:14 23rd [12] - 102:12, 108:29, 109:2, 110:17, 110:22, 110:26, 110:29, 111:9, 111:22, 112:2, 113:9, 127:20 24 [1] - 3:14 25 [1] - 3:15 2529 [1] - 16:21 2532 [1] - 27:15 2560 [1] - 29:16 25th [3] - 87:3, 87:6, 98:16 26 [1] - 3:15 2636 [2] - 49:7, 49:14 2644 [1] - 64:28 2647 [1] - 37:7 26th [1] - 33:6 27 [1] - 3:16 27th [9] - 97:26, 127:15, 127:21, 129:18, 129:22, 133:2, 134:17, 143:3, 148:7 28 [1] - 3:17 28th [1] - 67:23 29 [1] - 3:17 2:00pm [1] - 65:1 2:00PM [1] - 39:25 2nd [1] - 99:11	3541 [1] - 94:18 3544 [1] - 97:3 3545 [1] - 97:28 3555 [1] - 98:19 3589 [1] - 103:8 3590 [1] - 102:16 3592 [1] - 102:15 36 [1] - 3:21 37 [1] - 3:21 38 [1] - 3:22 3819 [1] - 6:15 3822 [1] - 9:8 3823 [1] - 9:23 3824 [1] - 10:7 39 [2] - 3:22, 13:1 3967 [1] - 106:13 3rd [9] - 93:11, 99:1, 99:17, 99:19, 101:4, 101:25, 101:29, 103:13, 130:10	67:21, 67:24 7609 [1] - 66:3 781 [1] - 24:6 785 [1] - 36:23 7th [2] - 84:21, 88:27
1				8
1 [2] - 3:3, 109:16 10 [1] - 3:7 10102 [1] - 101:4 10103 [1] - 101:17 10118 [2] - 99:21 10132 [1] - 103:21 10143 [1] - 109:3 10147 [2] - 110:12, 110:13 10149 [5] - 114:28, 116:18, 116:19, 117:8, 117:17 10150 [5] - 116:25, 116:26, 117:1, 121:11, 126:2 10151 [1] - 132:13 10155 [2] - 140:10, 140:12 10166 [1] - 113:14 10174 [1] - 142:5 10175 [1] - 142:10 105 [1] - 7:7 10:30 [3] - 130:2, 130:3, 148:23 10:30AM [1] - 148:26 10th [8] - 9:10, 11:18, 11:28, 12:27, 13:6, 22:1, 29:15, 98:23 11 [2] - 3:8, 52:25 11-13 [1] - 4:3 112 [2] - 100:3, 100:16 11373 [1] - 84:17 115 [1] - 12:29 12 [4] - 3:8, 4:9, 52:26, 100:16 12496 [1] - 86:12 12:15 [1] - 109:9 12th [1] - 36:24 13 [2] - 2:31, 3:9 13260 [1] - 11:16 13th [1] - 102:15 14 [1] - 3:9 147 [1] - 1:18 14th [1] - 64:29 15 [1] - 3:10	2			8 [2] - 3:6, 3:29 80 [1] - 5:14 8th [1] - 98:14
				9
				9 [1] - 3:7 99 [1] - 7:10
				A
				able [2] - 9:9, 20:9 above-named [1] - 1:26 absence [4] - 119:4, 127:5, 128:17, 138:21 absolute [2] - 21:26, 136:28 absolutely [15] - 92:20, 95:25, 96:26, 96:28, 114:1, 114:16, 117:3, 120:27, 130:1, 131:5, 133:3, 136:6, 136:23, 138:16, 144:21 AC [6] - 99:26, 118:28, 139:12, 139:16, 143:4, 147:19 accelerated [1] - 23:20 accept [17] - 12:1, 12:11, 34:24, 42:9, 42:20, 44:24, 70:12, 71:2, 94:14, 108:14, 108:15, 111:5, 111:7, 118:7, 118:20, 120:26, 140:23 acceptable [1] - 147:3 accepted [1] - 18:3 accepting [1] - 131:12 accident [2] - 29:28, 52:12 accommodation [1] - 34:20 accompanying [1] - 9:23 accordance [1] - 104:8
			4	
			4 [2] - 2:19, 3:4 4,500 [1] - 15:23 4,5000 [1] - 16:13 46 [1] - 5:6 4647 [1] - 37:6 4TH [2] - 1:18, 6:1 4th [1] - 37:9	
			5	
			5 [1] - 3:5 51 [1] - 2:19 5TH [1] - 148:25	
			6	
			6 [2] - 3:5, 5:5 6/11 [1] - 140:26 64 [1] - 5:7 689 [1] - 70:27 6:00pm [1] - 29:20	
			7	
			7 [5] - 1:9, 2:25, 3:6, 4:13, 13:10 70 [1] - 5:8 7069 [1] - 65:18 73 [1] - 5:9 7304 [1] - 82:14 76 [1] - 5:10 7606 [2] - 6:16, 46:20 7607 [1] - 66:8 7608 [3] - 46:20,	
		3		
		3 [2] - 3:4, 119:4 30 [1] - 3:18 30th [2] - 10:10, 86:28 31 [1] - 3:18 32 [2] - 2:24, 3:19 33 [1] - 3:19 33-34 [1] - 4:12 34 [1] - 3:20 35 [1] - 3:20 3522 [1] - 88:23 3523 [2] - 89:13 3532 [1] - 90:9 3538 [3] - 95:14, 96:6, 97:15		

<p>accordingly [3] - 7:27, 103:4, 122:2</p> <p>account [4] - 20:21, 43:3, 43:7, 104:22</p> <p>accountability [1] - 107:12</p> <p>Accountability [2] - 83:16, 109:27</p> <p>accounts [1] - 93:26</p> <p>accurate [1] - 44:29</p> <p>accused [1] - 79:15</p> <p>accusing [1] - 48:26</p> <p>act [1] - 64:22</p> <p>ACT [2] - 1:3, 1:8</p> <p>ACTING [2] - 3:7, 3:13</p> <p>acting [5] - 75:16, 96:8, 98:2, 104:12, 139:7</p> <p>action [5] - 1:27, 93:25, 101:26, 114:4, 147:12</p> <p>actioned [3] - 89:7, 94:12, 122:1</p> <p>actions [5] - 101:3, 103:15, 109:17, 116:5, 139:12</p> <p>activities [1] - 42:14</p> <p>actual [4] - 25:17, 141:25, 148:16, 148:18</p> <p>adamant [2] - 8:15, 123:1</p> <p>added [1] - 123:14</p> <p>addition [3] - 77:27, 98:5, 141:16</p> <p>additional [2] - 51:20, 116:6</p> <p>address [3] - 49:2, 93:20, 147:2</p> <p>addressed [22] - 86:13, 97:10, 108:6, 108:8, 108:22, 108:27, 114:9, 114:17, 120:4, 120:8, 122:1, 123:13, 124:7, 124:13, 128:2, 131:7, 132:9, 135:22, 138:3, 138:22, 146:29, 147:29</p> <p>addressing [4] - 109:17, 109:18, 124:17, 131:25</p> <p>adhere [1] - 119:20</p> <p>ADJOURNED [2] - 39:25, 148:25</p> <p>administrative [7] - 80:27, 81:11, 82:1, 82:10, 83:25, 90:11, 106:26</p>	<p>ADMINISTRATIVE [1] - 3:14</p> <p>adopted [1] - 138:6</p> <p>advance [5] - 43:5, 111:6, 111:22, 112:7, 125:7</p> <p>advanced [1] - 95:10</p> <p>advice [2] - 22:21, 106:19</p> <p>advise [2] - 21:14, 102:27</p> <p>advised [1] - 87:3</p> <p>adviser [1] - 115:6</p> <p>advising [1] - 34:12</p> <p>affairs [1] - 38:16</p> <p>affect [4] - 54:22, 54:29, 56:8, 56:29</p> <p>affected [4] - 55:29, 56:1</p> <p>affecting [2] - 56:11, 57:20</p> <p>affects [6] - 55:5, 55:8, 57:4, 57:10, 57:11</p> <p>afraid [2] - 75:3, 75:4</p> <p>AFTER [1] - 40:1</p> <p>afternoon [2] - 38:29, 80:21</p> <p>agenda [6] - 115:8, 118:9, 118:15, 118:17, 119:7, 142:27</p> <p>agendas [3] - 20:20, 21:26, 61:13</p> <p>agitated [1] - 20:17</p> <p>ago [1] - 118:23</p> <p>agree [17] - 8:8, 25:13, 47:25, 49:17, 49:19, 63:9, 63:13, 63:15, 71:12, 72:13, 72:20, 78:10, 88:8, 109:18, 131:4, 137:23, 140:15</p> <p>agreed [5] - 22:24, 30:16, 101:21, 114:21, 139:6</p> <p>agreement [3] - 30:5, 30:8, 44:10</p> <p>AGS [1] - 119:23</p> <p>AGSI [1] - 4:5</p> <p>ahead [1] - 80:5</p> <p>AIDAN [2] - 3:10, 4:6</p> <p>AISLING [2] - 2:11, 3:22</p> <p>ALAN [2] - 3:9, 3:13</p> <p>alarm [1] - 124:15</p> <p>albeit [2] - 35:28, 114:8</p> <p>alcohol [1] - 22:22</p> <p>ALISON [1] - 3:26</p> <p>allegation [3] -</p>	<p>90:18, 91:20, 104:14</p> <p>allegations [7] - 21:15, 104:16, 105:6, 120:20, 127:4, 137:16, 145:28</p> <p>alleged [1] - 42:14</p> <p>alleging [1] - 135:13</p> <p>allow [6] - 19:12, 121:25, 123:23, 123:28, 124:2, 136:25</p> <p>allowed [1] - 69:1</p> <p>almost [1] - 106:1</p> <p>altered [1] - 79:1</p> <p>alternate [1] - 136:1</p> <p>alternative [1] - 138:11</p> <p>AM [1] - 147:17</p> <p>AMENDED [1] - 1:9</p> <p>amount [1] - 90:25</p> <p>ample [1] - 39:16</p> <p>AN [1] - 3:3</p> <p>analysed [1] - 58:28</p> <p>analysis [1] - 142:27</p> <p>AND [4] - 1:3, 1:4, 1:8, 3:16</p> <p>ANDREW [2] - 2:22, 4:6</p> <p>angry [2] - 20:17, 62:9</p> <p>ANNE [2] - 3:8, 3:17</p> <p>annual [1] - 26:28</p> <p>answer [14] - 19:28, 19:29, 20:5, 51:7, 52:27, 54:20, 57:28, 57:29, 60:11, 60:12, 61:24, 63:19, 69:20, 69:21</p> <p>answered [3] - 18:28, 26:18, 49:4</p> <p>answering [1] - 57:19</p> <p>ANTHONY [1] - 3:6</p> <p>anticipate [1] - 69:3</p> <p>anticipated [1] - 104:19</p> <p>anticipation [1] - 110:25</p> <p>anxiety [1] - 79:12</p> <p>anyway [1] - 69:27</p> <p>apart [1] - 79:11</p> <p>apologies [6] - 71:9, 118:18, 132:26, 132:28, 142:25</p> <p>apparent [2] - 30:1, 114:2</p> <p>APPEAL [2] - 1:13, 2:3</p> <p>appear [3] - 25:26, 111:21, 140:18</p> <p>APPEARANCES [1] -</p>	<p>2:1</p> <p>appearing [1] - 121:16</p> <p>application [1] - 34:21</p> <p>applies [1] - 8:28</p> <p>apply [1] - 9:5</p> <p>appoint [3] - 101:11, 126:20, 126:23</p> <p>appointed [12] - 82:6, 83:12, 84:9, 84:19, 91:15, 93:19, 101:22, 104:17, 104:18, 126:25, 126:28</p> <p>appointment [4] - 83:8, 106:9, 107:18, 126:27</p> <p>appreciate [2] - 10:26, 25:10</p> <p>apprehension [1] - 79:14</p> <p>approach [8] - 12:4, 12:6, 40:20, 121:3, 121:8, 125:21, 133:27, 136:1</p> <p>approached [1] - 11:22</p> <p>approaches [2] - 125:28, 126:1</p> <p>approaching [1] - 12:3</p> <p>appropriate [5] - 107:11, 114:24, 122:7, 124:29, 138:21</p> <p>appropriately [1] - 89:1</p> <p>April [1] - 10:11</p> <p>area [3] - 23:24, 66:26, 99:2</p> <p>area/strand [1] - 121:29</p> <p>areas [4] - 83:29, 88:16, 135:15, 144:22</p> <p>arena [1] - 18:6</p> <p>argue [1] - 111:25</p> <p>arise [1] - 42:29</p> <p>arisen [3] - 7:6, 26:28, 122:4</p> <p>arises [3] - 35:4, 71:8, 115:26</p> <p>arising [2] - 80:4, 84:15</p> <p>arouse [1] - 36:26</p> <p>ARRAN [2] - 2:24, 4:12</p> <p>arrange [2] - 89:5, 108:17</p> <p>arranged [3] - 99:1, 99:2, 99:3</p>	<p>arrangement [1] - 93:5</p> <p>arrangements [2] - 87:11, 88:21</p> <p>arrival [1] - 111:15</p> <p>arrived [10] - 30:16, 31:6, 33:8, 33:20, 56:6, 62:25, 63:11, 63:19, 63:26, 64:1</p> <p>arriving [5] - 20:29, 30:11, 31:25, 32:10, 63:22</p> <p>articles [1] - 66:15</p> <p>AS [10] - 1:9, 6:1, 6:11, 40:1, 46:10, 64:19, 70:7, 73:8, 76:1, 80:18</p> <p>ascribe [1] - 44:19</p> <p>ascribed [1] - 44:1</p> <p>aside [1] - 43:17</p> <p>aspect [1] - 37:10</p> <p>aspects [1] - 107:9</p> <p>assess [2] - 91:2, 133:3</p> <p>assigned [1] - 101:7</p> <p>assist [2] - 15:26, 116:13</p> <p>Assistant [34] - 67:22, 68:13, 68:17, 68:23, 68:27, 83:17, 83:20, 84:21, 100:24, 101:16, 106:12, 108:10, 109:25, 109:29, 110:12, 112:16, 120:13, 120:17, 129:6, 130:9, 130:24, 135:24, 138:24, 138:25, 139:22, 139:23, 140:8, 140:25, 143:8, 143:27, 144:11, 144:23, 145:23, 148:3</p> <p>ASSISTANT [6] - 2:21, 3:6, 3:7, 3:8, 3:19, 3:21</p> <p>assistant [13] - 69:25, 82:18, 82:24, 82:25, 83:16, 89:18, 90:7, 101:7, 101:11, 101:21, 109:29, 113:5, 132:16</p> <p>assisted [1] - 78:18</p> <p>assisting [1] - 62:21</p> <p>associated [14] - 88:18, 91:25, 93:27, 93:28, 93:29, 94:3, 102:4, 107:15, 107:16, 108:23, 109:10, 112:26, 123:11, 138:23</p>
--	---	---	--	--

<p>assume [1] - 122:28</p> <p>assuming [2] - 35:10, 35:13</p> <p>assurances [3] - 124:11, 124:16, 131:23</p> <p>AT [1] - 148:26</p> <p>ATHLONE [1] - 4:4</p> <p>Athlone [31] - 6:13, 6:25, 6:27, 9:20, 12:14, 22:22, 28:11, 30:11, 30:13, 30:21, 33:25, 34:13, 34:27, 35:20, 47:16, 51:10, 51:12, 54:27, 55:22, 56:4, 62:25, 63:5, 63:18, 63:23, 66:16, 73:21, 77:21, 77:27, 79:13, 111:15, 111:23</p> <p>atmosphere [1] - 63:18</p> <p>attached [8] - 6:27, 6:28, 11:9, 92:1, 92:4, 96:9, 102:20, 110:19</p> <p>attaches [1] - 97:18</p> <p>attaching [2] - 112:4, 113:6</p> <p>attack [1] - 45:20</p> <p>attempt [1] - 95:24</p> <p>attend [2] - 100:5, 109:8</p> <p>attendance [1] - 122:25</p> <p>attendees [3] - 115:2, 121:11, 122:8</p> <p>attention [7] - 22:2, 25:4, 37:10, 96:9, 97:7, 98:20, 135:17</p> <p>attention" [1] - 97:2</p> <p>attitude [1] - 65:25</p> <p>attractive [1] - 40:25</p> <p>August [15] - 64:29, 65:13, 81:1, 81:10, 84:9, 86:7, 91:11, 93:7, 95:13, 98:6, 98:10, 98:22, 124:23, 126:6, 127:26</p> <p>Authority [14] - 42:27, 42:28, 45:5, 45:9, 45:17, 47:11, 50:1, 65:8, 94:22, 95:21, 95:26, 106:8, 107:18, 108:8</p> <p>available [4] - 26:19, 115:20, 115:22, 116:1</p> <p>avoided [2] - 23:27, 66:1</p> <p>await [1] - 69:21</p> <p>aware [45] - 8:4, 8:6, 11:13, 17:9, 23:19,</p>	<p>30:6, 47:2, 47:21, 48:5, 48:21, 53:9, 66:15, 67:11, 67:14, 67:17, 70:25, 78:27, 86:6, 87:15, 87:23, 87:27, 88:8, 88:11, 88:17, 88:20, 98:29, 99:3, 99:6, 99:7, 100:12, 101:2, 101:27, 101:28, 103:1, 105:18, 105:20, 123:8, 124:20, 125:6, 126:6, 127:26, 133:8, 136:23, 136:27</p> <p>awareness [1] - 105:13</p> <p>awful [3] - 25:26, 64:7, 94:2</p> <p>awkward [1] - 75:1</p> <p>AWOL [1] - 33:23</p>	<p>beat [1] - 32:5</p> <p>became [5] - 26:9, 29:29, 37:23, 79:3, 101:28</p> <p>become [2] - 42:17, 91:18</p> <p>becomes [1] - 100:20</p> <p>becoming [4] - 13:23, 20:16, 20:17, 96:3</p> <p>bed [1] - 24:2</p> <p>BEEN [2] - 6:10, 80:17</p> <p>beg [1] - 37:7</p> <p>begin [1] - 51:28</p> <p>beginning [12] - 11:5, 17:16, 21:16, 23:11, 23:12, 23:22, 42:1, 53:20, 66:13, 78:15, 79:8, 128:22</p> <p>begins [1] - 46:21</p> <p>behalf [3] - 64:22, 95:19, 108:8</p> <p>believes [2] - 37:26, 112:5</p> <p>bell [3] - 117:28, 119:8, 119:26</p> <p>benefit [2] - 70:26, 70:27</p> <p>best [20] - 18:14, 21:14, 23:23, 32:3, 33:27, 54:20, 57:8, 57:23, 57:29, 59:23, 60:14, 63:28, 74:29, 75:9, 75:12, 77:4, 78:18, 135:1, 139:7</p> <p>betrayed [1] - 59:7</p> <p>better [1] - 57:12</p> <p>between [16] - 14:11, 18:4, 18:7, 23:8, 23:24, 25:26, 31:19, 43:3, 44:11, 51:24, 99:9, 107:17, 108:20, 114:15, 138:5, 148:3</p> <p>beyond [2] - 136:22, 146:10</p> <p>big [4] - 23:21, 24:25, 27:2, 76:13</p> <p>bigger [5] - 61:21, 100:25, 138:12, 143:5, 144:26</p> <p>bit [11] - 10:17, 13:17, 33:11, 60:10, 65:7, 66:13, 79:24, 105:3, 110:29, 120:15, 126:15</p> <p>BL [13] - 2:8, 2:11, 2:11, 2:17, 2:22, 2:29, 2:29, 3:25, 3:25, 3:26,</p>	<p>4:1, 4:8, 4:10</p> <p>blackout [2] - 137:5, 137:6</p> <p>blank [1] - 24:22</p> <p>blue [1] - 142:2</p> <p>board [2] - 7:22, 18:16</p> <p>book [1] - 82:14</p> <p>bottom [9] - 52:7, 66:1, 66:11, 71:22, 117:18, 126:2, 127:24, 132:13, 140:10</p> <p>box [2] - 8:21, 35:24</p> <p>boy [1] - 45:15</p> <p>break [1] - 7:19</p> <p>breaking [1] - 144:22</p> <p>breath [1] - 93:28</p> <p>BRIAN [2] - 3:15, 3:17</p> <p>brief [6] - 6:18, 64:15, 81:14, 141:28, 142:27</p> <p>briefly [5] - 22:8, 70:3, 73:3, 97:13, 117:21</p> <p>bring [3] - 22:23, 24:23, 27:3</p> <p>bringing [2] - 32:15, 114:20</p> <p>brings [1] - 105:21</p> <p>broad [4] - 121:28, 136:15, 147:17, 147:24</p> <p>broader [1] - 146:7</p> <p>Broderick [1] - 99:28</p> <p>broke [1] - 7:14</p> <p>broken [2] - 18:4, 18:6</p> <p>brother [1] - 47:13</p> <p>brother-in-law [1] - 47:13</p> <p>brought [5] - 37:20, 102:9, 122:27, 133:24, 135:17</p> <p>brush [1] - 56:24</p> <p>build [1] - 102:1</p> <p>bullied [3] - 136:3, 136:19, 146:5</p> <p>bully [1] - 138:10</p> <p>bullying [68] - 84:14, 86:5, 87:16, 87:24, 88:26, 90:17, 91:4, 91:20, 94:23, 95:5, 97:26, 98:4, 102:26, 104:8, 104:14, 105:7, 108:24, 113:19, 114:3, 120:10, 120:29, 122:22, 122:23, 127:28,</p>	<p>128:6, 130:22, 131:9, 131:13, 131:20, 132:8, 133:22, 133:25, 133:26, 134:3, 135:4, 135:7, 135:11, 135:12, 135:13, 135:19, 135:21, 136:5, 136:13, 136:26, 138:3, 138:7, 138:8, 138:10, 138:13, 138:27, 141:9, 141:18, 143:1, 143:14, 143:23, 144:4, 144:17, 144:27, 145:2, 145:7, 145:10, 145:16, 146:4, 146:6, 146:19, 146:25, 147:7, 147:12</p> <p>bump [2] - 47:17, 47:18</p> <p>bumped [1] - 47:20</p> <p>BURKE [1] - 4:11</p> <p>bury [1] - 52:13</p> <p>business [2] - 12:15, 30:18</p> <p>Business [1] - 28:5</p> <p>BY [25] - 1:4, 1:7, 2:12, 2:17, 2:22, 2:30, 3:26, 4:2, 4:8, 4:11, 5:5, 5:6, 5:7, 5:8, 5:9, 5:10, 5:14, 6:11, 46:10, 64:18, 70:6, 73:8, 76:1, 80:18</p> <p>Byrne/McGinn [3] - 121:3, 133:16, 133:27</p>
B		C		
<p>B&H [12] - 119:1, 119:20, 120:20, 120:21, 126:7, 126:11, 126:23, 133:15, 137:14, 137:18, 137:28, 140:15</p> <p>background [4] - 34:27, 45:19, 45:24, 76:23</p> <p>bad [1] - 66:28</p> <p>balance [1] - 21:28</p> <p>ball [1] - 23:16</p> <p>bandwagon [1] - 26:12</p> <p>BAR [1] - 2:32</p> <p>bar [1] - 85:25</p> <p>BARNES [1] - 2:5</p> <p>Barnes [2] - 7:9, 13:1</p> <p>Barrett [19] - 82:28, 83:11, 89:7, 89:14, 93:10, 94:16, 98:29, 99:1, 99:3, 99:10, 99:26, 101:11, 102:12, 103:6, 104:3, 109:21, 144:6, 144:22, 148:3</p> <p>Barrett's [2] - 87:2, 103:28</p> <p>base [1] - 6:23</p> <p>basis [6] - 12:5, 17:29, 25:2, 35:1, 36:12, 106:18</p> <p>BASTION [1] - 4:3</p> <p>bear [1] - 18:24</p>	<p>BAGNEY [1] - 3:17</p> <p>Callinan [1] - 28:10</p> <p>camouflaged [1] - 95:6</p> <p>cannot [1] - 143:29</p> <p>CAO [4] - 86:28, 87:2, 119:15, 120:22</p> <p>CAO's [1] - 86:26</p> <p>capacity [1] - 105:26</p> <p>career [18] - 6:18, 17:28, 54:3, 54:10, 54:17, 54:18, 54:29, 55:2, 55:4, 55:5, 55:10, 55:14, 55:17, 55:25, 57:4, 57:20, 75:6, 75:8</p> <p>career" [1] - 58:2</p> <p>CARR [1] - 3:16</p> <p>CARRICK [1] - 2:13</p> <p>CARRICK-ON-</p>			

<p>SHANNON [1] - 2:13 carried [6] - 23:22, 29:4, 56:28, 100:25, 104:19, 127:16 CARROLL [1] - 2:16 carry [1] - 104:17 carrying [3] - 82:9, 139:13, 139:29 CARTHAGE [1] - 2:17 case [45] - 8:27, 9:28, 11:8, 11:14, 20:8, 41:23, 43:6, 45:20, 75:4, 85:28, 88:28, 89:3, 89:6, 89:10, 89:20, 93:5, 93:8, 93:10, 93:13, 99:1, 99:3, 99:17, 99:19, 100:8, 100:9, 100:29, 102:1, 102:7, 102:11, 103:13, 105:11, 108:17, 108:29, 109:3, 114:2, 114:23, 114:26, 114:27, 114:29, 116:29, 123:5, 123:11, 123:13, 129:28, 145:2 cases [2] - 29:21, 100:26 CASTLE [1] - 1:17 Castlebar [1] - 6:21 casually [1] - 47:19 caught [3] - 54:15, 59:1, 61:14 causing [1] - 136:21 CERTAIN [1] - 1:3 certain [15] - 30:14, 54:12, 54:23, 56:16, 56:24, 56:25, 59:3, 66:11, 77:2, 77:5, 79:23, 99:14, 106:17, 107:9, 120:2 certainly [27] - 12:7, 19:13, 23:26, 35:13, 52:12, 55:18, 56:5, 57:2, 57:25, 70:4, 85:18, 88:17, 90:24, 112:11, 113:25, 117:28, 119:8, 119:12, 121:1, 125:4, 127:4, 127:5, 129:26, 142:1, 145:14, 148:14 certainty [1] - 139:26 certify [1] - 1:24 chair [4] - 66:4, 66:22, 69:28, 119:7 Chair [1] - 138:16 chairing [1] - 114:29 Chairman [42] - 6:4,</p>	<p>6:8, 6:20, 8:3, 9:12, 17:1, 18:24, 34:4, 38:10, 39:4, 39:21, 40:4, 40:14, 41:20, 45:7, 48:9, 49:15, 51:20, 53:1, 62:18, 64:8, 64:15, 65:21, 66:1, 66:27, 68:9, 69:7, 71:9, 71:17, 72:17, 75:24, 76:15, 76:27, 78:13, 80:7, 80:13, 82:14, 92:17, 99:20, 116:13, 116:16, 126:15 CHAIRMAN [216] - 1:12, 5:10, 6:6, 19:14, 19:18, 19:22, 33:4, 33:6, 34:10, 34:15, 35:3, 35:8, 35:10, 35:13, 35:17, 35:22, 35:27, 38:9, 38:12, 38:15, 38:23, 38:25, 39:3, 39:6, 39:11, 39:22, 40:3, 40:6, 40:13, 40:29, 41:3, 41:7, 41:9, 41:25, 42:27, 43:9, 43:15, 43:17, 43:19, 43:21, 43:26, 44:3, 44:6, 44:8, 44:18, 44:22, 44:26, 45:1, 45:3, 45:11, 45:18, 45:25, 45:27, 46:4, 46:8, 49:14, 49:16, 49:18, 49:21, 49:23, 49:26, 50:15, 50:18, 50:21, 50:24, 50:27, 51:1, 51:4, 62:19, 64:13, 64:16, 65:19, 65:23, 65:28, 66:5, 66:7, 66:19, 66:23, 66:28, 67:25, 68:1, 68:4, 68:12, 69:6, 69:9, 69:14, 69:19, 69:29, 70:4, 71:5, 71:7, 71:10, 71:18, 71:20, 72:1, 72:5, 72:9, 72:12, 72:15, 72:18, 72:20, 73:1, 73:4, 73:6, 76:1, 76:4, 76:10, 76:12, 76:16, 76:18, 76:20, 76:22, 76:26, 76:29, 77:6, 77:8, 77:11, 77:17, 77:19, 77:25, 78:1, 78:3, 78:6, 78:20, 78:24, 78:26, 78:28, 79:3, 79:6, 79:11, 79:19, 79:22, 79:26, 80:1, 80:3, 80:8, 80:15, 80:21, 82:15,</p>	<p>92:14, 92:16, 92:18, 93:16, 111:27, 112:9, 112:13, 115:19, 115:22, 115:26, 116:2, 116:8, 116:12, 116:15, 116:19, 116:22, 116:26, 116:28, 117:1, 117:4, 117:17, 118:19, 126:17, 128:11, 128:15, 128:21, 128:24, 128:28, 129:1, 129:3, 129:6, 129:10, 129:13, 129:17, 129:20, 129:24, 130:1, 130:6, 130:27, 131:1, 131:4, 132:3, 132:5, 132:27, 132:29, 133:27, 134:2, 134:5, 134:10, 134:12, 134:15, 134:17, 134:20, 134:22, 134:25, 134:28, 135:1, 135:4, 135:7, 135:9, 135:29, 136:4, 136:7, 136:9, 137:28, 138:4, 139:1, 139:29, 142:15, 142:20, 142:24, 148:6, 148:9, 148:12, 148:18, 148:21, 148:23 Chairperson [1] - 73:2 chairs [1] - 94:3 challenge [5] - 44:24, 45:20, 125:18, 125:19, 125:25 challenged [2] - 43:13, 45:22 challenges [1] - 125:28 challenging [3] - 44:26, 45:16, 94:1 chance [2] - 47:9, 67:4 change [6] - 17:8, 31:14, 34:28, 44:20, 53:8, 91:11 changed [2] - 32:2, 32:18 changing [2] - 24:20, 31:13 channel [1] - 96:25 channelable [1] - 96:29 channelling [1] - 97:5 charge [2] - 106:1, 139:8</p>	<p>charged [1] - 82:21 CHARLTON [1] - 4:8 CHEALLACHÁIN [1] - 2:30 check [2] - 58:27, 138:9 checked [1] - 32:15 checkpoint [1] - 36:26 chief [46] - 18:10, 20:25, 23:2, 23:13, 23:14, 23:25, 27:23, 27:25, 30:7, 30:10, 30:14, 30:28, 31:5, 31:25, 33:7, 43:13, 46:22, 47:1, 47:3, 47:5, 47:15, 47:19, 47:22, 47:29, 48:5, 48:17, 48:21, 49:27, 50:16, 60:28, 60:29, 61:5, 63:25, 63:29, 73:11, 73:14, 73:16, 74:5, 80:26, 81:10, 82:1, 82:9, 90:11, 95:8, 106:10, 106:26 Chief [23] - 20:29, 46:18, 83:9, 83:10, 84:28, 86:3, 88:10, 88:19, 94:19, 96:21, 99:8, 99:9, 99:26, 103:7, 109:23, 113:11, 113:16, 113:25, 125:14, 132:26, 133:1, 143:9 CHIEF [14] - 3:3, 3:4, 3:5, 3:6, 3:9, 3:12, 3:14, 3:14, 3:15, 3:17, 3:19, 3:20, 3:21, 3:27 chose [1] - 64:3 chronological [1] - 104:22 chronologically [1] - 99:7 chronologies [1] - 86:4 chronology [13] - 85:2, 86:15, 88:14, 105:10, 105:21, 109:17, 113:11, 113:15, 113:17, 113:25, 148:13, 148:14, 148:16 circa [1] - 29:20 circuit [1] - 38:17 circulated [2] - 148:15, 148:16 circulating [1] - 13:28 circumstances [3] - 36:8, 39:5, 80:23</p>	<p>civil [3] - 81:5, 82:24, 123:15 civilian [2] - 81:11, 122:21 claim [6] - 113:20, 114:3, 126:7, 127:28, 128:7, 145:16 claims [1] - 22:14 Clare [2] - 25:1, 75:14 clarification [3] - 102:28, 104:2, 145:20 clarified [2] - 76:5, 138:1 clarify [8] - 11:2, 83:8, 99:23, 115:27, 118:3, 136:10, 137:4, 147:16 clarifying [1] - 132:16 clarity [4] - 75:13, 121:19, 127:5, 147:25 clear [22] - 17:13, 19:21, 29:29, 36:2, 48:11, 53:13, 57:3, 58:14, 58:22, 63:17, 66:21, 66:25, 75:20, 76:23, 76:25, 122:12, 126:19, 130:9, 131:11, 133:10, 137:24, 146:4 cleared [1] - 29:28 clearer [3] - 60:10, 70:29, 71:2 clearly [9] - 56:29, 88:14, 92:24, 92:29, 93:17, 105:4, 129:10, 131:19, 146:13 client [1] - 40:27 Clifford [1] - 24:27 cloud [1] - 79:17 CMO [1] - 83:4 CMO's [1] - 22:21 CO [2] - 2:14, 4:4 coldly [2] - 132:2, 132:4 College [1] - 93:27 colloquially [2] - 81:24, 81:26 colour [1] - 142:2 comfort [1] - 113:21 comfortable [2] - 56:12, 80:23 comfortably [1] - 138:13 comforted [3] - 114:6, 114:12, 114:14 coming [30] - 18:6, 21:9, 24:25, 27:3, 29:13, 30:3, 39:17,</p>
--	---	--	--	--

<p>50:8, 56:20, 71:5, 75:3, 86:9, 87:15, 88:24, 89:14, 90:1, 90:12, 90:21, 95:15, 97:4, 97:16, 97:21, 98:27, 103:22, 103:24, 109:2, 124:10, 134:5, 147:9</p> <p>commence [1] - 101:8</p> <p>commencement [1] - 42:11</p> <p>comment [2] - 29:13, 125:1</p> <p>commentary [6] - 85:10, 90:25, 90:29, 102:4, 124:13, 145:13</p> <p>comments [3] - 88:19, 95:18, 116:6</p> <p>commissioner [22] - 28:15, 81:19, 81:21, 81:22, 82:2, 82:11, 82:25, 83:16, 89:18, 90:8, 90:10, 96:8, 98:3, 101:7, 101:11, 101:21, 104:12, 110:1, 110:6, 113:5, 132:17, 139:7</p> <p>COMMISSIONER [9] - 2:21, 3:3, 3:6, 3:7, 3:7, 3:8, 3:8, 3:19, 3:21</p> <p>Commissioner [75] - 24:23, 24:24, 25:4, 26:2, 27:4, 28:9, 29:2, 37:19, 64:22, 67:22, 68:14, 68:17, 68:23, 68:27, 81:18, 81:22, 82:4, 82:5, 82:6, 82:8, 83:17, 83:20, 84:5, 84:21, 87:6, 88:27, 91:14, 91:15, 91:17, 91:18, 93:2, 93:17, 93:19, 94:21, 100:24, 101:17, 102:3, 104:27, 105:25, 106:3, 106:4, 106:12, 107:21, 107:27, 108:10, 108:25, 109:25, 109:29, 110:13, 112:16, 115:8, 118:11, 120:14, 120:17, 124:9, 124:11, 129:6, 130:9, 130:24, 135:24, 138:24, 138:25, 139:22, 139:23, 140:9, 140:25, 140:27, 143:9, 143:27,</p>	<p>144:11, 144:23, 145:23, 145:27, 148:4</p> <p>commissioner's [1] - 69:26</p> <p>Commissioner's [7] - 87:10, 87:28, 88:24, 90:12, 90:21, 103:21, 103:25</p> <p>commissioners [3] - 26:7, 26:13, 82:18</p> <p>committee [1] - 93:26</p> <p>communicate [3] - 74:8, 74:10, 74:11</p> <p>communication [1] - 74:4</p> <p>community [3] - 6:23, 56:25</p> <p>COMPANY [1] - 2:23</p> <p>comparing [1] - 49:26</p> <p>compartmentalise [1] - 132:17</p> <p>compartmentalising [2] - 132:23, 133:5</p> <p>compassionate [1] - 31:29</p> <p>compendium [1] - 134:22</p> <p>complain [1] - 66:20</p> <p>complained [3] - 104:15, 145:26, 148:19</p> <p>complaint [50] - 7:28, 11:21, 11:23, 12:19, 15:23, 15:24, 23:12, 26:1, 26:5, 29:22, 37:27, 75:17, 78:15, 78:21, 78:29, 86:5, 86:9, 87:25, 88:26, 88:29, 94:27, 98:4, 102:26, 103:1, 104:8, 104:23, 107:15, 114:8, 130:22, 131:9, 132:19, 133:26, 136:13, 136:20, 136:24, 136:25, 136:28, 137:19, 137:20, 137:25, 137:26, 138:7, 138:12, 138:28, 143:14, 146:19, 146:28</p> <p>complaints [13] - 37:20, 50:5, 50:8, 107:10, 107:16, 108:5, 113:4, 122:14, 122:24, 139:16, 140:16, 146:10,</p>	<p>147:29</p> <p>complete [1] - 134:17</p> <p>completely [7] - 34:24, 75:20, 75:22, 75:23, 107:2, 116:10, 124:27</p> <p>complexities [1] - 114:20</p> <p>complexity [1] - 123:14</p> <p>concentrate [1] - 21:15</p> <p>concentrating [1] - 102:23</p> <p>concern [20] - 29:24, 77:26, 79:12, 92:25, 93:1, 104:27, 105:2, 105:6, 105:9, 114:16, 120:3, 123:19, 130:20, 131:19, 135:16, 137:25, 141:6, 141:12, 147:27</p> <p>concerned [25] - 22:20, 36:25, 45:10, 54:8, 54:10, 54:12, 54:13, 54:20, 54:27, 54:28, 59:24, 61:2, 61:17, 77:11, 77:13, 77:14, 77:15, 90:6, 102:6, 107:28, 108:18, 111:13, 114:12, 120:8, 141:15</p> <p>concerning [3] - 12:19, 15:23, 42:13</p> <p>concerns [20] - 10:8, 25:8, 36:15, 40:15, 62:1, 62:9, 74:13, 102:4, 111:23, 113:7, 113:23, 113:28, 114:16, 124:11, 131:25, 131:28, 131:29, 133:22, 138:20, 141:3</p> <p>concert [1] - 75:16</p> <p>conclusion [1] - 37:21</p> <p>condoning [1] - 25:5</p> <p>conduct [2] - 101:7, 101:22</p> <p>conduit [4] - 89:11, 89:12, 96:24, 96:28</p> <p>conference [34] - 88:28, 89:4, 89:6, 89:10, 89:20, 93:5, 93:8, 93:10, 93:13, 99:1, 99:4, 99:17, 99:19, 100:5, 100:6, 100:10, 100:29, 102:2, 102:8, 102:11,</p>	<p>103:13, 103:15, 105:11, 108:17, 108:29, 109:3, 109:5, 114:2, 114:23, 114:26, 114:27, 114:29, 129:28, 141:26</p> <p>conferences [2] - 100:9, 123:6</p> <p>confide [1] - 7:19</p> <p>confided [1] - 10:19</p> <p>confidential [3] - 122:9, 122:10, 125:7</p> <p>confidentiality [3] - 122:6, 122:15, 124:20</p> <p>confidentially [1] - 18:5</p> <p>confined [4] - 42:9, 42:21, 90:17, 91:4</p> <p>confines [1] - 42:17</p> <p>confirm [5] - 87:14, 109:16, 117:15, 128:7, 131:27</p> <p>confirmation [2] - 127:7, 143:18</p> <p>confirmed [4] - 137:9, 137:13, 139:24, 140:15</p> <p>conflicted [1] - 106:4</p> <p>confusing [1] - 110:20</p> <p>CONLON [1] - 2:17</p> <p>CONNAUGHT [1] - 4:3</p> <p>CONNELLAN [2] - 4:1, 4:2</p> <p>Conor [1] - 64:21</p> <p>CONOR [1] - 3:24</p> <p>conscience [1] - 62:12</p> <p>consequence [1] - 49:12</p> <p>consider [3] - 38:11, 67:4, 145:27</p> <p>considerable [2] - 108:21, 111:13</p> <p>considered [1] - 7:3</p> <p>consistent [1] - 40:23</p> <p>conspiracy [1] - 52:17</p> <p>constantly [1] - 18:18</p> <p>constraints [1] - 64:8</p> <p>contact [8] - 24:10, 33:27, 33:28, 73:28, 139:16, 139:18, 139:20, 140:5</p> <p>contacted [1] - 87:3</p>	<p>contacts [1] - 99:15</p> <p>contained [1] - 44:9</p> <p>contents [3] - 16:7, 70:12, 72:13</p> <p>context [5] - 19:19, 72:19, 93:15, 122:7, 132:1</p> <p>continue [1] - 147:2</p> <p>continued [1] - 64:3</p> <p>contradicted [1] - 128:9</p> <p>contrary [1] - 66:25</p> <p>contrasting [1] - 49:26</p> <p>contribution [1] - 126:2</p> <p>control [1] - 28:1</p> <p>convene [3] - 88:28, 89:3, 109:5</p> <p>convened [1] - 99:19</p> <p>convenient [2] - 38:20, 130:7</p> <p>conversation [40] - 10:23, 10:24, 11:28, 12:9, 12:12, 12:17, 12:27, 13:13, 14:4, 14:9, 14:16, 14:21, 14:22, 14:28, 15:3, 16:7, 16:22, 16:26, 19:4, 22:11, 22:28, 24:3, 27:11, 27:16, 28:18, 29:16, 29:17, 36:28, 37:8, 37:28, 47:18, 65:1, 65:13, 65:24, 67:22, 68:18, 68:20, 99:15, 103:2, 108:24</p> <p>conversations [16] - 12:24, 16:29, 17:2, 20:15, 20:18, 27:26, 41:29, 43:5, 53:2, 58:5, 58:10, 59:15, 61:2, 62:15, 64:24, 64:25</p> <p>convey [1] - 48:29</p> <p>copied [1] - 7:26</p> <p>COPPINGER [1] - 3:4</p> <p>copy [8] - 9:17, 10:3, 28:15, 42:6, 87:4, 92:14, 96:19, 115:22</p> <p>copying [1] - 94:21</p> <p>Corcoran [2] - 83:17, 109:25</p> <p>corps [1] - 6:24</p> <p>correct [90] - 8:6, 9:12, 23:1, 23:2, 25:14, 25:20, 27:19, 29:26, 33:22, 36:19, 37:3, 37:4, 50:16,</p>
--	--	---	--	--

<p>50:26, 51:3, 51:27, 52:1, 52:5, 53:16, 55:13, 58:8, 59:19, 59:25, 62:28, 63:1, 63:4, 63:6, 63:8, 67:10, 70:15, 72:21, 74:24, 76:9, 77:18, 78:2, 78:9, 78:23, 79:5, 79:7, 80:29, 81:2, 81:3, 81:13, 81:17, 81:18, 82:20, 83:6, 83:19, 83:22, 84:6, 84:7, 85:1, 85:21, 89:12, 89:23, 89:26, 90:4, 91:24, 94:9, 97:8, 98:18, 98:20, 98:21, 103:19, 105:27, 106:22, 106:23, 107:1, 109:1, 109:15, 109:28, 111:24, 113:13, 115:7, 117:3, 121:15, 129:19, 130:13, 130:16, 134:21, 134:24, 134:29, 135:3, 135:6, 135:8, 138:15, 138:16, 139:11</p> <p>correction [1] - 140:23</p> <p>correctly [4] - 76:12, 77:19, 111:2, 136:11</p> <p>correspondence [20] - 81:28, 86:19, 86:29, 87:1, 87:5, 87:15, 91:25, 92:2, 92:4, 92:28, 95:14, 95:18, 96:9, 96:11, 102:28, 103:2, 105:24, 107:17, 126:6, 127:26</p> <p>corresponding [1] - 66:10</p> <p>corridor [1] - 24:10</p> <p>cost [1] - 97:17</p> <p>COSTELLO [1] - 2:23</p> <p>counsel [2] - 40:28, 119:23</p> <p>counselling [1] - 22:25</p> <p>country [1] - 55:23</p> <p>couple [3] - 40:19, 64:24, 146:23</p> <p>course [12] - 7:6, 12:9, 40:11, 40:24, 61:24, 69:21, 74:2, 95:28, 96:18, 114:1, 114:16, 130:6</p> <p>court [1] - 51:22</p> <p>COURT [3] - 1:13,</p>	<p>2:3, 4:3</p> <p>courts [1] - 6:28</p> <p>cover [2] - 43:29, 91:26</p> <p>coverage [1] - 108:21</p> <p>covered [3] - 7:2, 63:16, 140:19</p> <p>covering [2] - 45:14, 46:5</p> <p>covertly [1] - 95:9</p> <p>CR [2] - 106:18, 106:27</p> <p>craic [2] - 26:8, 56:27</p> <p>Create [1] - 104:9</p> <p>credibility [7] - 36:10, 40:17, 40:19, 43:3, 43:10, 43:11, 43:22</p> <p>crime [1] - 134:3</p> <p>criminal [3] - 119:1, 120:9, 131:21</p> <p>critical [2] - 19:7, 19:10</p> <p>criticism [1] - 36:16</p> <p>cross [9] - 35:5, 38:14, 39:1, 41:26, 43:26, 44:6, 44:8, 45:29, 119:24</p> <p>CROSS [6] - 5:6, 5:7, 5:8, 46:10, 64:18, 70:6</p> <p>cross-examination [3] - 35:5, 39:1, 119:24</p> <p>cross-examine [1] - 38:14</p> <p>cross-examined [3] - 41:26, 44:6, 44:8</p> <p>CROSS-EXAMINED [6] - 5:6, 5:7, 5:8, 46:10, 64:18, 70:6</p> <p>cross-examining [2] - 43:26, 45:29</p> <p>crossover [1] - 75:23</p> <p>crucial [1] - 34:13</p> <p>CUALÁIN [1] - 3:7</p> <p>Cualáin [26] - 9:11, 10:12, 17:22, 21:16, 26:5, 28:15, 28:23, 29:2, 37:19, 50:6, 53:26, 78:18, 82:5, 82:8, 84:21, 91:15, 91:17, 91:18, 93:19, 97:24, 102:3, 106:5, 106:13, 107:21, 108:25, 118:28</p> <p>Cualáin's [1] - 108:11</p> <p>CULLEN [1] - 2:12</p>	<p>Cullen [5] - 86:19, 87:3, 96:18, 99:11, 103:6</p> <p>culture [1] - 35:20</p> <p>curious [1] - 110:27</p> <p>Curley [2] - 22:4, 71:24</p> <p>CURLEY [1] - 3:10</p> <p>CURRAN [1] - 3:4</p> <p>current [1] - 119:1</p>	<p>33:6, 36:25, 86:8, 87:10, 87:27</p> <p>decent [1] - 47:14</p> <p>decide [3] - 126:13, 126:17, 136:17</p> <p>decided [2] - 66:29, 129:14</p> <p>decision [3] - 39:9, 139:4, 143:29</p> <p>DECLAN [1] - 3:5</p> <p>defend [1] - 133:14</p> <p>defendable [1] - 133:21</p> <p>defer [1] - 38:21</p> <p>definitely [3] - 14:23, 56:15, 56:27</p> <p>degree [2] - 61:4, 79:23</p> <p>delay [2] - 113:29, 133:24</p> <p>delayed [1] - 47:6</p> <p>delays [2] - 141:3, 141:6</p> <p>delegating [1] - 107:5</p> <p>deliberate [1] - 31:2</p> <p>delightful [1] - 31:28</p> <p>delivered [1] - 84:3</p> <p>delivery [1] - 84:2</p> <p>deny [3] - 12:1, 12:10, 12:26</p> <p>department [4] - 90:26, 93:1, 115:9, 118:11</p> <p>Department [7] - 92:11, 92:21, 92:22, 121:26, 123:24, 124:3, 140:28</p> <p>departments [1] - 81:5</p> <p>Deputy [3] - 37:18, 75:14, 82:5</p> <p>deputy [7] - 81:19, 81:21, 82:1, 82:11, 90:10, 110:6</p> <p>describe [4] - 63:16, 63:18, 125:16, 125:26</p> <p>described [2] - 83:27, 125:13</p> <p>deserved [1] - 47:8</p> <p>designated [1] - 88:9</p> <p>desire [1] - 122:13</p> <p>DESMOND [1] - 4:7</p> <p>detail [12] - 85:17, 85:18, 87:19, 87:24, 88:18, 99:13, 107:27, 112:24, 113:3, 122:17, 139:25, 140:2</p> <p>detailed [5] - 36:9, 97:23, 113:17,</p>	<p>116:24, 122:13</p> <p>details [6] - 19:6, 88:20, 101:28, 127:14, 128:3, 129:23</p> <p>detective [1] - 6:24</p> <p>DETECTIVE [5] - 3:4, 3:5, 3:13, 3:14, 3:18</p> <p>detriment [1] - 94:29</p> <p>developed [1] - 41:9</p> <p>DEVELOPMENT [1] - 3:16</p> <p>develops [1] - 144:20</p> <p>devil [1] - 30:27</p> <p>diaries [1] - 108:11</p> <p>DIARMAID [1] - 2:7</p> <p>diary [5] - 11:17, 46:5, 46:15, 70:10, 108:16</p> <p>difference [1] - 45:15</p> <p>different [37] - 9:2, 16:15, 18:25, 18:28, 19:22, 19:24, 23:8, 24:16, 30:17, 30:19, 31:26, 31:28, 32:1, 32:17, 32:21, 33:16, 41:13, 61:2, 61:13, 63:24, 66:26, 79:9, 82:25, 93:18, 115:11, 115:12, 116:10, 125:22, 129:10, 134:9, 135:15, 135:16, 138:19</p> <p>differently [1] - 115:15</p> <p>difficult [5] - 40:5, 47:12, 74:14, 120:29, 142:3</p> <p>difficulties [23] - 17:5, 17:7, 17:10, 17:11, 29:10, 29:27, 30:2, 30:26, 31:5, 51:12, 51:17, 52:20, 52:21, 53:5, 53:7, 53:10, 53:11, 54:25, 57:10, 59:2, 70:16</p> <p>difficulty [3] - 21:5, 30:25, 136:21</p> <p>DIGNAM [22] - 3:24, 5:7, 39:4, 39:10, 64:15, 64:18, 64:21, 65:21, 65:24, 65:29, 66:6, 66:8, 66:22, 66:27, 67:1, 67:29, 68:3, 68:8, 68:13, 69:3, 69:10, 69:28</p> <p>Dignam [11] - 64:14, 64:21, 65:19, 66:5, 66:19, 66:26, 67:26, 68:2, 69:7, 69:15,</p>
--	---	--	---	---

<p>69:19 dignam [1] - 69:9 direct [2] - 18:3, 59:7 direct-evidence [2] - 18:3, 59:7 directed [5] - 87:10, 87:28, 92:1, 96:8, 98:2 direction [1] - 8:20 directions [2] - 21:23, 79:10 directly [5] - 81:18, 82:29, 83:1, 83:4 DIRECTLY [4] - 5:5, 5:14, 6:11, 80:18 DIRECTLY-EXAMINED [4] - 5:5, 5:14, 6:11, 80:18 director [4] - 82:28, 83:13, 83:28, 103:14 DIRECTOR [1] - 3:13 DIRECTORATE [1] - 3:16 directors [3] - 82:17, 82:23, 84:3 dirt [2] - 24:22, 25:3 disagree [4] - 63:20, 71:14, 88:8, 131:4 disagreed [2] - 30:15, 125:21 disagreement [1] - 125:14 disappointed [1] - 22:18 discipline [5] - 30:18, 119:1, 120:9, 131:22, 134:3 disciplined [6] - 30:19, 31:3, 31:12, 31:13, 32:12, 33:17 disclosed [1] - 117:11 disclosure [12] - 42:4, 42:5, 71:25, 76:24, 77:20, 78:6, 85:14, 90:1, 92:6, 112:18, 118:28, 122:8 disclosures [5] - 62:27, 63:2, 85:11, 85:27, 93:29 DISCLOSURES [2] - 1:2, 1:3 discomfort [1] - 79:13 discourse [3] - 125:16, 125:17, 125:24 discovered [1] - 24:2 discuss [1] - 26:29 discussed [12] -</p>	<p>27:1, 29:21, 40:27, 41:14, 47:23, 48:7, 48:23, 65:5, 118:22, 120:2, 125:9, 132:19 discussion [6] - 34:25, 41:15, 114:20, 121:27, 128:1, 128:4 discussions [4] - 17:3, 21:13, 53:3, 127:22 disgrace [1] - 21:26 disloyalty [2] - 21:2, 61:10 dispassionately [2] - 132:4, 132:7 dispatches [1] - 7:4 dispute [10] - 14:25, 14:29, 16:17, 16:18, 27:24, 43:22, 43:23, 44:13, 72:25, 120:24 disputing [7] - 14:16, 14:18, 14:29, 16:3, 16:5, 16:8, 27:28 disrespect [2] - 68:28, 94:4 dissatisfied [1] - 145:16 distinctly [1] - 14:28 district [1] - 111:15 disturb [1] - 39:7 disturbed [1] - 38:18 DIVISION [1] - 1:12 divisional [1] - 111:20 DOCKERY [1] - 4:7 document [2] - 104:9, 117:19 documentation [1] - 96:25 documenting [1] - 85:2 documents [4] - 10:11, 13:12, 51:20, 112:4 domain [3] - 54:7, 85:26, 135:19 domains [1] - 136:23 Donal [1] - 84:21 DONAL [7] - 3:7, 3:25, 116:13, 116:16, 116:20, 116:23, 116:29 done [12] - 7:22, 19:2, 21:14, 23:23, 30:22, 40:23, 62:13, 75:12, 116:5, 124:15, 126:12, 130:19 Doolin [1] - 99:27 door [2] - 16:14, 28:9 doubt [5] - 10:14,</p>	<p>15:4, 16:3, 30:23, 47:7 down [45] - 7:10, 9:13, 9:24, 13:2, 13:12, 18:4, 18:6, 22:23, 24:7, 24:24, 26:3, 26:8, 26:9, 26:13, 27:4, 28:1, 28:23, 29:3, 34:6, 36:25, 37:11, 52:7, 69:24, 69:27, 71:22, 80:22, 92:10, 93:23, 97:20, 100:22, 101:18, 106:14, 111:10, 112:22, 117:18, 117:22, 119:15, 126:4, 127:23, 139:3, 142:16, 142:18, 144:15, 146:23 DOWNEY [2] - 3:15, 3:20 DPP [2] - 23:23, 28:16 Dr [1] - 83:12 DR [1] - 3:12 drafted [1] - 119:12 dramatic [1] - 59:10 draw [2] - 37:10, 119:6 drawing [1] - 97:6 drawn [1] - 101:4 drew [2] - 22:2, 86:11 drink [2] - 18:16, 60:23 driving [3] - 20:22, 60:23, 60:24 drugs [1] - 6:24 DUBLIN [7] - 1:17, 2:19, 2:25, 2:32, 3:29, 4:9, 4:13 due [5] - 56:20, 61:24, 69:21, 95:28, 96:18 during [4] - 34:13, 47:19, 70:13, 88:9 duty [1] - 112:25 DVD [10] - 7:17, 8:10, 8:14, 8:15, 8:25, 8:27, 10:28, 11:2, 11:8, 42:6 DVDs [2] - 7:26, 9:4 dysfunctional [1] - 63:20 DÁIL [1] - 1:4 Dáil [6] - 17:26, 22:15, 26:11, 54:1, 54:7, 55:21</p>	<p style="text-align: center;">E</p> <p>e-mail [5] - 86:26, 111:3, 112:14, 112:23, 148:2 e-mailed [1] - 140:8 EAMON [1] - 3:10 Eamon [1] - 22:4 early [8] - 8:19, 11:4, 13:25, 33:19, 52:3, 88:22, 88:27 easier [1] - 130:3 Eastern [4] - 89:18, 90:8, 110:1, 111:16 easy [1] - 32:1 edge [1] - 20:22 edging [1] - 20:19 effect [3] - 14:2, 44:1, 83:11 effectively [13] - 51:10, 84:5, 87:14, 89:14, 90:1, 92:21, 94:11, 96:23, 101:26, 102:17, 103:18, 110:11, 118:13 effort [1] - 22:15 EGAN [1] - 3:26 egging [1] - 61:3 either [9] - 12:1, 46:15, 48:2, 58:10, 59:9, 59:15, 60:18, 128:15 Elaine [1] - 142:5 element [2] - 77:28, 120:29 elements [6] - 78:8, 131:24, 133:5, 134:4, 138:19, 147:27 elephant [1] - 138:26 ELIZABETH [1] - 2:30 elsewhere [1] - 27:10 em [8] - 12:20, 13:16, 14:7, 15:27, 46:18, 63:12, 63:21, 94:13 emails [1] - 112:15 emanating [2] - 111:14, 111:23 embarrass [1] - 76:7 EMMA [1] - 3:27 emphasis [1] - 32:22 en [1] - 61:25 enable [2] - 128:6, 130:21 END [6] - 38:7, 64:11, 69:12, 72:28, 75:26, 79:28 end [15] - 21:4,</p>	<p>29:29, 30:1, 34:8, 36:8, 54:26, 55:23, 71:12, 72:6, 74:13, 119:16, 132:14, 140:12, 146:8, 147:9 ended [2] - 18:5, 19:3 enemy [5] - 22:19, 23:4, 23:6, 73:13, 73:17 engaged [1] - 113:26 engagement [2] - 114:7, 114:15 enormous [2] - 112:20, 113:28 enquired [1] - 104:12 enquiries [1] - 104:18 ensure [8] - 85:19, 88:29, 96:17, 108:4, 113:2, 120:7, 121:29, 124:6 ensuring [3] - 84:2, 106:6, 123:18 entire [1] - 47:10 entirely [1] - 131:11 entirety [5] - 8:8, 106:2, 121:6, 130:25, 132:6 entitled [5] - 7:24, 8:25, 8:27, 10:20, 36:7 entries [8] - 27:18, 43:29, 46:6, 46:15, 70:10, 70:28, 132:14, 143:21 entry [10] - 11:18, 13:2, 13:5, 13:8, 26:15, 36:23, 52:6, 52:7, 108:11, 108:16 Environment [1] - 104:10 EOIN [1] - 2:29 Equality [2] - 121:27, 123:24 EQUALITY [1] - 1:8 equally [3] - 35:14, 66:24, 124:4 equivalent [2] - 81:19, 82:23 essence [1] - 89:5 essentially [9] - 65:3, 82:9, 82:20, 83:27, 107:4, 121:5, 121:7, 133:20, 133:29 establish [2] - 93:2, 96:1 ESTABLISHED [1] - 1:7 etcetera [6] - 66:16,</p>
---	---	--	---	---

<p>94:29, 118:26, 121:28, 135:5 evening [3] - 57:24, 129:27, 141:24 event [4] - 10:21, 11:26, 11:27, 116:5 events [4] - 77:19, 91:10, 105:10, 124:26 eventually [1] - 57:6 evidence [49] - 7:6, 7:9, 7:18, 8:4, 8:6, 12:13, 12:28, 18:3, 19:7, 23:28, 34:16, 34:19, 34:23, 35:11, 35:19, 36:11, 40:8, 40:11, 40:22, 41:4, 41:10, 41:24, 41:29, 42:3, 42:10, 42:11, 42:18, 42:21, 43:13, 43:16, 44:4, 44:11, 45:23, 52:19, 59:7, 66:18, 67:2, 67:5, 67:8, 71:29, 84:11, 86:2, 86:11, 88:7, 99:9, 103:10, 113:16, 136:11, 147:22 EVIDENCE [1] - 1:8 exact [1] - 135:12 exactly [9] - 8:20, 27:23, 49:9, 62:15, 76:15, 77:24, 90:28, 92:18, 141:13 examination [3] - 35:5, 39:1, 119:24 EXAMINATION [5] - 38:7, 64:11, 69:12, 72:28, 75:26 examine [3] - 38:14, 39:4, 62:12 EXAMINED [12] - 5:5, 5:6, 5:7, 5:8, 5:9, 5:14, 6:11, 46:10, 64:18, 70:6, 73:8, 80:18 examined [4] - 41:26, 44:6, 44:8, 94:5 examines [1] - 147:19 examining [2] - 43:26, 45:29 example [7] - 47:25, 86:14, 97:3, 98:23, 101:2, 122:20, 122:25 excelled [1] - 26:8 except [1] - 111:8 exchange [1] - 126:16 exchanges [3] - 51:24, 51:28, 148:3</p>	<p>exclusion [1] - 144:24 EXECUTIVE [1] - 3:13 executive [12] - 81:16, 81:23, 82:17, 82:23, 82:27, 83:5, 83:13, 83:28, 84:3, 103:14, 108:12 exercise [2] - 132:18, 147:20 exercised [1] - 131:16 exhibits [1] - 134:18 exist [1] - 132:20 expanded [1] - 21:19 expanding [1] - 23:16 expect [3] - 55:19, 80:5, 133:23 expected [3] - 35:21, 55:18, 94:15 experience [1] - 125:3 experienced [1] - 77:23 explain [11] - 17:1, 19:14, 19:15, 31:15, 32:2, 53:1, 57:5, 93:15, 105:25, 107:7 explained [1] - 107:8 exploring [1] - 37:5 exposed [2] - 146:25, 147:1 express [2] - 66:11, 141:6 expressed [4] - 40:16, 74:3, 141:3, 141:7 expresses [1] - 94:24 expressing [1] - 36:14 expressly [1] - 138:7 extensive [2] - 102:27, 112:19 extensively [1] - 41:27 extent [2] - 30:21, 78:20 extraneous [1] - 34:24 extraordinary [1] - 124:29 eye [2] - 23:15, 96:29</p> <p style="text-align: center;">F</p> <p>face [2] - 111:28,</p>	<p>145:2 Facebook [1] - 51:23 faced [4] - 17:4, 53:4, 73:21, 74:15 fact [26] - 22:2, 32:7, 34:7, 41:9, 42:3, 62:5, 62:22, 89:17, 94:11, 94:24, 98:19, 105:14, 105:21, 106:21, 112:20, 113:15, 119:25, 120:5, 121:12, 130:18, 131:15, 131:27, 132:18, 133:9, 147:20, 148:10 Fact [1] - 119:19 Fact-Finding [1] - 119:19 fact-finding [8] - 119:25, 120:5, 130:18, 131:15, 131:27, 132:18, 133:9, 147:20 factors [1] - 128:17 fair [9] - 13:17, 62:5, 70:17, 72:3, 88:4, 94:1, 107:26, 113:21, 129:16 fairness [2] - 63:27, 113:24 falcon [1] - 93:23 fall [2] - 89:24, 120:1 falls [1] - 89:24 false [1] - 24:2 familiar [1] - 40:15 family [1] - 47:14 fanning [5] - 121:4, 122:28, 125:20, 126:19, 127:6 FANNING [1] - 2:21 Fanning [25] - 67:23, 68:14, 68:17, 68:24, 99:26, 100:24, 109:29, 110:13, 112:16, 120:14, 120:17, 120:27, 129:6, 130:9, 130:24, 135:24, 140:9, 140:25, 143:4, 143:9, 143:27, 144:11, 144:23, 145:23, 148:4 Fanning's [2] - 68:27, 101:17 far [8] - 16:18, 46:6, 77:12, 77:13, 77:15, 78:6, 90:6, 107:28 FARRELL [1] - 4:5 feared [4] - 20:4, 20:6, 20:7, 60:23 FEBRUARY [2] - 1:5,</p>	<p>1:9 February [6] - 9:16, 9:25, 42:2, 42:7, 67:23, 88:27 fed [2] - 20:19, 67:18 feed [2] - 39:12, 39:18 feeding [3] - 67:8, 67:14, 74:22 Feehily [3] - 45:23, 47:2, 47:16 Feehily's [1] - 47:13 feet [1] - 33:8 felt [4] - 8:12, 8:14, 10:29, 11:6, 18:2, 20:18, 21:20, 21:23, 22:20, 22:26, 23:4, 23:15, 23:17, 23:21, 23:27, 29:2, 31:17, 31:19, 36:15, 59:5, 61:3, 61:19, 62:5, 62:10, 62:11, 62:16, 63:12, 70:15, 70:17, 75:3, 76:12, 76:13, 85:11, 107:11, 108:4, 112:27, 124:9, 124:29, 137:25, 140:3, 147:1 Fergal [5] - 6:5, 6:13, 7:13, 7:19, 11:20 FERGAL [8] - 2:27, 5:3, 6:10, 46:10, 64:18, 70:6, 73:8, 76:1 FERRY [1] - 2:17 few [11] - 18:25, 24:15, 24:25, 30:10, 30:13, 34:1, 64:15, 93:24, 99:18, 118:22, 122:11 FF [2] - 126:12, 132:20 figured [1] - 33:10 file [5] - 23:23, 28:11, 28:15, 108:18, 110:9 files [6] - 32:13, 32:14, 106:1, 110:19, 113:11, 119:4 fills [1] - 34:27 filter [1] - 32:28 final [2] - 65:2, 142:4 finalised [3] - 51:13, 104:20, 105:16 finally [4] - 37:5, 67:21, 75:16, 141:24 finance [1] - 83:29 findings [1] - 29:3 fine [6] - 38:22, 92:15, 112:12, 115:24, 118:20,</p>	<p>133:11 finish [7] - 20:2, 21:8, 54:9, 57:17, 61:7, 129:27 finished [5] - 7:25, 9:7, 69:9, 76:26, 77:15 FINN [1] - 3:6 FINTAN [1] - 2:21 fire [1] - 65:10 firing [1] - 47:9 firm [1] - 30:18 firmly [1] - 62:13 first [19] - 6:4, 6:23, 7:7, 7:14, 14:5, 41:29, 42:3, 42:22, 68:16, 86:29, 100:13, 101:5, 117:7, 117:27, 118:3, 118:5, 122:4, 123:3, 146:22 firstly [2] - 46:26, 122:11 fit [2] - 45:6, 137:28 fits [1] - 138:13 FITZWILLIAM [1] - 4:9 five [3] - 73:5, 127:24, 129:28 flag [3] - 115:12, 115:16, 116:11 flagging [1] - 125:7 flick [1] - 97:20 floor [1] - 130:27 FLYNN [1] - 3:20 focusing [1] - 25:3 FOI [1] - 119:1 follow [2] - 76:20, 77:6 following [8] - 1:25, 34:28, 74:16, 80:5, 91:7, 93:13, 94:18, 98:24 FOLLOWING [1] - 1:4 FOLLOWS [9] - 6:1, 6:11, 40:1, 46:11, 64:19, 70:7, 73:9, 76:2, 80:18 foot [1] - 49:2 FOR [10] - 1:7, 2:7, 2:10, 2:16, 2:21, 2:27, 3:2, 4:1, 4:5, 4:10 foreign [1] - 75:7 forgetting [1] - 73:4 forgive [1] - 51:23 form [3] - 94:26, 142:14, 142:21 format [2] - 104:7, 117:25 format [1] - 142:12</p>
---	--	--	--	--

<p>formatted [1] - 115:14 FORMER [2] - 1:13, 2:3 former [2] - 28:9, 106:12 forward [13] - 24:5, 92:1, 96:8, 102:9, 107:22, 112:2, 114:20, 114:21, 125:20, 127:23, 132:1, 138:23 forwarded [1] - 96:19 four [5] - 33:2, 74:21, 105:11, 127:24, 143:10 fourth [2] - 86:16, 126:3 fractious [1] - 125:26 fractured [1] - 125:14 free [2] - 45:5, 80:8 FREEMAN [1] - 2:22 front [3] - 46:19, 115:14, 117:14 full [8] - 12:2, 16:6, 16:9, 31:18, 49:28, 66:20, 108:1, 112:24 fully [8] - 8:8, 8:23, 17:9, 30:5, 31:16, 53:9, 60:11, 60:13 function [1] - 96:2 functions [1] - 83:25 funny [1] - 24:11 furthermore [1] - 147:26 furtively [1] - 95:10 future [2] - 54:21, 57:26</p>	<p>14:25, 15:1, 15:24, 16:1, 16:17, 16:25, 16:26, 16:29, 17:9, 17:15, 17:28, 17:29, 18:15, 18:24, 19:7, 22:2, 22:10, 22:11, 22:12, 22:18, 22:19, 22:24, 22:25, 23:3, 23:7, 23:9, 23:19, 23:25, 23:28, 24:3, 24:11, 24:26, 25:1, 25:6, 25:7, 25:8, 25:16, 25:21, 25:29, 26:4, 26:13, 26:27, 26:28, 27:2, 28:18, 28:27, 29:5, 29:20, 30:3, 30:6, 30:9, 30:27, 31:6, 32:4, 32:29, 33:2, 33:13, 33:20, 33:25, 34:13, 34:28, 35:29, 36:14, 37:14, 37:18, 37:21, 37:23, 37:25, 37:28, 38:1, 40:3, 41:3, 41:10, 41:15, 41:21, 41:22, 41:24, 41:27, 42:2, 42:10, 42:14, 42:18, 43:5, 43:8, 44:3, 44:11, 44:12, 44:13, 44:15, 44:16, 44:19, 46:13, 47:16, 49:10, 51:9, 53:9, 53:19, 54:3, 54:13, 55:11, 55:15, 55:17, 56:4, 57:15, 58:25, 59:6, 61:2, 62:15, 64:21, 64:23, 64:26, 65:10, 65:24, 65:25, 66:3, 67:1, 67:2, 67:5, 67:11, 67:21, 70:9, 72:17, 73:11, 73:13, 73:15, 73:17, 73:25, 74:2, 74:9, 74:16, 74:18, 74:19, 74:22, 75:13, 75:16, 75:21, 76:4, 76:24, 77:3, 77:20, 77:21, 77:27, 78:7, 78:14, 78:27, 79:13, 80:8, 80:25, 80:27, 81:9, 81:12, 81:22, 84:4, 84:14, 85:6, 85:29, 86:5, 87:12, 87:16, 87:25, 90:16, 90:17, 91:3, 94:4, 94:20, 94:21, 95:19, 95:22, 96:16, 97:4, 97:13, 97:16, 98:4, 100:4, 101:9, 101:15, 101:18, 102:10, 102:28, 102:29, 103:14,</p>	<p>103:27, 104:7, 104:9, 104:13, 105:6, 106:1, 106:6, 108:2, 108:5, 108:21, 113:4, 113:11, 113:18, 114:15, 119:24, 119:25, 120:3, 120:7, 121:24, 122:14, 122:21, 123:8, 124:12, 125:8, 131:16, 131:29, 132:6, 133:22, 134:10, 136:2, 136:18, 137:13, 137:24, 138:28, 139:15, 139:18, 139:20, 140:6, 140:29, 141:19, 145:14, 145:15, 146:14, 146:17, 146:28, 147:27, 148:18 GARDA [17] - 2:10, 2:27, 2:28, 2:28, 3:3, 3:11, 3:11, 3:12, 3:22, 4:10, 5:3, 6:10, 46:10, 64:18, 70:6, 73:8, 76:1 garda [3] - 10:22, 11:23, 12:19 Gardaí [4] - 54:10, 54:17, 79:16, 81:23 gather [2] - 121:22, 124:1 general [16] - 14:4, 23:1, 25:13, 46:17, 47:18, 57:11, 77:25, 79:13, 79:15, 82:23, 85:10, 102:4, 107:25, 107:26, 121:23, 124:1 generality [2] - 87:18, 92:28 generally [1] - 44:14 GERAGHTY [1] - 2:18 Gerard [2] - 96:18, 99:11 GERARD [1] - 2:12 GERRY [1] - 3:11 girl [1] - 28:9 given [17] - 8:4, 41:10, 42:2, 43:4, 43:12, 43:14, 44:4, 44:13, 44:14, 66:18, 85:3, 88:7, 106:17, 126:13, 126:17, 127:7, 139:6 glance [1] - 66:24 Gleeson [2] - 70:1, 72:1</p>	<p>GLEESON [18] - 4:8, 5:8, 70:3, 70:6, 70:9, 71:6, 71:9, 71:16, 71:19, 71:21, 72:3, 72:7, 72:11, 72:13, 72:16, 72:19, 72:22, 72:26 gleeson [1] - 71:5 goings [1] - 33:24 GOODE [1] - 3:22 goodness [1] - 66:23 Governance [5] - 82:2, 82:12, 83:16, 109:26, 110:6 grade [1] - 82:24 GRALTON [1] - 3:15 grave [1] - 95:5 great [2] - 44:6, 44:7 Green [1] - 13:16 GREENE [8] - 2:27, 5:3, 6:10, 46:10, 64:18, 70:6, 73:8, 76:1 Greene [46] - 6:5, 6:7, 6:13, 6:17, 7:1, 7:13, 7:28, 7:29, 11:20, 16:25, 22:10, 22:18, 22:24, 22:25, 25:1, 25:6, 25:9, 26:27, 26:29, 29:20, 35:29, 36:1, 40:3, 41:10, 41:15, 41:21, 41:22, 41:28, 42:11, 42:18, 43:5, 43:8, 44:12, 46:13, 49:11, 64:21, 65:25, 66:3, 67:2, 67:21, 70:9, 72:17, 73:11, 75:13, 76:4, 80:8 Greene's [2] - 6:15, 41:4 grievance [1] - 73:18 grievances [2] - 17:17, 53:21 GRIFFIN [1] - 3:27 ground [1] - 140:18 grounds [4] - 119:19, 126:11, 126:23, 144:4 GS [1] - 121:16 GSOC [2] - 119:2, 142:29 guard [1] - 35:18 guards [1] - 12:5 Guards [2] - 54:23, 55:6 guess [2] - 29:12, 112:3 guessing [2] - 29:5, 142:16</p>	<p>guide [1] - 70:19 guidelines [1] - 30:17 guilty [1] - 56:26 Guinan [1] - 27:24 Gwen [1] - 1:24 GWEN [1] - 1:29</p>
H				
<p>half [1] - 65:2 HALIDAY [1] - 2:24 hammered [1] - 31:8 hand [14] - 12:22, 16:6, 16:9, 40:24, 58:23, 58:27, 59:10, 95:4, 95:7, 95:16, 112:5, 113:27, 137:18, 148:8 handed [1] - 89:7 handful [1] - 73:2 handled [1] - 90:7 handwritten [7] - 70:28, 71:3, 97:18, 102:19, 134:12, 142:14, 142:20 hangs [2] - 79:23, 79:24 happy [5] - 38:21, 58:23, 71:24, 92:16, 116:1 Haran [2] - 18:14, 33:28 HARAN [1] - 4:6 harassed [2] - 136:3, 136:19 harassing [1] - 136:5 harassment [52] - 84:15, 87:16, 87:24, 90:18, 91:5, 91:20, 94:23, 97:26, 98:4, 102:26, 104:8, 104:14, 105:7, 108:24, 113:20, 114:3, 120:10, 120:29, 122:22, 122:23, 127:28, 128:7, 130:22, 131:9, 131:13, 131:20, 132:9, 133:23, 133:25, 133:26, 134:4, 135:5, 135:7, 135:11, 135:19, 136:13, 136:27, 138:3, 138:8, 138:9, 138:10, 138:13, 138:28, 141:9, 141:19, 144:24, 144:27, 145:2, 145:7,</p>				

<p>145:16, 146:4, 146:20 hard [5] - 20:7, 52:9, 68:28, 79:21, 92:14 harm [1] - 60:25 Harrison [1] - 24:26 Hassett [11] - 121:16, 122:20, 126:29, 127:14, 128:3, 129:17, 129:21, 140:13, 143:1, 143:4, 144:29 hats [1] - 82:9 HAVING [2] - 6:10, 80:17 HEAD [1] - 3:16 head [9] - 18:19, 68:27, 76:15, 76:28, 77:1, 77:2, 93:8, 95:12, 106:19 health [1] - 20:6 healthy [3] - 125:15, 125:17, 125:23 Healy [3] - 132:26, 133:1 Healy's [1] - 88:19 hear [5] - 13:19, 14:3, 15:9, 47:6, 89:27 heard [9] - 15:10, 22:14, 23:28, 23:29, 70:24, 81:24, 86:3, 86:4, 125:13 HEARING [4] - 6:1, 39:25, 40:1, 148:25 hearing [2] - 55:28, 82:28 hearings [1] - 7:8 heart [4] - 12:23, 14:27, 16:6, 16:9 HELD [1] - 1:17 held [6] - 9:20, 81:7, 85:13, 103:13, 118:13, 123:26 hell [1] - 13:15 hello [1] - 68:21 helpful [2] - 116:12, 125:4 helps [1] - 34:8 hence [2] - 40:10, 83:13 hesitate [1] - 34:4 HIGGINS [1] - 4:10 high [1] - 26:7 highlight [1] - 11:12 highlighted [1] - 121:27 highlighting [1] - 132:20 himself [1] - 24:1 hindsight [1] - 66:4</p>	<p>historian [1] - 44:29 history [2] - 80:25, 81:4 hit [1] - 76:15 hm [1] - 118:8 hm-hmm [1] - 118:8 hm [1] - 118:8 hold [2] - 95:7, 138:11 holistic [3] - 121:6, 121:23, 124:1 honest [2] - 11:29, 15:27 honourable [2] - 47:14, 70:23 hope [1] - 61:12 HORAN [1] - 3:25 hour [2] - 21:9, 38:19 house [1] - 27:1 HOUSE [3] - 2:24, 3:28, 4:12 HR [6] - 83:29, 114:15, 118:25, 123:6, 123:10, 138:21 HRPD [12] - 82:28, 86:25, 90:7, 96:25, 97:5, 98:17, 98:20, 102:28, 103:14, 109:21, 109:25, 113:26 HRPD's [1] - 97:6 HUGHES [2] - 2:30, 2:31 HUMAN [1] - 3:16 human [1] - 97:17 humane [2] - 30:23, 70:20 hundred [3] - 12:23, 21:9, 59:8 hung [1] - 79:17</p>	<p>implicitly [1] - 35:29 implying [1] - 55:16 important [7] - 19:20, 34:23, 55:1, 55:3, 85:11, 124:4, 124:5 impression [1] - 66:16 improving [1] - 79:23 IN [1] - 1:17 inappropriate [1] - 123:16 incident [1] - 60:22 incidents [1] - 63:24 include [1] - 90:16 included [3] - 140:29, 141:4, 141:20 includes [2] - 116:4, 116:6 including [1] - 129:11 inconsistency [1] - 137:21 inconsistent [1] - 114:11 incorrect [3] - 67:18, 100:17, 100:18 indeed [4] - 23:28, 36:10, 112:25, 114:18 independence [1] - 95:23 independent [1] - 95:26 INDEX [1] - 5:1 indicated [2] - 10:28, 42:5 indicates [2] - 10:9, 10:10 indicating [2] - 35:29, 43:2 individual [11] - 9:21, 70:18, 79:11, 103:3, 123:16, 127:3, 131:28, 133:4, 134:4, 138:1, 147:28 individually [1] - 49:4 individuals [4] - 85:13, 122:19, 133:6, 138:19 industrial [1] - 93:25 inevitable [1] - 49:12 influence [1] - 95:24 information [15] - 12:3, 12:8, 20:13, 21:6, 34:26, 54:12, 58:15, 58:26, 58:29, 61:18, 67:17, 74:17, 75:2, 85:12, 113:6</p>	<p>informative [1] - 34:12 informed [4] - 8:9, 10:27, 11:20, 86:28 initial [5] - 7:1, 23:12, 26:1, 26:4, 78:15 initiating [1] - 133:15 innocence [1] - 56:26 inquiry [8] - 17:22, 19:16, 21:16, 34:17, 53:26, 74:2, 121:7, 139:29 INQUIRY [2] - 1:2, 1:8 inside [1] - 95:9 inside" [1] - 68:16 insofar [4] - 25:17, 42:19, 90:16, 91:3 INSPECTOR [7] - 3:4, 3:10, 3:15, 3:18, 3:18, 3:22, 4:5 Inspector [13] - 20:26, 36:29, 58:11, 58:18, 59:15, 60:4, 60:18, 62:1, 88:25, 90:12, 99:28, 101:16, 122:27 instance [2] - 7:7, 41:29 instead [1] - 35:23 institution [1] - 81:15 INSTRUCTED [8] - 2:12, 2:17, 2:22, 2:30, 3:26, 4:2, 4:8, 4:11 instructed [1] - 106:26 instruction [1] - 89:5 instructions [2] - 38:11, 108:28 INSTRUMENT [1] - 1:7 intelligent [1] - 70:18 intended [1] - 120:6 intent [1] - 42:5 interacting [1] - 70:13 interaction [5] - 42:1, 42:12, 42:13, 42:26, 45:8 interactions [7] - 21:28, 23:8, 31:19, 32:8, 41:27, 49:29, 85:3 interested [1] - 118:1 interesting [1] - 32:6 interfered [1] - 78:16 internal [1] - 104:7</p>	<p>interpreted [5] - 47:23, 48:6, 48:23, 48:24, 54:24 interrupt [2] - 49:8, 49:15 interrupting [1] - 51:2 intervene [1] - 34:4 intervening [1] - 74:20 intervention [1] - 74:4 interview [5] - 9:19, 10:3, 11:1, 73:25, 107:23 INTO [1] - 1:2 intricate [1] - 19:6 introduced [2] - 30:16, 42:10 introduction [1] - 140:26 investigate [4] - 134:1, 138:14, 144:17, 145:9 investigated [12] - 17:20, 53:24, 56:27, 58:24, 78:9, 78:12, 78:22, 134:25, 136:29, 137:27 investigating [9] - 7:23, 8:25, 8:26, 9:28, 10:22, 36:27, 69:17, 135:2, 145:8 investigation [30] - 9:11, 10:12, 11:1, 22:3, 23:22, 26:6, 29:4, 37:20, 50:6, 78:18, 95:5, 97:24, 100:25, 101:8, 101:22, 104:13, 104:17, 104:20, 105:16, 107:10, 126:12, 127:8, 127:16, 129:7, 130:11, 133:15, 138:29, 139:13, 139:17, 143:5 investigations [2] - 36:17, 133:7 investigator [2] - 126:20, 126:23 investigators [1] - 107:24 invite [2] - 40:21, 40:25 invited [1] - 24:13 involve [1] - 45:21 involved [11] - 26:10, 79:3, 89:9, 100:12, 107:8, 107:9, 107:13,</p>
I				
	<p>ICELAND [1] - 4:12 ICT [1] - 83:29 identified [2] - 55:11, 144:9 identify [4] - 14:8, 69:8, 69:16, 146:11 imagine [3] - 12:20, 12:22, 129:24 immediately [2] - 84:4, 139:14 impact [2] - 55:24, 77:26 imperative [1] - 122:16 implication [1] - 42:24</p>			

<p>107:20, 123:17, 131:8, 139:25 involvement [4] - 11:14, 86:8, 106:17, 139:6 involves [2] - 45:20, 49:29 involving.. [1] - 9:28 Ireland [1] - 28:4 irrelevant [5] - 34:16, 40:22, 41:5, 43:1, 126:26 irritable [2] - 50:28, 67:28 issue [71] - 13:21, 13:23, 13:29, 14:11, 25:16, 27:13, 27:20, 35:16, 36:20, 36:26, 40:8, 40:11, 40:16, 40:18, 40:22, 41:3, 41:11, 41:21, 42:9, 42:17, 42:18, 42:21, 42:26, 43:3, 43:10, 43:11, 43:22, 46:1, 49:9, 56:22, 65:22, 66:2, 75:20, 76:8, 76:10, 84:15, 87:16, 87:22, 87:23, 89:24, 90:5, 90:6, 90:19, 90:25, 93:8, 95:1, 100:20, 100:27, 105:5, 105:9, 105:13, 111:20, 113:29, 114:5, 114:8, 114:12, 115:17, 122:4, 124:2, 124:14, 124:20, 128:1, 128:24, 138:14, 138:26, 139:20, 141:10, 142:29, 146:1, 146:3, 146:7 issued [1] - 87:1 issues [74] - 17:17, 41:14, 41:23, 49:11, 50:11, 50:12, 50:16, 50:17, 52:24, 53:21, 56:23, 57:6, 57:13, 57:15, 63:26, 69:16, 73:20, 76:7, 84:5, 85:11, 90:27, 91:19, 91:21, 92:29, 93:26, 93:27, 93:28, 94:3, 94:5, 94:22, 96:4, 96:18, 97:23, 99:2, 99:4, 102:8, 102:9, 107:6, 107:11, 107:21, 108:6, 109:10, 109:17, 109:19, 111:14, 111:23, 112:5,</p>	<p>112:17, 112:26, 113:1, 113:27, 114:15, 115:24, 118:24, 119:6, 120:3, 120:7, 121:23, 121:29, 123:3, 123:6, 123:11, 124:1, 134:9, 135:21, 136:22, 138:2, 138:20, 141:19, 142:29, 143:1, 143:12 it' [1] - 98:23 item [1] - 70:29 itself [8] - 78:4, 79:25, 107:13, 110:8, 114:2, 114:19, 114:26, 125:12</p>	<p>July [2] - 52:2, 83:3 jump [1] - 26:11 junction [1] - 89:20 June [6] - 9:10, 11:18, 11:28, 12:27, 13:25, 22:1 junior [1] - 40:28 JUSTICE [3] - 1:7, 1:12, 2:2 Justice [7] - 92:11, 92:21, 92:22, 121:26, 123:24, 124:4, 140:28</p>	<p>35:4, 36:6, 38:9, 38:28, 39:9, 41:1, 42:25, 43:1, 43:9, 45:5, 45:27, 49:9, 49:12, 49:23, 50:18, 51:1 Kelly's [2] - 34:17, 39:8 Ken [2] - 115:3, 115:5 Kenneth [1] - 99:28 Keogh [174] - 7:9, 8:9, 9:1, 9:17, 9:26, 10:5, 10:16, 12:8, 12:28, 14:6, 14:17, 14:23, 14:25, 15:1, 16:2, 16:17, 16:26, 16:29, 17:9, 17:15, 17:29, 18:15, 18:24, 22:11, 22:12, 22:19, 22:24, 23:7, 23:9, 23:19, 23:25, 23:28, 24:3, 24:11, 24:26, 25:7, 25:16, 25:21, 25:29, 26:4, 26:13, 26:18, 27:2, 27:5, 28:19, 28:27, 29:5, 30:3, 30:6, 30:9, 30:27, 31:6, 32:4, 32:29, 33:2, 33:13, 33:20, 36:14, 37:18, 37:23, 37:25, 37:28, 38:1, 41:24, 42:2, 44:4, 44:12, 44:13, 44:15, 44:16, 44:19, 47:9, 50:4, 51:24, 53:9, 53:19, 54:13, 57:15, 58:6, 58:9, 58:17, 58:25, 59:6, 59:14, 59:21, 60:22, 61:3, 61:12, 62:15, 62:23, 62:25, 63:9, 63:13, 64:26, 65:10, 65:25, 67:5, 67:11, 73:15, 73:25, 74:3, 74:9, 74:16, 74:19, 74:22, 75:17, 76:24, 77:3, 77:20, 78:7, 78:14, 78:27, 84:14, 85:6, 85:29, 87:12, 87:17, 87:25, 90:16, 91:4, 94:4, 94:20, 95:19, 96:16, 97:5, 97:14, 97:16, 98:4, 100:4, 101:9, 101:15, 101:18, 102:10, 102:29, 103:15, 104:7, 108:2, 108:5, 108:18, 109:10, 113:4, 113:18, 114:15, 119:24,</p>	<p>119:25, 120:3, 120:8, 121:24, 122:14, 123:8, 124:12, 125:8, 131:16, 131:29, 132:6, 133:22, 134:10, 136:2, 136:18, 137:24, 138:28, 139:15, 139:18, 139:20, 140:6, 140:29, 141:19, 145:15, 146:17, 146:28, 147:28, 148:18 KEOGH [1] - 2:10 Keogh's [23] - 11:17, 19:7, 23:3, 43:24, 59:27, 60:17, 61:26, 67:2, 73:13, 73:17, 75:21, 86:5, 90:17, 103:27, 104:13, 105:6, 106:1, 106:6, 108:21, 113:11, 137:13, 145:14, 146:14 Keogh.. [1] - 37:14 kept [2] - 88:4, 141:27 KEVIN [1] - 3:15 KH [4] - 121:17, 127:14, 137:9, 137:13 kick [1] - 114:24 KIERAN [1] - 3:20 kind [16] - 8:11, 23:5, 25:28, 29:5, 29:8, 29:9, 36:12, 56:14, 56:22, 61:10, 68:21, 68:25, 74:27, 75:5, 75:6 kinds [2] - 52:23, 56:19 KIRWAN [1] - 3:14 knowledge [7] - 84:14, 85:22, 87:21, 96:2, 101:25, 117:27, 127:16 known [10] - 20:28, 35:18, 55:23, 70:15, 77:3, 85:12, 85:25, 85:26, 99:13, 128:24 knows [4] - 12:14, 30:27, 47:1, 66:23</p>
	J	K		
<p>JACK [1] - 3:7 JAMES [1] - 2:29 James [1] - 101:16 January [1] - 16:20 JB [2] - 132:19, 147:16 JN [14] - 121:14, 126:6, 126:11, 127:26, 132:16, 133:14, 137:9, 139:7, 140:26, 141:3, 141:18, 145:3, 145:26, 147:18 job [7] - 11:10, 17:7, 45:5, 47:12, 53:7, 55:8, 55:9 joe [1] - 106:26 Joe [1] - 80:14 JOE [3] - 3:14, 5:12, 80:17 JOHN [4] - 2:12, 2:17, 3:9, 4:1 John [4] - 26:18, 28:4, 96:18, 99:10 Johnny [3] - 47:2, 47:14, 47:16 joined [2] - 6:20, 124:23 Joseph [1] - 80:20 Josephine [1] - 45:23 journal [1] - 70:27 journalist [1] - 24:27 journalists [1] - 28:5 Judge [7] - 6:13, 7:13, 7:28, 13:15, 49:8, 65:22, 78:2 judge [1] - 35:16 JUDGE [1] - 3:13</p>		<p>KANE [8] - 2:29, 5:9, 49:8, 73:2, 73:5, 73:8, 73:11, 75:24 Kane [2] - 49:17, 73:4 Kane's [1] - 49:19 Kate [1] - 142:22 KATE [1] - 3:26 Kathleen [4] - 121:16, 127:14, 140:12, 143:4 Kavanagh [8] - 94:25, 97:20, 100:22, 102:16, 106:14, 109:3, 139:3, 146:23 kavanagh [1] - 137:6 KAVANAGH [1] - 2:5 KEANE [1] - 4:7 keen [1] - 36:2 keep [11] - 18:26, 22:18, 33:28, 73:4, 73:28, 96:28, 107:24, 117:22, 126:3, 139:3, 146:15 keeping [1] - 33:27 keeps [1] - 24:20 kelly [1] - 39:14 KELLY [46] - 2:10, 3:12, 5:6, 34:4, 35:7, 35:12, 35:16, 35:18, 35:23, 38:10, 38:13, 38:21, 38:24, 39:2, 40:4, 40:7, 40:14, 41:2, 41:6, 41:8, 43:11, 43:16, 43:18, 43:20, 43:23, 43:28, 44:5, 44:7, 44:17, 44:19, 44:23, 44:28, 45:2, 45:7, 45:12, 45:19, 45:26, 46:3, 46:5, 46:10, 46:13, 49:25, 50:3, 51:5, 62:20, 64:8 Kelly [17] - 34:20,</p>		
				L
				<p>landing [1] - 54:26 landscape [1] - 132:19 language [5] - 25:17, 119:26, 120:1,</p>

<p>141:22, 141:23 large [6] - 44:10, 90:25, 122:18, 125:5 largely [1] - 44:16 last [17] - 13:14, 52:8, 57:9, 67:3, 76:6, 93:24, 94:28, 101:19, 103:29, 111:10, 115:3, 120:14, 120:17, 126:3, 132:5, 139:2, 147:14 late [3] - 18:23, 22:16, 52:3 law [1] - 47:13 LAWLOR [1] - 2:29 lead [2] - 54:14, 54:19 leading [3] - 63:21, 68:4, 83:24 leads [1] - 93:4 leaks [1] - 124:22 least [9] - 35:20, 47:26, 78:11, 78:20, 78:22, 114:6, 141:14, 142:16 leave [6] - 26:28, 43:17, 57:23, 65:7, 91:12, 94:28 led [2] - 82:22, 82:23 left [1] - 85:20 legal [4] - 83:29, 106:18, 106:19, 115:6 LEITRIM [1] - 2:14 length [2] - 44:6, 44:7 less [4] - 25:23, 25:25, 73:5, 77:16 letter [27] - 28:10, 85:3, 86:10, 86:13, 88:6, 90:9, 91:19, 94:11, 94:20, 95:15, 96:6, 97:3, 97:4, 97:18, 97:28, 101:15, 102:13, 102:14, 102:17, 102:19, 103:6, 103:20, 103:27, 103:28, 104:2 letters [1] - 97:12 level [11] - 26:7, 83:5, 83:13, 83:28, 91:22, 104:28, 105:12, 113:22, 114:7, 114:14 Liam [19] - 11:21, 12:2, 12:3, 12:12, 12:23, 13:13, 13:21, 14:1, 14:11, 14:23, 15:4, 15:5, 15:16, 15:19, 15:29, 16:2, 16:11, 16:13</p>	<p>LIAM [1] - 3:18 life [10] - 17:27, 29:11, 54:2, 55:20, 55:25, 57:10, 57:11, 57:24 lift [1] - 83:8 light [3] - 41:4, 89:17, 142:2 line [10] - 7:10, 9:13, 13:9, 37:11, 44:16, 66:20, 69:17, 83:28, 125:22, 126:3 lines [7] - 15:10, 36:9, 37:11, 120:17, 127:24, 146:23 lingo [1] - 25:21 liquidator [1] - 119:2 list [1] - 136:13 listen [1] - 60:8 listened [2] - 61:29, 136:14 listener [1] - 60:9 litigation [1] - 123:15 LITTLE [1] - 3:28 live [9] - 20:9, 36:20, 39:12, 39:18, 87:22, 87:23, 91:19, 91:22, 96:3 lives [5] - 30:26, 55:29, 56:1 load [1] - 35:19 log [1] - 10:8 Longford [2] - 6:22, 6:24 look [45] - 7:20, 8:17, 11:17, 23:10, 31:20, 39:7, 48:2, 49:6, 56:10, 58:17, 60:14, 61:24, 64:27, 65:17, 66:8, 71:16, 73:26, 81:20, 82:21, 84:10, 88:23, 92:6, 92:10, 93:22, 97:1, 97:3, 99:6, 102:8, 105:4, 111:6, 112:24, 113:3, 114:18, 117:7, 118:5, 121:6, 127:10, 132:2, 132:3, 132:4, 132:6, 132:12, 135:9, 135:27, 138:6 looked [5] - 17:24, 24:1, 53:28, 57:21, 102:19 looking [24] - 24:22, 25:3, 36:27, 39:17, 51:22, 57:24, 58:14, 58:29, 89:29, 93:23, 98:26, 100:19, 104:22, 112:2, 112:20, 113:24,</p>	<p>115:28, 117:23, 118:25, 123:10, 130:11, 135:26, 140:3, 142:2 looks [1] - 115:11 LORRAINE [1] - 3:5 lost [3] - 33:24, 79:7, 79:9 lovely [2] - 39:23, 148:23 LUNCH [1] - 40:1 lying [1] - 85:20 LYONS [1] - 4:6 Lyons [1] - 71:24</p>	<p>MARIE [2] - 3:8, 3:17 MARK [1] - 3:4 marked [1] - 122:9 marking [1] - 98:19 MARRINAN [19] - 2:7, 5:5, 6:4, 6:11, 6:15, 21:27, 33:14, 34:11, 35:2, 35:9, 36:14, 41:20, 41:26, 42:28, 49:15, 49:17, 49:19, 49:22, 80:2 Marrinan [8] - 19:15, 34:10, 35:1, 35:28, 41:19, 52:28, 64:24, 80:1 marry [2] - 126:7, 127:27 massive [1] - 56:14 material [12] - 6:17, 9:24, 34:18, 35:27, 36:5, 99:8, 112:18, 112:21, 112:28, 121:28, 128:6, 143:7 materiality [1] - 36:11 materials [1] - 88:15 maters [2] - 90:15, 106:27 MATT [1] - 3:19 matter [36] - 14:18, 14:20, 15:1, 18:5, 27:9, 34:16, 34:25, 35:27, 36:27, 37:4, 37:27, 45:9, 51:13, 75:23, 77:14, 77:15, 78:3, 79:12, 87:12, 88:3, 88:29, 89:17, 90:7, 92:23, 97:26, 102:5, 114:17, 121:7, 121:26, 123:15, 128:2, 128:10, 135:27, 139:7, 139:26, 147:3 MATTERS [1] - 1:4 matters [64] - 7:3, 7:5, 21:29, 22:23, 27:20, 29:24, 41:9, 41:12, 41:13, 41:21, 42:16, 42:19, 43:6, 43:21, 44:9, 44:20, 62:6, 62:8, 67:6, 67:12, 85:19, 87:20, 87:25, 91:3, 91:14, 93:3, 93:21, 96:3, 101:23, 106:6, 106:18, 107:15, 107:19, 107:28, 108:21, 109:11, 113:2, 114:21, 114:23, 120:12,</p>	<p>121:2, 121:6, 122:1, 122:13, 122:17, 123:19, 124:6, 124:17, 125:1, 125:7, 125:9, 130:25, 131:6, 131:19, 131:21, 131:22, 133:23, 134:7, 135:16, 135:20, 138:22, 139:24, 148:18 MATTHIAS [1] - 2:10 Maurice [1] - 27:4 McBrien [4] - 2:16, 22:1, 31:27, 42:13 McCabe [1] - 27:4 McCARTAN [2] - 4:11, 4:11 McCarthy [3] - 99:28, 101:16, 122:27 McCOURT [1] - 2:18 McEleney [1] - 142:22 McGarry [4] - 2:21, 69:7, 69:15, 69:20 McGarry's [1] - 69:3 mcGrath [1] - 136:9 McGrath [39] - 2:8, 2:28, 5:14, 80:13, 80:18, 80:24, 82:16, 92:20, 112:10, 112:11, 112:14, 115:27, 116:8, 116:9, 116:17, 116:21, 116:27, 117:3, 117:6, 117:20, 126:22, 128:13, 129:21, 129:25, 129:26, 130:5, 130:6, 130:8, 131:11, 132:12, 136:10, 139:2, 140:4, 140:7, 142:17, 142:18, 142:26, 148:13, 148:22 McGuinness [9] - 2:7, 3:25, 116:13, 116:15, 116:16, 116:20, 116:23, 116:29, 117:5 McHugh [19] - 11:21, 12:3, 12:4, 12:13, 12:24, 13:14, 13:21, 14:1, 14:12, 14:24, 15:4, 15:5, 15:16, 15:19, 15:29, 16:2, 16:11, 16:13 McLOUGHLIN [1] - 3:6 McLoughlin [12] - 84:28, 86:4, 94:20, 96:22, 99:10, 99:27,</p>
M				
<p>MADE [2] - 1:2, 1:7 Mahon [1] - 103:26 mail [5] - 86:26, 111:3, 112:14, 112:23, 148:2 mailed [1] - 140:8 MAIN [1] - 2:12 main [4] - 118:24, 119:6, 127:27, 138:26 Malone [1] - 1:24 MALONE [1] - 1:29 man [6] - 20:6, 21:21, 59:2, 62:8, 70:18, 73:27 man's [1] - 69:23 managed [3] - 85:17, 89:1, 106:10 management [22] - 6:27, 17:9, 21:29, 30:15, 31:28, 32:18, 32:21, 51:10, 53:9, 63:7, 64:2, 74:4, 74:18, 74:20, 81:7, 81:16, 93:20, 124:24, 124:25, 124:27, 144:26 managerial [2] - 84:1, 105:26 managing [2] - 85:14, 122:23 manner [1] - 73:24 MARCH [3] - 1:18, 6:2, 148:25 March [14] - 33:19, 88:10, 97:26, 127:15, 127:21, 129:18, 129:22, 133:2, 134:17, 137:20, 141:8, 143:3, 146:16, 148:7 MARGARET [1] - 3:21</p>				

<p>103:8, 109:23, 113:12, 113:16, 113:26, 125:15 McLoughlin's [1] - 99:8 McLYNN [1] - 4:2 McMahon [5] - 138:25, 139:12, 139:17, 139:22, 139:23 MCMAHON [1] - 3:8 MCPARTLIN [1] - 3:21 mean [33] - 11:4, 18:12, 21:27, 25:29, 31:18, 35:10, 36:6, 38:19, 39:15, 43:19, 44:13, 50:21, 57:5, 62:14, 67:28, 70:15, 73:27, 82:3, 83:25, 91:27, 95:18, 97:4, 107:2, 110:20, 120:5, 120:6, 133:18, 136:17, 142:11, 145:3, 146:13, 146:15, 146:27 meaning [3] - 47:23, 48:6, 48:23 means [1] - 104:3 meant [5] - 50:24, 68:24, 107:4, 133:28, 133:29 meantime [1] - 105:23 measure [1] - 44:10 media [8] - 17:26, 21:10, 54:1, 54:25, 66:15, 124:21, 124:26, 125:1 Medical [2] - 83:9, 83:10 MEDICAL [1] - 3:12 meet [7] - 24:15, 25:6, 25:7, 25:9, 26:29, 75:8, 75:13 meeting [56] - 26:19, 100:1, 100:2, 100:12, 100:13, 100:29, 108:12, 109:8, 109:16, 110:7, 110:8, 110:16, 110:22, 110:25, 110:28, 111:6, 111:8, 111:22, 112:2, 112:8, 112:10, 113:10, 114:5, 114:19, 118:13, 119:7, 120:21, 121:9, 121:14, 121:22, 122:6, 122:12, 122:19, 122:29,</p>	<p>123:9, 123:26, 123:29, 124:22, 124:24, 124:25, 124:27, 125:12, 125:13, 127:1, 127:22, 128:4, 128:8, 128:20, 128:22, 128:26, 130:21, 142:13, 143:16, 148:2, 148:6, 148:15 MEMBER [1] - 2:2 member [6] - 8:25, 8:26, 9:2, 9:28, 81:15, 122:21 members [9] - 9:3, 32:9, 32:17, 55:28, 56:4, 56:5, 56:6, 56:7, 64:23 memory [4] - 7:15, 15:26, 90:26, 108:19 mention [6] - 15:4, 16:11, 22:15, 26:6, 29:21, 83:15 mentioned [13] - 7:4, 8:16, 14:23, 15:5, 26:11, 27:4, 27:22, 36:13, 55:21, 93:3, 99:18, 121:11, 127:10 mentioning [4] - 14:6, 16:2, 16:15, 95:12 mentions [1] - 94:29 merely [4] - 42:21, 57:27, 61:18, 88:2 merit [1] - 78:16 mess [1] - 61:21 mess' [1] - 47:11 message [5] - 26:20, 52:16, 73:19, 74:6, 84:20 met [8] - 15:16, 24:10, 28:4, 62:23, 68:13, 68:17, 68:19, 75:5 MICHAEL [4] - 3:4, 3:6, 3:11, 3:20 Mick [4] - 24:27, 25:1, 75:14 middle [4] - 29:7, 46:21, 54:26, 137:1 midway [1] - 100:22 might [8] - 7:3, 22:23, 25:18, 52:22, 68:14, 85:6, 97:15, 115:19 mightn't [1] - 74:12 mile [1] - 21:9 mind [14] - 6:17, 18:24, 19:17, 20:3, 31:18, 38:23, 41:16,</p>	<p>55:15, 69:23, 69:26, 71:21, 85:29, 92:7, 118:14 mine [1] - 38:21 Minister [5] - 28:11, 94:22, 118:21, 128:25, 128:28 MINISTER [1] - 1:7 Minister's [1] - 90:26 Minnock [25] - 18:11, 20:26, 20:27, 20:28, 24:7, 26:16, 36:24, 36:29, 58:11, 58:18, 59:16, 60:4, 60:18, 60:26, 61:6, 62:1, 70:11, 70:14, 70:16, 70:25, 71:1, 71:13, 71:15, 71:28, 74:6 MINNOCK [1] - 3:10 Minnock's [1] - 72:14 minute [7] - 26:1, 55:21, 55:22, 58:27, 110:8, 110:12, 121:17 minutes [29] - 73:5, 98:6, 99:20, 99:21, 100:14, 100:19, 110:9, 114:19, 114:27, 114:28, 116:4, 116:7, 116:16, 116:17, 116:24, 117:23, 117:25, 118:16, 118:19, 118:20, 118:23, 119:29, 129:28, 131:12, 138:17, 139:10, 140:7, 141:1, 141:25 misfortunate [1] - 30:11 misinformation [5] - 20:19, 21:24, 67:8, 67:15, 74:22 misinformed [1] - 67:19 misinterpretation [1] - 47:27 misinterpreted [1] - 48:13 misrecording [1] - 94:27 missed [1] - 61:16 missing [1] - 13:29 mistake [6] - 8:22, 31:2, 31:22, 33:16, 65:19, 142:25 mistaken [4] - 91:17, 92:12, 99:16, 142:23 mistakes [1] - 11:3 misunderstood [1] -</p>	<p>46:16 mobile [1] - 24:20 module [1] - 40:10 moment [19] - 15:2, 31:21, 39:18, 40:5, 43:21, 44:3, 45:24, 68:15, 77:6, 80:26, 94:3, 94:6, 96:1, 110:10, 111:27, 124:21, 125:11, 134:15, 138:5 moments [1] - 82:25 Monday [2] - 109:9, 111:8 money [1] - 13:29 MONICA [1] - 3:16 month [4] - 91:16, 93:14, 100:21, 102:2 months [10] - 13:14, 30:10, 30:13, 31:10, 33:2, 33:4, 63:21, 90:2, 93:24, 95:4 morale [3] - 56:11, 57:1, 77:26 morning [8] - 6:4, 6:6, 6:8, 41:10, 52:25, 55:10, 113:10, 148:5 morning's [1] - 39:11 MORONEY [1] - 3:18 MORRISSEY [1] - 3:26 most [1] - 81:11 mouth [1] - 145:14 move [13] - 11:15, 16:20, 22:22, 36:22, 57:24, 58:3, 62:18, 66:6, 66:26, 94:7, 94:17, 137:5, 141:25 moved [4] - 20:16, 23:14, 23:24, 82:8 movements [1] - 88:12 moves [1] - 91:14 moving [3] - 94:3, 97:14, 109:2 MR [127] - 1:12, 2:2, 2:5, 2:5, 2:7, 2:7, 2:10, 2:11, 2:16, 2:17, 2:21, 2:22, 2:22, 2:28, 2:29, 2:29, 3:13, 3:14, 3:17, 3:23, 3:24, 3:24, 3:25, 4:1, 4:2, 4:7, 4:10, 4:11, 5:5, 5:6, 5:7, 5:9, 5:12, 6:4, 6:11, 6:15, 21:27, 33:14, 34:4, 34:11, 35:2, 35:7, 35:9, 35:12, 35:16, 35:18, 35:23, 36:14, 38:10, 38:13, 38:21, 38:24,</p>	<p>39:2, 39:4, 39:10, 40:4, 40:7, 40:14, 41:2, 41:6, 41:8, 41:20, 41:26, 42:28, 43:11, 43:16, 43:18, 43:20, 43:23, 43:28, 44:5, 44:7, 44:17, 44:19, 44:23, 44:28, 45:2, 45:7, 45:12, 45:19, 45:26, 46:3, 46:5, 46:10, 46:13, 49:8, 49:15, 49:17, 49:19, 49:22, 49:25, 50:3, 51:5, 62:20, 64:8, 64:15, 64:18, 64:21, 65:21, 65:24, 65:29, 66:6, 66:8, 66:22, 66:27, 67:1, 67:29, 68:3, 68:8, 68:13, 69:3, 69:7, 69:10, 69:15, 69:28, 73:2, 73:5, 73:8, 73:11, 75:24, 80:2, 80:17, 116:13, 116:16, 116:20, 116:23, 116:29 MS [56] - 2:8, 2:11, 2:30, 2:30, 3:25, 3:26, 3:26, 3:27, 4:1, 4:7, 4:8, 5:8, 5:14, 70:3, 70:6, 70:9, 71:6, 71:9, 71:16, 71:19, 71:21, 72:3, 72:7, 72:11, 72:13, 72:16, 72:19, 72:22, 72:26, 80:13, 80:18, 80:24, 82:16, 92:20, 112:11, 112:14, 115:27, 116:9, 116:27, 117:3, 117:6, 117:20, 126:22, 129:21, 129:26, 130:5, 130:8, 131:11, 132:12, 136:10, 139:2, 140:7, 142:18, 142:26, 148:13, 148:22 MULCAHY [1] - 3:5 Mulligan [6] - 84:29, 86:11, 86:25, 88:2, 88:6, 99:26 MULLIGAN [2] - 2:11, 3:13 Mulligan's [1] - 86:12 Mullingar [1] - 6:25 multiplicity [2] - 120:20, 143:12 MURPHY [2] - 2:31, 3:23 Murray [75] - 16:23,</p>
---	---	--	---	--

<p>16:28, 18:10, 19:10, 20:26, 20:29, 22:13, 23:2, 23:13, 23:14, 23:25, 24:1, 27:17, 27:21, 27:25, 29:17, 30:7, 30:10, 30:14, 30:29, 31:6, 31:25, 33:8, 33:20, 34:29, 36:18, 37:8, 37:24, 38:2, 40:8, 43:4, 43:14, 46:22, 47:1, 47:5, 47:15, 47:20, 47:27, 48:12, 48:15, 48:17, 49:28, 50:15, 50:17, 58:6, 58:11, 58:19, 59:16, 60:4, 60:19, 60:29, 61:5, 62:2, 62:23, 62:25, 63:7, 63:9, 63:19, 63:22, 63:26, 64:1, 64:27, 64:29, 65:15, 65:26, 66:13, 67:7, 67:12, 73:12, 73:14, 74:6, 95:8, 106:10, 107:19</p> <p>MURRAY [2] - 3:3, 3:9</p> <p>Murray's [10] - 32:8, 41:28, 43:7, 46:15, 46:18, 47:4, 47:22, 47:29, 48:6, 48:22</p> <p>must [2] - 113:21, 146:5</p> <p>MICHEÁL [1] - 3:24</p>	<p>38:18, 60:9, 62:11, 121:28, 138:14, 145:27, 147:7, 147:12, 147:16, 147:18</p> <p>needed [10] - 8:17, 11:2, 17:19, 17:24, 33:17, 53:23, 53:28, 56:26, 97:10, 135:21</p> <p>needs [7] - 34:20, 73:27, 74:19, 100:25, 101:8, 125:17, 132:9</p> <p>neutral [1] - 141:11</p> <p>never [20] - 26:3, 30:5, 45:22, 50:16, 58:15, 59:13, 61:17, 62:22, 68:18, 68:20, 70:18, 74:9, 75:5, 75:15, 75:18, 139:17, 139:18, 139:19, 145:24</p> <p>new [6] - 30:16, 30:17, 32:9, 32:15, 32:16, 56:6</p> <p>newspapers [2] - 29:22, 55:22</p> <p>next [27] - 13:5, 24:25, 26:1, 26:24, 55:21, 55:22, 80:13, 86:15, 87:8, 92:9, 94:27, 95:1, 102:22, 104:5, 109:18, 117:22, 119:28, 121:10, 129:28, 132:12, 132:13, 142:28, 143:19, 145:5, 146:21, 147:5</p> <p>Nicholas [1] - 109:10</p> <p>NICHOLAS [2] - 2:10, 4:5</p> <p>nick [1] - 24:23</p> <p>Nick [33] - 9:17, 24:15, 24:22, 25:2, 25:3, 25:6, 26:18, 26:19, 27:2, 27:5, 30:3, 33:28, 43:24, 47:9, 50:4, 51:24, 58:6, 58:9, 58:17, 59:14, 59:21, 59:27, 60:17, 60:22, 61:12, 61:26, 62:23, 62:25, 63:9, 63:12, 63:13, 71:24, 108:18</p> <p>Nick's [1] - 50:5</p> <p>night [3] - 18:16, 18:23, 19:25</p> <p>nights [2] - 32:4, 75:11</p> <p>nine [1] - 33:4</p> <p>NO [1] - 66:5</p>	<p>nobody [6] - 57:7, 62:14, 74:8, 74:10, 126:28, 144:17</p> <p>NOEL [1] - 4:11</p> <p>NOLAN [1] - 3:7</p> <p>Nolan [1] - 138:24</p> <p>non [1] - 82:22</p> <p>non-policing [1] - 82:22</p> <p>none [1] - 7:28</p> <p>NOREEN [1] - 2:16</p> <p>normal [1] - 123:10</p> <p>NORTHUMBERLAN D [1] - 2:19</p> <p>note [18] - 16:22, 22:7, 25:12, 25:13, 36:24, 37:8, 64:28, 71:16, 71:28, 71:29, 72:4, 72:14, 72:16, 72:21, 91:26, 139:15, 142:27</p> <p>notebook [1] - 15:14</p> <p>noted [2] - 139:4, 139:10</p> <p>notes [20] - 1:26, 24:6, 24:8, 27:17, 41:28, 43:4, 44:9, 46:18, 48:1, 71:3, 99:17, 100:4, 120:21, 121:9, 122:29, 137:22, 139:3, 141:27, 142:10, 142:12</p> <p>nothing [7] - 11:7, 43:26, 44:26, 45:1, 45:29, 85:6, 129:13</p> <p>notice [3] - 34:7, 34:18, 41:20</p> <p>noticed [1] - 20:15</p> <p>notification [1] - 104:16</p> <p>noting [2] - 121:24, 127:14</p> <p>notwithstanding [1] - 110:23</p> <p>November [4] - 86:7, 86:28, 87:4, 87:6</p> <p>nowhere [2] - 7:17, 7:27</p> <p>Nugent [15] - 80:14, 80:20, 80:22, 80:24, 80:25, 106:27, 115:19, 115:27, 123:20, 126:19, 128:11, 130:7, 130:8, 133:28, 136:12</p> <p>nugent [1] - 148:22</p> <p>NUGENT [4] - 3:14, 3:21, 5:12, 80:17</p> <p>number [13] - 9:19,</p>	<p>10:9, 19:1, 41:13, 64:25, 81:5, 82:17, 90:2, 94:5, 103:15, 110:19, 115:28, 118:25</p> <p>number.. [1] - 9:17</p> <p>number [1] - 10:3</p> <p>numbers [7] - 18:26, 18:29, 19:22, 19:24, 19:27, 24:16, 122:18</p> <p>nutshell [1] - 40:26</p> <p>NYLAND [1] - 3:19</p> <p>NÍ [1] - 2:30</p> <p>NÓIRÍN [1] - 3:8</p> <p>Nóirín [2] - 24:24, 25:4</p>	<p>102:15, 102:18, 103:8, 103:13, 105:24, 105:29, 106:17, 106:21, 108:12, 109:4, 110:17, 110:21, 110:28, 113:9, 127:20, 130:10, 141:9</p> <p>October/November [1] - 67:3</p> <p>odd [1] - 110:29</p> <p>odds [2] - 130:14, 130:17</p> <p>OF [15] - 1:2, 1:8, 1:12, 1:13, 2:3, 3:3, 3:16, 38:7, 64:11, 69:12, 72:28, 75:26, 79:28</p> <p>offer [1] - 59:10</p> <p>offering [1] - 58:25</p> <p>OFFICE [1] - 3:27</p> <p>office [40] - 6:29, 16:25, 22:10, 24:13, 29:20, 81:10, 81:12, 83:23, 86:10, 86:23, 86:25, 86:26, 87:2, 87:10, 87:14, 87:28, 88:24, 89:3, 89:8, 90:2, 90:13, 90:22, 90:26, 91:13, 95:15, 95:17, 96:2, 96:11, 96:19, 96:23, 98:6, 101:17, 103:21, 103:25, 109:8, 110:5, 117:16, 142:6</p> <p>office's [1] - 89:29</p> <p>officer [13] - 7:23, 50:11, 50:12, 50:13, 50:19, 50:25, 80:27, 81:11, 82:1, 82:10, 90:11, 103:14, 106:26</p> <p>Officer [2] - 83:9, 83:10</p> <p>OFFICER [2] - 3:12, 3:14</p> <p>officers [2] - 50:22, 111:20</p> <p>official [2] - 114:28, 130:3</p> <p>officially [1] - 95:6</p> <p>often [4] - 15:29, 18:23, 32:4, 32:7</p> <p>OGHUVBU [1] - 3:12</p> <p>Oghuvbu [1] - 83:12</p> <p>OLIVIA [2] - 3:12, 4:1</p> <p>ON [6] - 1:5, 1:9, 1:18, 2:13, 6:1</p> <p>once [1] - 54:6</p> <p>one [77] - 10:20, 12:23, 17:12, 20:14,</p>
O				
<p>O'BRIEN [1] - 2:11</p> <p>o'clock [2] - 39:15, 39:19</p> <p>O'CONNOR [1] - 2:22</p> <p>O'HIGGINS [1] - 3:24</p> <p>O'MARA [1] - 2:18</p> <p>O'NEILL [1] - 4:1</p> <p>O'REARDON [1] - 3:18</p> <p>O'Riordan [2] - 88:25, 90:12</p> <p>O'ROURKE [1] - 4:7</p> <p>O'SULLIVAN [1] - 3:8</p> <p>O'Sullivan [4] - 24:24, 82:4, 91:14, 93:17</p> <p>O'Toole [1] - 24:28</p> <p>objection [3] - 42:15, 49:20, 69:3</p> <p>obtaining [1] - 92:26</p> <p>obvious [1] - 105:9</p> <p>obviously [6] - 13:12, 13:15, 46:1, 70:25, 76:10, 138:12</p> <p>occasion [5] - 33:23, 47:24, 48:7, 48:24, 74:21</p> <p>occasions [5] - 18:10, 23:3, 31:20, 33:21, 73:12</p> <p>occurred [1] - 111:1</p> <p>October [34] - 29:15, 51:29, 84:22, 93:6, 93:9, 93:11, 94:18, 98:24, 99:2, 99:11, 99:17, 99:20, 100:10, 101:4, 101:25, 101:29, 102:12,</p>				

<p>20:20, 31:7, 31:8, 31:9, 33:23, 34:22, 35:13, 37:9, 40:15, 40:17, 40:19, 40:20, 44:23, 46:21, 47:4, 50:13, 50:15, 51:22, 52:8, 53:12, 55:12, 55:18, 55:23, 56:22, 56:24, 57:22, 58:14, 58:22, 59:7, 59:8, 63:2, 69:2, 70:29, 74:16, 77:6, 79:15, 81:21, 82:27, 84:13, 86:17, 92:9, 94:5, 95:4, 97:12, 97:13, 97:15, 98:27, 100:9, 100:11, 101:5, 102:19, 115:28, 116:20, 117:7, 117:19, 118:25, 119:9, 122:20, 122:25, 123:27, 126:13, 126:17, 128:16, 128:26, 129:1, 129:3, 129:7, 133:29, 135:24, 135:27, 137:18, 139:15, 145:5</p> <p>one-page [1] - 117:19</p> <p>ones [1] - 121:10</p> <p>ongoing [1] - 94:29</p> <p>onwards [1] - 108:2</p> <p>open [7] - 27:10, 35:15, 76:7, 97:13, 99:20, 101:3, 116:21</p> <p>opened [5] - 8:5, 25:12, 35:28, 100:22, 119:23</p> <p>opening [2] - 49:9, 102:13</p> <p>opinion [2] - 23:19, 44:15</p> <p>opportunity [2] - 35:14, 125:24</p> <p>opposing [1] - 125:19</p> <p>order [6] - 8:29, 11:2, 34:20, 38:18, 44:28, 88:29</p> <p>organisation [20] - 29:11, 85:14, 92:25, 93:18, 93:20, 107:17, 108:3, 108:6, 108:9, 122:24, 124:5, 124:6, 124:9, 124:16, 124:23, 125:5, 125:17, 125:23, 146:28, 146:29</p> <p>organisation's [2] -</p>	<p>83:24, 136:26</p> <p>organisational [3] - 122:2, 123:18</p> <p>organise [1] - 110:7</p> <p>organised [9] - 93:10, 93:14, 95:21, 95:22, 100:9, 100:10, 101:1, 102:7, 108:28</p> <p>organising [1] - 89:10</p> <p>original [1] - 78:29</p> <p>ORLA [1] - 3:21</p> <p>OSMOND [1] - 3:28</p> <p>OTHER [1] - 1:3</p> <p>ought [1] - 78:9</p> <p>ourselves [2] - 26:2, 57:18</p> <p>outline [4] - 6:18, 11:6, 82:13, 82:16</p> <p>outlined [4] - 61:28, 61:29, 87:4, 115:2</p> <p>outlines [1] - 100:24</p> <p>outlining [2] - 94:22, 113:17</p> <p>outs [4] - 11:9, 11:12, 16:10, 31:18</p> <p>outset [6] - 122:11, 122:29, 123:21, 124:19, 125:5, 125:9</p> <p>outside [2] - 42:16, 68:15</p> <p>outstanding [2] - 98:5, 109:19</p> <p>oversee [1] - 106:27</p> <p>overtakes [1] - 91:7</p> <p>own [38] - 12:13, 17:5, 17:7, 17:23, 17:27, 17:28, 18:3, 20:20, 21:25, 25:19, 29:11, 29:27, 30:1, 30:26, 31:17, 51:12, 51:17, 53:5, 53:7, 53:27, 54:2, 54:3, 54:17, 55:10, 55:20, 57:4, 57:6, 58:2, 59:7, 61:19, 62:12, 68:29, 70:16, 87:21, 119:15, 143:21</p>	<p>64:28, 65:18, 66:3, 66:8, 66:23, 66:24, 67:21, 67:24, 70:27, 71:3, 71:19, 84:17, 86:16, 88:23, 95:1, 95:2, 100:16, 100:22, 102:22, 104:5, 106:14, 115:28, 117:10, 117:19, 117:22, 117:27, 118:3, 118:5, 121:10, 126:2, 132:12, 132:13, 137:1, 137:5, 139:2, 142:28, 143:10, 143:19, 146:21, 147:5, 147:10, 147:14</p> <p>pages [2] - 134:23, 143:11</p> <p>painted [1] - 56:24</p> <p>papers [3] - 85:4, 97:1, 122:5</p> <p>paragraph [15] - 46:21, 48:29, 65:2, 65:3, 66:12, 86:17, 87:8, 94:24, 94:28, 97:24, 101:19, 102:23, 103:29, 111:10, 127:12</p> <p>parallel [2] - 106:7, 121:2</p> <p>parcel [1] - 29:9</p> <p>pardon [1] - 37:7</p> <p>part [8] - 6:21, 29:9, 33:27, 34:27, 44:10, 45:19, 120:7, 121:1</p> <p>particular [17] - 7:16, 9:21, 29:26, 43:24, 69:17, 70:29, 78:1, 85:24, 86:3, 86:6, 91:13, 120:11, 123:9, 123:11, 123:13, 131:24, 140:12</p> <p>particularly [5] - 84:14, 85:9, 86:6, 105:7, 113:18</p> <p>parties [1] - 38:25</p> <p>pass [1] - 26:20</p> <p>passed [4] - 74:6, 87:20, 95:14, 113:7</p> <p>PASSED [1] - 1:4</p> <p>passing [1] - 98:17</p> <p>past [8] - 17:5, 30:21, 51:18, 52:24, 53:5, 54:26, 57:14, 70:17</p> <p>Pat [11] - 46:15, 46:22, 58:6, 58:11, 59:16, 62:23, 62:25, 63:7, 63:9, 63:18,</p>	<p>107:18</p> <p>PATRICK [4] - 2:7, 2:11, 2:28, 3:3</p> <p>Patrick [2] - 40:8, 106:10</p> <p>PAUL [3] - 2:16, 2:21, 4:2</p> <p>pause [1] - 115:10</p> <p>pay [2] - 90:19, 91:21</p> <p>PDs [3] - 85:3, 85:18, 85:25</p> <p>peculiar [3] - 110:23, 111:25, 112:1</p> <p>PEGGY [1] - 4:7</p> <p>PEMS [1] - 9:5</p> <p>PEOPLE [1] - 3:16</p> <p>people [60] - 11:11, 18:12, 20:19, 21:18, 21:20, 21:25, 23:26, 26:9, 26:11, 30:15, 30:19, 30:26, 31:10, 31:11, 31:12, 31:14, 31:27, 32:11, 32:12, 33:12, 33:29, 56:12, 56:14, 56:16, 56:19, 56:24, 56:25, 57:22, 58:27, 59:3, 61:3, 61:12, 62:6, 62:7, 62:11, 63:27, 77:2, 77:4, 78:7, 79:3, 79:10, 79:20, 91:12, 104:15, 109:14, 121:12, 122:18, 124:29, 125:6, 125:26, 133:8, 135:15, 135:20, 135:25, 140:8, 144:26</p> <p>perceived [1] - 63:9</p> <p>percent [2] - 12:23, 59:9</p> <p>perception [3] - 56:20, 79:20, 145:15</p> <p>peregrine [1] - 93:23</p> <p>perfectly [1] - 69:23</p> <p>perhaps [8] - 7:6, 12:29, 22:22, 41:13, 52:2, 112:3, 116:24, 129:29</p> <p>period [9] - 34:14, 64:5, 70:13, 88:10, 88:23, 93:22, 111:14, 124:28, 124:29</p> <p>periods [1] - 84:10</p> <p>person [11] - 7:13, 10:1, 12:4, 27:6, 31:28, 42:4, 57:14, 115:3, 133:29, 135:25, 135:27</p> <p>personal [4] - 55:25, 55:29, 77:27, 87:21</p>	<p>persons [1] - 82:27</p> <p>perspective [3] - 89:29, 122:2, 147:4</p> <p>pertaining [2] - 106:18, 106:27</p> <p>Peter [3] - 111:28, 117:1, 117:17</p> <p>PETER [2] - 2:5, 3:14</p> <p>PHILIP [1] - 2:5</p> <p>phone [20] - 17:29, 18:2, 18:15, 18:19, 18:26, 18:28, 20:5, 21:3, 21:4, 26:18, 58:24, 58:26, 59:5, 59:11, 61:11, 61:19, 72:16, 74:17, 74:18, 75:4</p> <p>phoned [2] - 16:26, 22:11</p> <p>phrase [3] - 58:2, 81:26, 114:25</p> <p>pick [1] - 128:3</p> <p>picked [1] - 133:4</p> <p>picture [4] - 29:29, 81:14, 121:23, 124:1</p> <p>piece [6] - 7:18, 92:27, 115:15, 119:15, 119:19, 132:11</p> <p>piece" [1] - 119:25</p> <p>pieces [1] - 133:3</p> <p>pile [1] - 34:9</p> <p>PLACE [1] - 4:9</p> <p>place [13] - 31:13, 56:2, 56:17, 79:18, 89:6, 93:18, 100:13, 105:11, 112:8, 123:19, 125:25, 128:6, 129:8</p> <p>placed [3] - 47:3, 95:6, 139:8</p> <p>plan [1] - 101:26</p> <p>play [2] - 121:24, 123:15</p> <p>played [2] - 20:2, 33:26</p> <p>plural [1] - 107:16</p> <p>pocket [1] - 58:26</p> <p>point [56] - 14:24, 23:20, 23:21, 25:28, 27:28, 34:17, 34:19, 38:16, 39:8, 41:7, 42:20, 42:22, 42:24, 45:17, 49:5, 54:11, 58:9, 59:6, 59:8, 59:14, 59:26, 60:16, 61:25, 68:6, 82:6, 83:10, 89:9, 90:24, 91:10, 91:18, 92:24, 92:29, 95:20, 95:23,</p>
P				
<p>Paddy [1] - 27:24</p> <p>PAGE [1] - 5:2</p> <p>page [61] - 6:15, 7:10, 9:8, 9:23, 10:7, 11:15, 13:1, 13:9, 16:21, 24:5, 27:15, 29:15, 36:23, 49:6, 52:6, 52:25, 52:26,</p>				

<p>101:27, 102:2, 105:19, 105:20, 107:22, 110:1, 111:25, 112:27, 114:22, 115:18, 120:27, 120:28, 123:3, 123:14, 126:25, 126:26, 126:28, 127:8, 131:27, 137:24, 138:29</p> <p>pointed [2] - 17:21, 53:25</p> <p>Police [2] - 45:9, 45:17</p> <p>police [1] - 45:16</p> <p>policies [1] - 30:17</p> <p>Policing [12] - 42:27, 42:28, 45:4, 47:11, 50:1, 65:7, 94:21, 95:21, 95:26, 106:8, 107:18, 108:7</p> <p>policing [3] - 6:23, 82:22, 90:10</p> <p>policy [12] - 119:21, 122:22, 135:7, 135:11, 136:27, 137:14, 137:28, 137:29, 138:8, 140:15, 146:4, 146:10</p> <p>poly [1] - 104:9</p> <p>portion [2] - 56:16, 71:22</p> <p>portray [1] - 61:9</p> <p>position [20] - 38:11, 38:13, 38:17, 40:5, 40:27, 40:29, 42:10, 43:24, 74:25, 84:20, 98:3, 104:13, 108:13, 125:19, 128:9, 128:12, 129:21, 130:10, 131:2, 138:6</p> <p>positions [4] - 74:26, 81:7, 114:11, 138:15</p> <p>Positive [1] - 104:9</p> <p>possession [1] - 104:23</p> <p>possible [14] - 12:5, 12:6, 12:11, 12:12, 14:15, 14:26, 16:1, 16:4, 16:16, 27:27, 71:17, 91:24, 112:3, 119:2</p> <p>possibly [2] - 14:7, 142:8</p> <p>Post [1] - 28:5</p> <p>postpone [1] - 35:5</p> <p>potentially [1] - 36:4</p> <p>pots [1] - 133:6</p> <p>POWER [1] - 4:10</p>	<p>practice [1] - 123:10</p> <p>precisely [1] - 127:11</p> <p>predate [1] - 111:15</p> <p>prefer [3] - 35:5, 58:15, 58:29</p> <p>preference [2] - 32:5, 146:13</p> <p>preferred [2] - 43:7, 95:9</p> <p>prepare [1] - 109:9</p> <p>preparing [1] - 117:29</p> <p>present [5] - 38:13, 62:22, 98:3, 99:26, 104:12</p> <p>presided [1] - 47:10</p> <p>PRESIDENT [2] - 1:13, 2:3</p> <p>press [7] - 85:10, 102:4, 102:5, 108:21, 124:13, 125:11, 145:13</p> <p>pressing [2] - 49:10, 126:25</p> <p>pressure [4] - 11:22, 12:18, 15:21, 124:10</p> <p>pretty [2] - 148:10, 148:20</p> <p>prevarication [1] - 137:21</p> <p>previous [6] - 28:11, 64:2, 96:11, 100:26, 122:20, 139:6</p> <p>previously [2] - 77:23, 127:1</p> <p>primarily [3] - 54:16, 84:11, 124:5</p> <p>primary [3] - 7:18, 114:16, 130:20</p> <p>principle [1] - 42:20</p> <p>print [1] - 112:22</p> <p>priority [1] - 87:12</p> <p>privacy [3] - 112:27, 122:14, 123:3</p> <p>private [3] - 55:29, 57:10, 125:8</p> <p>privately [1] - 69:20</p> <p>problem [9] - 11:7, 11:12, 23:10, 31:24, 39:6, 49:22, 76:27, 77:22, 92:19</p> <p>problems [4] - 33:10, 56:19, 63:24, 66:16</p> <p>procedures [2] - 8:29, 32:16</p> <p>proceed [9] - 34:19, 35:3, 36:12, 103:3, 119:19, 125:23, 136:1, 143:23, 144:4</p>	<p>proceeding [1] - 132:10</p> <p>process [9] - 95:20, 95:25, 95:26, 100:15, 107:13, 112:29, 121:5, 122:16, 126:26</p> <p>produce [5] - 38:27, 39:11, 39:13, 39:14</p> <p>produced [1] - 10:11</p> <p>producing [1] - 39:13</p> <p>professional [1] - 56:1</p> <p>progress [9] - 91:14, 114:5, 114:23, 127:8, 128:7, 128:10, 128:12, 130:22, 147:7</p> <p>progressed [11] - 88:2, 89:18, 92:26, 105:8, 106:7, 114:4, 114:18, 136:26, 138:28, 141:10, 147:28</p> <p>progressing [16] - 85:20, 99:4, 107:29, 113:3, 128:17, 131:6, 131:29, 133:7, 138:26, 139:24, 139:27, 140:1, 140:2, 145:17, 146:18, 147:1</p> <p>progression [2] - 96:29, 133:25</p> <p>prolong [1] - 35:16</p> <p>promoted [1] - 65:11</p> <p>promotion [11] - 40:8, 41:12, 47:6, 57:20, 57:21, 65:5, 65:22, 66:2, 95:7, 95:25, 106:9</p> <p>proper [2] - 8:29, 138:29</p> <p>properly [6] - 85:17, 108:5, 108:26, 123:12, 124:7, 124:17</p> <p>property [7] - 6:27, 8:10, 8:28, 9:4, 10:28, 11:10</p> <p>proposal [1] - 141:18</p> <p>propose [1] - 36:5</p> <p>proposed [3] - 130:23, 133:19, 133:21</p> <p>prosecute [1] - 144:26</p> <p>protect [1] - 32:17</p> <p>protected [11] - 62:27, 76:24, 77:20, 78:6, 85:10, 85:14, 85:27, 93:29, 95:9, 118:28, 122:7</p>	<p>PROTECTED [2] - 1:2, 1:3</p> <p>provide [3] - 90:15, 137:13, 137:15</p> <p>provided [14] - 85:15, 87:4, 87:5, 92:5, 104:16, 110:10, 112:16, 118:2, 121:26, 123:24, 140:15, 140:17, 148:14</p> <p>proving [1] - 56:26</p> <p>prudent [1] - 89:19</p> <p>pry [1] - 76:6</p> <p>public [9] - 18:6, 54:6, 55:28, 56:13, 66:15, 85:26, 93:26, 125:2, 145:12</p> <p>publically [2] - 145:7, 145:8</p> <p>publicly [1] - 145:26</p> <p>published [1] - 78:7</p> <p>punished [2] - 30:23, 31:8</p> <p>purely [2] - 123:28, 135:19</p> <p>purpose [10] - 88:13, 92:7, 109:16, 120:1, 121:13, 121:22, 122:28, 123:29, 125:5</p> <p>purposes [3] - 124:3, 128:26, 129:1</p> <p>pursue [1] - 66:20</p> <p>pursued [2] - 89:1, 125:22</p> <p>put [30] - 9:9, 13:2, 16:9, 24:2, 38:17, 45:14, 48:14, 67:7, 67:18, 70:11, 71:1, 72:7, 72:9, 72:19, 74:5, 74:25, 74:26, 100:4, 108:13, 114:10, 117:17, 118:1, 123:19, 125:20, 127:23, 132:1, 133:6, 138:23, 141:29</p> <p>putting [3] - 48:16, 48:18, 145:14</p>	<p>query [1] - 133:14</p> <p>querying [2] - 126:11, 126:22</p> <p>QUESTIONED [2] - 5:10, 76:1</p> <p>questioned [1] - 45:17</p> <p>questioning [1] - 69:18</p> <p>QUESTIONING [1] - 79:28</p> <p>questions [17] - 22:3, 38:22, 42:14, 49:1, 49:3, 64:15, 69:4, 69:29, 70:1, 70:2, 73:3, 80:1, 80:2, 80:3, 105:4</p> <p>quickly [2] - 91:15, 93:4</p> <p>quiet [5] - 90:5, 90:6, 91:1, 93:4, 113:24</p> <p>QUINN [1] - 3:11</p> <p>quite [15] - 12:5, 14:15, 14:26, 16:1, 16:16, 27:27, 34:11, 38:21, 48:11, 58:23, 64:25, 88:26, 111:13, 131:16</p>
R				
<p>raise [1] - 93:8</p> <p>raised [10] - 14:11, 15:19, 42:15, 87:26, 109:18, 113:1, 121:24, 121:29, 124:12, 124:18</p> <p>raises [2] - 100:27, 133:14</p> <p>raising [4] - 78:11, 95:12, 97:23, 111:23</p> <p>rang [5] - 12:7, 12:9, 24:16, 26:27, 61:16</p> <p>range [8] - 90:27, 91:3, 105:4, 112:4, 123:11, 134:8, 135:16, 136:22</p> <p>ranging [1] - 41:13</p> <p>rank [3] - 31:1, 81:19, 83:9</p> <p>ranks [1] - 7:14</p> <p>rather [4] - 38:16, 46:26, 85:19, 118:16</p> <p>re [5] - 11:23, 28:11, 37:21, 49:9, 146:25</p> <p>re-opening [1] - 49:9</p> <p>read [15] - 13:6, 13:8, 37:1, 46:26, 46:27, 46:28, 47:3, 47:22,</p>				
Q				
<p>quantify [1] - 121:1</p> <p>QUAY [3] - 2:24, 2:31, 4:12</p> <p>queried [4] - 32:12, 32:14, 43:13, 119:25</p> <p>queries [4] - 102:17, 106:7, 108:7, 140:9</p>				

<p>48:5, 48:21, 52:27, 142:1, 142:3</p> <p>reading [1] - 111:1</p> <p>real [2] - 83:25, 94:12</p> <p>reality [1] - 56:21</p> <p>really [10] - 10:12, 25:19, 41:11, 43:5, 86:16, 112:28, 118:25, 126:25, 138:14, 146:1</p> <p>reason [15] - 10:22, 14:24, 14:29, 16:17, 16:18, 19:28, 21:18, 27:24, 62:9, 70:20, 72:25, 77:1, 102:7, 122:24, 124:19</p> <p>reasonable [4] - 38:20, 39:15, 146:16, 146:18</p> <p>reasonably [1] - 69:23</p> <p>reasons [2] - 107:12, 123:27</p> <p>reassure [1] - 41:15</p> <p>receipt [1] - 113:19</p> <p>receive [1] - 19:1</p> <p>received [11] - 9:16, 18:15, 18:23, 26:17, 58:16, 61:18, 86:23, 86:29, 104:3, 143:3</p> <p>receiving [4] - 36:4, 36:16, 54:13, 112:14</p> <p>recently [2] - 127:2, 127:19</p> <p>recognise [2] - 51:14, 123:2</p> <p>recognition [1] - 136:2</p> <p>recollection [4] - 10:25, 10:26, 11:6, 12:2</p> <p>reconciling [1] - 117:5</p> <p>record [5] - 28:10, 38:27, 68:11, 99:23, 100:3</p> <p>recorded [8] - 15:14, 27:6, 27:17, 27:21, 29:16, 45:12, 61:20, 143:21</p> <p>recording [1] - 75:5</p> <p>records [2] - 26:25, 64:29</p> <p>recourse [1] - 106:28</p> <p>REDDY [1] - 4:8</p> <p>refer [5] - 67:21, 67:25, 67:26, 98:2, 110:16</p> <p>reference [14] - 7:11,</p>	<p>66:2, 82:1, 88:18, 99:16, 100:7, 100:8, 100:11, 100:16, 110:20, 111:28, 126:29, 142:22, 145:12</p> <p>referenced [6] - 99:5, 121:13, 121:17, 122:26, 127:6, 134:7</p> <p>references [6] - 81:24, 110:22, 111:8, 121:3, 131:15, 131:17</p> <p>referencing [6] - 88:26, 110:28, 112:1, 112:7, 123:7, 133:9</p> <p>referred [1] - 116:17</p> <p>referring [4] - 103:26, 103:28, 116:25, 143:9</p> <p>refers [2] - 28:13, 41:21</p> <p>refresh [1] - 88:14</p> <p>refreshing [1] - 92:7</p> <p>refute [1] - 95:25</p> <p>regard [7] - 28:28, 35:25, 83:23, 94:23, 102:7, 105:10, 112:23</p> <p>regarding [9] - 9:20, 17:2, 53:2, 60:23, 78:21, 90:18, 91:21, 105:13, 111:14</p> <p>regardless [2] - 31:1, 55:8</p> <p>regime [1] - 32:11</p> <p>Region [4] - 89:19, 90:8, 110:1, 111:16</p> <p>REGISTRAR [1] - 2:5</p> <p>regret [1] - 40:17</p> <p>regular [4] - 6:26, 12:5, 17:29, 25:2</p> <p>reignite [1] - 77:22</p> <p>reject [1] - 118:7</p> <p>rejected [1] - 121:8</p> <p>relate [2] - 88:15, 90:16</p> <p>related [16] - 41:11, 90:19, 91:3, 91:21, 107:10, 107:14, 107:18, 108:23, 112:29, 113:1, 122:16, 131:22, 135:20, 137:25, 138:2, 138:21</p> <p>relates [1] - 69:18</p> <p>relating [4] - 41:10, 41:12, 105:7, 123:6</p> <p>relation [93] - 8:7, 8:22, 8:25, 8:26, 9:1, 10:13, 10:29, 11:1, 11:8, 12:2, 12:3,</p>	<p>12:28, 14:1, 14:25, 15:1, 16:7, 16:12, 17:6, 17:11, 17:12, 17:16, 17:23, 17:25, 18:4, 19:11, 21:16, 21:28, 21:29, 22:5, 23:19, 23:29, 25:16, 25:27, 27:13, 28:1, 29:3, 29:27, 30:5, 30:7, 30:8, 32:6, 32:8, 32:13, 32:14, 33:11, 36:17, 36:22, 36:26, 40:22, 41:22, 41:27, 42:1, 42:3, 42:12, 42:15, 42:19, 43:23, 44:8, 50:6, 53:6, 53:11, 53:12, 53:20, 53:27, 53:29, 62:12, 65:7, 65:22, 65:24, 65:25, 66:12, 69:4, 70:28, 71:29, 73:15, 73:24, 75:17, 78:17, 84:5, 86:8, 92:23, 97:23, 98:28, 106:8, 106:9, 107:21, 112:6, 113:19, 124:22, 130:14, 138:23, 140:28</p> <p>relations [1] - 44:15</p> <p>relay [1] - 73:19</p> <p>relayed [5] - 61:1, 61:5, 61:6, 74:21</p> <p>release [1] - 125:11</p> <p>released [1] - 9:1</p> <p>relevance [3] - 40:9, 69:21, 85:22</p> <p>relevant [13] - 7:3, 34:23, 35:11, 35:14, 35:15, 36:5, 42:20, 51:22, 85:8, 85:9, 112:5, 133:6, 133:7</p> <p>reluctant [1] - 39:4</p> <p>remember [33] - 12:11, 12:17, 14:5, 14:28, 16:1, 16:6, 16:9, 16:10, 16:11, 22:5, 23:10, 24:3, 26:22, 27:23, 27:28, 28:20, 33:1, 48:10, 53:15, 65:13, 68:21, 84:18, 95:15, 95:16, 97:15, 97:18, 97:21, 97:22, 103:9, 112:14, 112:23, 141:14, 141:23</p> <p>remit [1] - 90:16</p> <p>reopen [2] - 42:25</p> <p>repair [1] - 79:25</p> <p>repeating [1] - 25:19</p> <p>repercussions [1] -</p>	<p>77:21</p> <p>replied [1] - 47:8</p> <p>report [10] - 9:16, 22:4, 28:16, 58:5, 59:29, 81:18, 82:22, 83:29, 98:3, 124:25</p> <p>reported [8] - 60:22, 60:26, 62:1, 62:10, 82:29, 83:1, 83:11, 83:17</p> <p>reporting [10] - 16:28, 58:10, 58:18, 59:14, 67:6, 67:12, 82:18, 83:4, 83:14, 84:4</p> <p>reports [9] - 59:27, 60:1, 60:2, 60:3, 60:17, 61:26, 83:1, 86:15, 141:19</p> <p>represented [1] - 77:25</p> <p>reputation [8] - 22:16, 55:1, 55:2, 55:3, 55:4, 55:8, 55:12</p> <p>request [3] - 10:3, 10:16, 51:21</p> <p>requested [3] - 22:4, 96:17, 140:27</p> <p>requesting [1] - 9:17</p> <p>requests [1] - 119:1</p> <p>required [1] - 118:21</p> <p>requires [3] - 115:8, 118:11, 135:11</p> <p>residential [1] - 22:21</p> <p>resigned [2] - 82:5, 93:17</p> <p>RESOLUTIONS [1] - 1:4</p> <p>resolved [9] - 17:8, 27:9, 51:12, 51:18, 52:24, 53:8, 57:7, 57:8, 78:4</p> <p>resolving [1] - 107:5</p> <p>RESOURCES [1] - 3:16</p> <p>respect [19] - 27:26, 41:3, 45:3, 45:29, 87:16, 88:7, 92:27, 96:16, 97:25, 98:5, 102:26, 103:14, 108:2, 109:9, 123:20, 125:18, 127:19, 139:13</p> <p>respectful [2] - 125:21, 125:28</p> <p>respecting [2] - 122:14, 122:15</p> <p>respond [2] - 123:2,</p>	<p>128:28</p> <p>responds [1] - 126:12</p> <p>response [10] - 52:27, 91:9, 96:17, 98:5, 98:26, 102:17, 121:25, 123:18, 123:19, 123:23</p> <p>responses [1] - 98:25</p> <p>responsibilities [3] - 82:7, 82:11, 107:14</p> <p>responsibility [15] - 82:20, 83:24, 83:28, 84:1, 85:13, 106:5, 107:5, 108:1, 108:4, 112:26, 122:22, 126:20, 126:21, 140:4, 140:5</p> <p>result [5] - 59:27, 59:29, 60:17, 61:26, 114:22</p> <p>resulting [1] - 103:15</p> <p>resume [1] - 39:19</p> <p>RESUMED [2] - 6:1, 40:1</p> <p>resurrect [1] - 77:22</p> <p>RETIRED [7] - 3:5, 3:7, 3:7, 3:8, 3:11, 3:13, 3:14</p> <p>retired [2] - 107:20, 138:23</p> <p>returned [1] - 10:10</p> <p>review [1] - 67:4</p> <p>revisit [4] - 40:26, 43:2, 46:2, 78:28</p> <p>revisited [1] - 57:16</p> <p>riled [1] - 20:17</p> <p>ring [9] - 19:2, 20:4, 20:8, 20:12, 26:17, 117:28, 119:8, 119:26</p> <p>ringing [7] - 18:27, 19:28, 58:24, 58:25, 58:28, 59:3, 61:13</p> <p>rings [1] - 73:29</p> <p>rise [1] - 38:19</p> <p>road [4] - 17:15, 34:6, 53:19, 78:14</p> <p>ROAD [1] - 2:19</p> <p>role [11] - 43:24, 45:17, 54:22, 81:1, 88:1, 98:24, 98:27, 110:7, 112:29, 113:2, 139:20</p> <p>room [4] - 123:1, 123:17, 125:9, 138:27</p> <p>rose [3] - 76:28, 77:1</p> <p>round [1] - 130:3</p> <p>Ruane [4] - 99:28, 115:3, 115:15, 119:11</p>
---	---	--	--	---

<p>ruled [4] - 43:1, 43:19, 49:10, 50:1</p> <p>ruling [10] - 40:14, 40:26, 41:4, 45:4, 45:28, 46:2, 65:20, 66:21, 66:25</p> <p>rulings [1] - 64:9</p> <p>rumour [2] - 16:12, 23:29</p> <p>rumours [1] - 13:28</p> <p>run [3] - 22:17, 52:2, 95:26</p> <p>rushing [1] - 130:1</p> <p>RYAN [2] - 1:12, 2:2</p>	<p>SEANAD [1] - 1:5</p> <p>second [12] - 9:13, 29:5, 29:11, 42:24, 52:8, 65:2, 76:20, 100:11, 103:29, 111:10, 115:10, 129:3</p> <p>secondly [1] - 110:8</p> <p>Secondly [1] - 123:5</p> <p>secretary [1] - 82:24</p> <p>secreted [1] - 95:6</p> <p>security [1] - 90:11</p> <p>see [87] - 8:2, 9:14, 9:24, 11:18, 13:5, 20:24, 22:7, 24:7, 25:7, 25:28, 26:13, 26:15, 26:20, 26:24, 28:1, 28:16, 28:25, 30:29, 31:24, 33:1, 37:11, 38:26, 39:8, 39:13, 40:29, 42:29, 43:3, 45:6, 49:14, 51:28, 52:6, 52:7, 60:26, 66:13, 81:29, 84:22, 85:16, 86:9, 86:16, 86:21, 87:8, 88:7, 89:13, 90:1, 90:5, 91:19, 91:24, 92:4, 92:5, 94:24, 97:4, 97:21, 97:24, 98:26, 99:21, 100:21, 101:4, 101:13, 102:20, 103:21, 104:25, 106:13, 108:1, 110:19, 111:18, 112:25, 112:29, 117:18, 117:22, 117:26, 121:15, 121:20, 126:2, 131:7, 133:11, 138:18, 139:20, 139:28, 140:21, 140:29, 142:10, 142:18, 142:22, 142:26, 143:12, 143:25</p> <p>seeing [2] - 44:12, 112:23</p> <p>seek [1] - 64:9</p> <p>seeking [1] - 102:28</p> <p>seem [7] - 34:22, 52:2, 100:7, 114:10, 137:22, 146:15, 146:17</p> <p>segment [1] - 119:20</p> <p>segments [1] - 144:8</p> <p>selection [1] - 95:20</p> <p>send [2] - 96:21, 109:21</p> <p>sending [1] - 98:25</p> <p>senior [12] - 21:28,</p>	<p>50:11, 50:12, 50:13, 50:19, 50:22, 50:24, 81:7, 81:11, 81:16, 82:17, 105:12</p> <p>sense [9] - 19:8, 19:11, 63:5, 94:12, 107:25, 107:26, 112:9, 121:28, 130:17</p> <p>sensitive [2] - 121:27, 125:8</p> <p>sensitivity [1] - 123:2</p> <p>sent [7] - 28:10, 52:16, 84:20, 94:16, 110:21, 110:27, 111:6</p> <p>sentence [2] - 65:3, 66:1</p> <p>separate [6] - 67:1, 75:20, 75:22, 75:23, 117:10, 136:16</p> <p>September [9] - 37:9, 82:4, 97:14, 97:15, 97:27, 98:14, 98:16, 102:18, 103:27</p> <p>sequence [3] - 39:8, 85:12, 94:7</p> <p>SERGEANT [5] - 3:13, 3:20, 4:6, 4:6, 4:7</p> <p>Sergeant [4] - 18:14, 22:4, 99:27</p> <p>sergeant [2] - 27:5, 33:28</p> <p>series [2] - 95:18, 112:15</p> <p>serious [4] - 21:7, 76:10, 77:14, 105:5</p> <p>seriously [1] - 48:28</p> <p>served [1] - 51:20</p> <p>serves [1] - 108:19</p> <p>service [3] - 81:5, 82:24, 125:2</p> <p>SERVICES [1] - 1:29</p> <p>Services [1] - 1:24</p> <p>services [3] - 82:22, 84:2, 84:3</p> <p>services.. [1] - 106:19</p> <p>set [16] - 17:15, 18:20, 19:18, 21:15, 26:4, 27:11, 35:23, 53:19, 78:14, 110:12, 116:23, 119:28, 121:12, 121:22</p> <p>setting [1] - 124:14</p> <p>seven [1] - 37:11</p> <p>several [9] - 12:24, 18:10, 18:25, 23:2, 30:19, 31:20, 62:14, 73:12, 79:9</p>	<p>SHANE [1] - 3:23</p> <p>SHANKEY [1] - 3:22</p> <p>SHANKEY-SMITH [1] - 3:22</p> <p>SHANNON [1] - 2:13</p> <p>SHEAHAN [1] - 3:19</p> <p>Sheehan [1] - 83:20</p> <p>sheet [1] - 101:3</p> <p>SHELLEY [1] - 3:25</p> <p>SHIP [1] - 3:28</p> <p>shock [1] - 36:1</p> <p>short [2] - 7:2, 9:25</p> <p>shortly [2] - 84:19, 91:16</p> <p>show [3] - 23:14, 33:16, 46:15</p> <p>showed [1] - 113:25</p> <p>sic [1] - 36:1</p> <p>sick [6] - 22:25, 30:9, 33:2, 33:13, 33:20, 94:28</p> <p>sickness [1] - 119:4</p> <p>side [4] - 21:10, 30:24, 70:20, 131:13</p> <p>sign [4] - 7:24, 11:10, 11:11</p> <p>signed [6] - 7:26, 9:5, 9:6, 10:5, 10:14</p> <p>significance [1] - 47:3</p> <p>simple [1] - 45:27</p> <p>simply [6] - 36:4, 62:18, 71:14, 72:7, 80:4, 118:7</p> <p>singular [2] - 63:5, 124:2</p> <p>singularly [1] - 124:3</p> <p>SINÉAD [1] - 4:8</p> <p>SINéAD [1] - 2:8</p> <p>sit [2] - 38:29, 80:22</p> <p>sits [1] - 81:15</p> <p>situation [15] - 17:1, 17:4, 20:16, 25:19, 44:14, 45:27, 53:1, 53:4, 58:22, 59:1, 61:15, 74:14, 75:1, 75:5, 144:20</p> <p>six [1] - 37:11</p> <p>sky [1] - 93:23</p> <p>sleepless [1] - 75:11</p> <p>slightest [1] - 66:24</p> <p>slightly [4] - 110:20, 115:10, 115:11, 115:15</p> <p>slow [2] - 69:24, 69:26</p> <p>small [1] - 27:28</p> <p>SMITH [1] - 3:22</p> <p>SMITHFIELD [2] - 2:25, 4:13</p>	<p>snowballing [1] - 21:8</p> <p>sober [1] - 18:17</p> <p>socialising [1] - 55:27</p> <p>SOLE [1] - 2:2</p> <p>solicitor [4] - 40:28, 87:1, 87:2, 143:11</p> <p>SOLICITOR'S [1] - 3:27</p> <p>solicitors [3] - 121:25, 137:14, 146:14</p> <p>Solicitors [1] - 96:18</p> <p>SOLICITORS [6] - 2:12, 2:18, 2:23, 2:31, 4:8, 4:11</p> <p>someone [6] - 17:11, 21:1, 53:11, 60:27, 74:11, 88:9</p> <p>sometimes [6] - 18:16, 19:26, 19:28, 33:21, 52:21</p> <p>sorry [34] - 7:20, 10:9, 19:14, 36:6, 37:6, 44:3, 47:6, 49:8, 49:15, 50:27, 51:4, 51:27, 61:7, 65:29, 66:4, 67:27, 71:6, 71:10, 72:1, 72:5, 72:18, 76:27, 92:13, 93:7, 102:15, 102:16, 102:18, 115:24, 119:25, 136:9, 137:2, 142:25, 146:22</p> <p>sort [4] - 23:10, 45:22, 74:25, 129:14</p> <p>sought [4] - 42:6, 98:3, 104:2, 105:10</p> <p>sound [3] - 67:27, 106:23, 116:8</p> <p>sounds [1] - 85:1</p> <p>south [1] - 118:22</p> <p>speaking [5] - 47:5, 52:3, 59:20, 60:3, 60:28</p> <p>specific [12] - 44:9, 49:1, 79:11, 113:1, 128:1, 135:18, 136:25, 137:15, 137:26, 137:27, 138:2, 145:28</p> <p>specifically [2] - 84:16, 102:29</p> <p>specificity [3] - 120:28, 128:18, 146:3</p> <p>specifics [11] - 127:2, 127:14, 127:21, 129:22, 130:21, 138:2,</p>
S				
<p>sad [3] - 20:14, 30:27, 56:21</p> <p>safety [1] - 60:24</p> <p>SANDRA [1] - 4:7</p> <p>sat [1] - 82:11</p> <p>satisfactory [1] - 38:28</p> <p>satisfied [2] - 108:26, 144:8</p> <p>SAVAGE [1] - 3:17</p> <p>saw [5] - 57:4, 67:8, 97:9, 136:7, 136:8</p> <p>SC [11] - 2:7, 2:7, 2:10, 2:16, 2:21, 2:28, 3:23, 3:24, 3:24, 4:7, 4:7</p> <p>Scanlan [5] - 88:11, 132:27, 132:28, 133:2, 143:10</p> <p>SCANLAN [1] - 3:9</p> <p>scenario [4] - 16:12, 74:16, 75:7, 79:9</p> <p>scene [1] - 19:18</p> <p>scoping [9] - 119:29, 120:6, 130:18, 131:16, 131:17, 131:26, 132:18, 133:9, 147:20</p> <p>screen [10] - 7:8, 11:16, 12:29, 16:21, 27:15, 36:23, 37:6, 51:26, 84:17, 141:29</p> <p>scroll [10] - 9:13, 9:24, 11:16, 13:1, 13:9, 24:7, 36:25, 71:21, 92:10, 117:18</p> <p>scrolling [3] - 117:22, 118:14, 139:3</p> <p>scrutiny [1] - 79:14</p> <p>scud [1] - 65:11</p> <p>SEAN [4] - 1:12, 2:2, 2:23, 3:18</p>				

<p>140:16, 140:17, 145:21, 147:19, 147:26 speculate [1] - 119:10 speculation [3] - 34:6, 34:9, 35:26 speculative [1] - 34:24 spoken [6] - 15:29, 27:1, 77:3, 98:29, 102:3, 139:18 staff [1] - 122:21 stage [16] - 8:19, 8:23, 11:4, 55:26, 67:11, 67:17, 68:26, 87:15, 87:22, 89:27, 90:23, 97:6, 105:12, 105:25, 105:28, 107:13 stake [1] - 61:25 stamped [1] - 9:25 stand [9] - 12:25, 38:9, 43:21, 48:19, 48:26, 49:3, 50:7, 52:16, 138:4 standing [1] - 55:6 stands [1] - 45:28 start [17] - 26:12, 29:11, 39:12, 46:20, 80:25, 84:8, 114:24, 121:5, 121:7, 127:11, 130:2, 130:24, 130:28, 130:29, 133:20, 138:17, 148:4 started [15] - 17:25, 21:17, 25:29, 26:11, 53:29, 54:6, 55:20, 56:8, 65:29, 79:8, 83:4, 98:22, 105:18, 105:20, 105:22 starting [3] - 56:8, 133:28, 142:10 starts [1] - 102:16 STATE [1] - 3:27 statement [67] - 6:15, 6:16, 7:1, 7:2, 9:9, 9:14, 9:25, 10:17, 17:21, 27:22, 35:21, 35:28, 36:9, 43:12, 46:19, 47:4, 47:22, 48:6, 48:18, 48:19, 48:20, 48:22, 48:27, 49:2, 49:27, 53:25, 65:17, 66:3, 66:9, 67:22, 68:3, 68:6, 68:11, 70:26, 82:13, 82:16, 83:3, 83:15, 87:11, 87:28, 88:9, 88:21, 97:25, 101:8,</p>	<p>106:12, 113:7, 127:15, 127:21, 129:18, 132:18, 132:23, 132:24, 132:25, 134:6, 134:8, 134:10, 135:14, 141:8, 143:3, 143:10, 147:17, 147:19, 147:24, 148:7 statements [6] - 17:22, 50:5, 50:7, 53:26, 78:17, 132:20 states [1] - 104:7 Station [11] - 6:14, 6:26, 9:20, 33:25, 34:13, 34:28, 47:16, 56:4, 77:21, 77:27, 79:13 station [10] - 6:21, 6:22, 6:28, 14:4, 16:14, 32:24, 33:29, 55:22, 56:15, 63:18 status [4] - 109:9, 109:13, 121:23, 124:1 stay [2] - 22:25, 137:2 staying [2] - 125:12, 130:9 steered [1] - 21:23 stenographic [1] - 1:26 stenography [1] - 1:24 STENOGRAPHY [1] - 1:29 step [1] - 93:22 STEPHANIE [1] - 2:28 STEPHEN [1] - 2:22 stepped [1] - 28:9 stepping [1] - 107:3 steps [7] - 55:14, 55:17, 59:26, 60:16, 61:25, 62:4, 109:18 stick [1] - 21:17 still [8] - 37:26, 56:9, 61:11, 62:10, 70:21, 79:23, 79:24, 85:28 stitch [1] - 51:10 stitching [1] - 52:12 stood [1] - 137:27 stop [15] - 19:5, 43:26, 44:26, 45:1, 45:29, 46:6, 49:28, 66:20, 74:5, 74:20, 106:14, 130:6, 135:25, 135:26, 146:22 stopped [1] - 94:25 store [4] - 8:10, 8:28,</p>	<p>10:28, 11:10 storeroom [1] - 7:16 story [2] - 7:21, 28:4 strand [2] - 118:25, 118:26 strands [13] - 102:9, 108:23, 108:26, 120:9, 121:24, 131:29, 132:8, 135:26, 135:28, 138:18, 140:28, 142:19 Strategy [3] - 82:2, 82:12, 110:6 straying [1] - 42:16 STREET [3] - 2:12, 3:28, 4:3 streets [1] - 12:14 stress [2] - 90:19, 91:21 strict [1] - 42:16 stricter [1] - 32:11 strip [1] - 141:18 stronger [1] - 141:11 struggled [1] - 142:1 stuff [7] - 11:10, 11:11, 13:18, 18:1, 21:9, 30:8, 56:20 style [7] - 30:15, 30:22, 31:28, 32:1, 32:18, 63:7, 119:8 styles [1] - 32:21 subject [3] - 34:16, 37:27, 103:1 subject-matter [2] - 34:16, 37:27 submission [3] - 36:7, 90:18, 91:20 submit [1] - 35:15 subsequent [1] - 42:12 subsequently [3] - 100:21, 102:14, 102:24 substance [1] - 112:6 substantive [2] - 75:17, 114:8 sucked [1] - 79:10 sudden [1] - 32:10 sufficient [4] - 128:5, 128:6, 130:21, 145:9 sufficiently [1] - 135:18 suggest [2] - 63:19, 71:25 suggested [1] - 68:9, 69:24, 125:29, 128:14, 128:16, 128:19, 136:1,</p>	<p>137:29, 139:21, 146:6, 147:23 suggesting [5] - 121:4, 128:11, 128:15, 135:24, 147:19 suggestion [3] - 95:23, 132:2, 132:16 suggestions [1] - 123:8 suitable [1] - 96:17 summary [2] - 117:12, 117:21 summer [1] - 143:4 summonses [1] - 6:29 Sun [1] - 28:5 SUPERINTENDENT [15] - 2:16, 3:3, 3:4, 3:5, 3:5, 3:6, 3:9, 3:9, 3:10, 3:14, 3:15, 3:17, 3:19, 3:20, 3:21 Superintendent [115] - 16:22, 16:28, 18:10, 18:11, 19:10, 20:25, 20:27, 20:28, 20:29, 22:1, 22:13, 23:2, 23:13, 23:14, 23:25, 23:29, 24:6, 26:16, 27:16, 27:21, 27:25, 29:17, 30:7, 30:10, 30:14, 30:29, 31:6, 31:25, 31:27, 32:8, 33:7, 33:19, 34:29, 36:17, 36:24, 37:8, 37:24, 38:2, 41:28, 42:13, 43:4, 43:7, 43:14, 46:18, 46:22, 47:1, 47:4, 47:5, 47:15, 47:20, 47:22, 47:27, 47:29, 48:5, 48:12, 48:14, 48:17, 48:22, 49:28, 50:15, 50:17, 58:6, 58:11, 58:19, 60:4, 60:18, 60:26, 60:29, 61:5, 61:6, 62:2, 63:22, 63:25, 63:29, 64:27, 64:28, 65:15, 65:26, 66:13, 67:7, 67:12, 70:10, 70:14, 70:16, 70:24, 71:1, 71:13, 71:15, 71:28, 72:14, 73:12, 73:14, 74:5, 84:28, 86:3, 88:11, 88:19, 94:19, 95:8, 96:22, 99:8, 99:10, 99:27, 103:7, 109:23, 113:12, 113:16, 113:26, 125:15,</p>	<p>132:25, 132:26, 133:1, 143:9 superintendent [7] - 27:7, 32:10, 37:21, 50:27, 95:8, 103:26, 106:10 supplemental [1] - 6:16 supplemented [1] - 143:10 supplied [2] - 117:15, 117:16 support [7] - 18:12, 59:21, 59:27, 60:16, 61:26, 73:27, 74:19 supporting [1] - 60:5 supportive [1] - 50:3 supports [1] - 138:22 suppose [23] - 27:26, 29:4, 29:5, 29:10, 29:26, 30:4, 30:20, 31:15, 31:25, 32:9, 32:22, 32:23, 33:7, 33:26, 34:1, 34:2, 40:20, 57:18, 70:29, 88:13, 101:3, 112:3, 124:8 supposed [1] - 48:9 suppress [1] - 68:1 surely [2] - 12:17, 43:15 surface [1] - 115:24 surfaces [1] - 121:1 surprised [1] - 142:11 surrounding [1] - 56:23 suspect [1] - 148:10 suspend [1] - 38:15 suspended [4] - 31:10, 31:11, 31:13, 33:12 suspicious [2] - 8:11, 8:13 SWORN [2] - 6:10, 80:17 sympathetic [3] - 34:21, 35:6, 78:21 system [1] - 9:6 systematic [1] - 95:5 SÍOCHÁNA [1] - 3:3 Séan [1] - 88:25 Síochána [14] - 6:19, 6:20, 7:15, 17:28, 54:3, 55:11, 55:15, 55:17, 64:23, 80:26, 80:27, 81:9, 81:12, 95:22</p>
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T				
<p>T</p> <p>T&N [1] - 4:2</p> <p>table [4] - 33:9, 88:17, 100:21, 130:28</p> <p>talks [5] - 86:14, 102:22, 134:8, 135:15, 135:16</p> <p>tape [2] - 10:8, 27:6</p> <p>taping [1] - 24:21</p> <p>tapped [6] - 18:3, 18:19, 59:6, 61:20, 74:18, 75:4</p> <p>TARA [1] - 3:22</p> <p>targeted [3] - 23:5, 31:17, 36:16</p> <p>targeting [1] - 63:10</p> <p>tarnished [1] - 55:5</p> <p>tasked [9] - 69:17, 91:6, 91:8, 120:11, 126:13, 126:18, 133:7, 139:14, 144:17</p> <p>team [2] - 22:3, 81:16</p> <p>teased [1] - 56:13</p> <p>telephone [2] - 99:9, 103:2</p> <p>TEMPLE [1] - 2:32</p> <p>Templemore [1] - 93:27</p> <p>ten [1] - 129:28</p> <p>tend [2] - 49:17, 49:19</p> <p>termed [1] - 62:26</p> <p>terms [5] - 34:12, 42:16, 82:23, 83:26, 146:18</p> <p>tests [1] - 93:28</p> <p>text [1] - 84:20</p> <p>thankfully [3] - 17:8, 30:1, 53:8</p> <p>THE [20] - 1:3, 1:7, 1:8, 1:13, 2:3, 2:7, 5:10, 6:1, 6:8, 6:13, 19:17, 19:20, 39:21, 39:25, 40:1, 76:1, 80:7, 80:11, 80:20, 148:25</p> <p>theft [3] - 11:23, 15:11, 15:23</p> <p>themselves [2] - 17:8, 53:8</p> <p>THEN [3] - 39:25, 80:11, 148:25</p> <p>therefore [3] - 123:15, 138:14, 147:2</p> <p>they've [1] - 24:26</p> <p>thinking [1] - 85:2</p> <p>third [1] - 146:21</p>	<p>thoughts [1] - 68:29</p> <p>threatened [2] - 76:13, 77:22</p> <p>three [9] - 13:14, 28:5, 33:2, 74:19, 81:25, 91:22, 117:6, 118:24, 119:6</p> <p>throughout [1] - 12:25</p> <p>throw [1] - 130:27</p> <p>throws [1] - 29:27</p> <p>thrust [5] - 23:1, 25:14, 25:21, 46:13, 46:17</p> <p>THURSDAY [1] - 148:25</p> <p>timelines [1] - 86:5</p> <p>today [8] - 6:5, 24:18, 51:21, 55:19, 62:11, 78:13, 81:20, 85:28</p> <p>today's [1] - 85:3</p> <p>together [9] - 63:25, 117:11, 123:12, 126:7, 127:7, 127:27, 130:26, 135:5, 135:28</p> <p>TOM [3] - 3:13, 4:10</p> <p>tomorrow [3] - 130:2, 130:3, 148:23</p> <p>Tony/Alan [1] - 84:26</p> <p>took [15] - 17:25, 17:29, 31:6, 33:11, 33:13, 53:29, 54:7, 55:19, 55:20, 57:6, 57:13, 79:9, 107:14, 129:8, 143:10</p> <p>top [12] - 26:9, 52:26, 81:25, 86:17, 91:22, 94:25, 94:29, 115:3, 115:29, 118:14, 122:10, 137:5</p> <p>topic [1] - 67:1</p> <p>total [1] - 36:1</p> <p>touch [1] - 33:24</p> <p>tough [4] - 17:18, 53:22, 63:7, 64:5</p> <p>towards [1] - 66:11</p> <p>town [1] - 33:16</p> <p>TOWNPARKS [1] - 2:13</p> <p>traffic [2] - 6:24, 29:28</p> <p>training [1] - 6:22</p> <p>transcript [8] - 1:25, 38:27, 39:12, 39:19, 52:26, 61:23, 100:16, 123:7</p> <p>transcripts [2] - 100:8, 131:18</p> <p>transferred [1] - 6:25</p>	<p>translated [1] - 37:23</p> <p>transparency [1] - 107:12</p> <p>Transparency [1] - 28:4</p> <p>travelled [1] - 34:5</p> <p>TREACY [1] - 2:28</p> <p>treat [3] - 40:21, 98:14, 138:8</p> <p>treatment [1] - 22:21</p> <p>TRIBUNAL [2] - 1:2, 2:7</p> <p>Tribunal [18] - 7:1, 7:2, 10:18, 17:6, 25:13, 27:9, 34:8, 34:12, 49:1, 53:6, 61:29, 69:16, 70:26, 77:11, 107:24, 111:21, 116:14, 119:2</p> <p>Tribunal's [1] - 7:8</p> <p>TRIBUNALS [1] - 1:8</p> <p>tried [3] - 18:13, 26:17, 31:15</p> <p>tries [1] - 74:27</p> <p>triggered [1] - 92:20</p> <p>trouble [4] - 50:21, 50:24, 76:14, 76:17</p> <p>troubling [1] - 77:14</p> <p>true [2] - 22:17, 60:27</p> <p>truly [1] - 47:8</p> <p>trust [11] - 7:14, 7:19, 18:4, 18:6, 20:28, 21:1, 34:2, 59:7, 59:8, 70:21, 70:22</p> <p>truth [1] - 14:27</p> <p>try [8] - 8:21, 31:20, 59:21, 65:10, 70:19, 70:22, 74:29, 88:14</p> <p>trying [22] - 13:15, 15:27, 19:12, 22:12, 22:18, 23:7, 23:9, 32:2, 48:29, 52:9, 54:19, 57:29, 61:9, 68:1, 72:19, 73:20, 73:22, 77:4, 77:8, 96:1, 136:10</p> <p>turn [10] - 10:9, 18:9, 18:13, 20:25, 21:5, 40:16, 59:4, 73:27, 75:2, 117:1</p> <p>TURNER [1] - 2:28</p> <p>two [21] - 14:11, 23:9, 39:15, 39:19, 50:22, 51:14, 74:18, 82:9, 85:13, 91:7, 100:8, 105:29, 110:11, 116:16, 116:29, 117:5,</p>	<p>120:17, 132:13, 132:20, 136:7, 138:15</p> <p>type [2] - 20:3, 74:27</p> <p>typed [4] - 9:16, 70:28, 142:12, 142:15</p> <p>U</p> <p>ultimately [4] - 29:28, 78:3, 133:24</p> <p>uncommon [1] - 123:5</p> <p>under [11] - 11:22, 12:18, 15:21, 33:8, 79:14, 90:15, 100:17, 118:9, 124:10, 135:4, 138:7</p> <p>UNDER [2] - 1:2, 1:8</p> <p>undermines [1] - 36:10</p> <p>understandable [1] - 29:6</p> <p>understandings [1] - 30:25</p> <p>understood [10] - 17:16, 30:2, 40:9, 50:5, 50:7, 50:8, 53:20, 56:26, 59:20, 78:17</p> <p>undertaken [1] - 103:16</p> <p>unfair [4] - 11:29, 12:10, 23:5, 125:27</p> <p>unfortunate [1] - 64:7</p> <p>unhappy [1] - 144:19</p> <p>unit [1] - 6:26</p> <p>units [2] - 6:24</p> <p>unknown [1] - 19:1</p> <p>unrelated [1] - 124:27</p> <p>UNTIL [2] - 39:25, 148:25</p> <p>up [48] - 11:16, 12:16, 12:29, 16:21, 18:5, 18:20, 18:26, 19:3, 20:2, 20:17, 21:8, 25:6, 27:15, 30:21, 36:23, 37:6, 49:6, 51:11, 51:26, 54:15, 54:26, 58:28, 59:11, 63:21, 67:24, 67:25, 76:7, 80:5, 83:10, 84:17, 86:11, 96:29, 97:21, 98:25, 101:4, 102:1, 111:28, 117:1, 117:17, 118:14, 119:6, 120:13, 120:14,</p>	<p>127:11, 133:4, 137:4, 141:29, 144:22</p> <p>up' [1] - 51:14</p> <p>update [11] - 90:15, 90:27, 92:23, 92:26, 96:16, 109:9, 109:13, 115:9, 118:11, 118:21, 140:27</p> <p>updated [2] - 88:5, 107:24</p> <p>urgent [5] - 97:2, 97:6, 98:14, 98:20, 98:26</p> <p>urgently [1] - 97:10</p> <p>utter [1] - 35:25</p> <p>V</p> <p>vaguely [2] - 22:6, 28:20</p> <p>validity [1] - 36:10</p> <p>value [1] - 145:2</p> <p>variety [4] - 58:5, 108:22, 123:6, 135:14</p> <p>various [14] - 64:9, 64:22, 86:4, 88:12, 88:16, 93:29, 102:8, 102:9, 113:4, 120:9, 125:13, 138:18, 142:19, 148:2</p> <p>veered [1] - 44:20</p> <p>vent [1] - 52:21</p> <p>verbatim [1] - 1:25</p> <p>version [9] - 71:3, 115:11, 115:14, 115:16, 116:7, 117:2, 134:13, 142:15, 142:20</p> <p>versus [1] - 120:5</p> <p>vested [1] - 82:7</p> <p>via [1] - 86:26</p> <p>video [3] - 7:25, 9:17, 10:3</p> <p>view [32] - 23:8, 31:7, 34:22, 34:23, 35:13, 35:25, 35:27, 40:18, 43:24, 44:23, 45:8, 46:14, 51:9, 66:12, 74:3, 77:5, 78:13, 78:14, 78:28, 78:29, 79:6, 92:26, 95:23, 112:27, 122:10, 126:26, 129:7, 129:10, 131:5, 131:8, 143:5, 146:29</p> <p>viewed [1] - 27:17</p> <p>views [8] - 17:23, 35:29, 42:19, 44:14, 53:27, 66:11, 116:6,</p>

125:20 vis-à-vis [1] - 96:3 vital [1] - 34:26 volume [2] - 88:15, 113:6 voluminous [2] - 112:21, 112:22 volunteer [1] - 58:21 volunteered [1] - 42:18 vulnerable [1] - 63:14	57:16, 75:7, 79:8, 132:19, 138:15 wider [3] - 40:12, 41:11, 130:11 widespread [1] - 56:3 willing [1] - 61:13 Wilson [3] - 24:20, 26:18, 28:4 Wims [1] - 142:6 wish [4] - 38:22, 38:25, 61:18, 122:12 wished [2] - 74:3, 74:11 WITHDREW [1] - 80:11 WITNESS [9] - 5:2, 6:8, 6:13, 19:17, 19:20, 39:21, 80:7, 80:11, 80:20 witness [15] - 6:5, 34:9, 35:24, 39:5, 40:7, 43:12, 62:20, 69:22, 71:11, 72:1, 72:3, 72:8, 80:13, 116:25 witness' [1] - 49:27 wonder [2] - 34:5, 34:7 wondering [3] - 38:26, 118:15, 119:10 word [9] - 7:20, 11:26, 32:22, 32:28, 47:10, 51:14, 119:29, 130:18, 132:5 words [6] - 10:21, 51:14, 61:19, 79:16, 97:2, 145:14 works [1] - 142:6 worried [11] - 17:27, 18:2, 20:8, 54:2, 54:17, 54:18, 55:10, 58:2, 61:4, 134:15 worries [1] - 120:4 worry [1] - 68:5 worrying [1] - 18:18 worse [2] - 62:6, 62:8 worst [2] - 74:26 write [2] - 69:24, 69:26 writing [1] - 9:5 written [6] - 10:15, 43:16, 134:12, 141:27, 142:16, 145:23 wrongdoing [1] - 8:16 wrote [1] - 102:13	Y year [1] - 47:19 years [5] - 12:25, 20:29, 30:21, 75:6, 81:8 yesterday [8] - 40:14, 40:23, 45:4, 45:7, 45:28, 46:2, 49:10, 112:21 yesterday's [2] - 40:26, 41:4 yourself [9] - 23:13, 50:10, 80:22, 88:25, 90:10, 109:4, 121:14, 129:11, 148:3
W		€
wait [2] - 38:25, 69:19 waiting [1] - 51:26 walking [1] - 16:14 Wallace [3] - 22:15, 25:1, 75:14 wants [4] - 25:7, 28:16, 43:2, 57:22 warranted [2] - 17:20, 53:24 warrants [1] - 6:29 WAS [7] - 6:10, 46:10, 64:18, 70:6, 73:8, 76:1, 80:17 watch [1] - 100:17 watered [2] - 28:23, 29:3 ways [4] - 32:16, 40:19, 117:10, 125:13 website [1] - 41:20 WEDNESDAY [2] - 1:18, 6:1 week [3] - 12:15, 58:23, 124:24 welfare [10] - 22:20, 25:8, 59:24, 59:27, 60:17, 60:24, 61:26, 118:26, 138:21, 142:29 WELLINGTON [1] - 2:31 WESTMEATH [1] - 4:4 whatsoever [3] - 16:3, 16:5, 73:18 WHEATLEY [1] - 3:5 whereabouts [1] - 94:26 whereas [1] - 113:23 whistleblower [3] - 22:23, 29:21, 62:26 WHITE [1] - 3:11 whole [10] - 30:17, 32:17, 32:18, 54:7		€4,500 [3] - 11:23, 12:19, 15:11
		É
		ÉABHALL [1] - 2:30 ÉIREANN [2] - 1:4, 1:5
		Ó
		Ó [28] - 3:7, 9:11, 10:12, 17:22, 21:16, 26:5, 28:15, 28:23, 29:2, 37:19, 50:6, 53:26, 78:18, 82:5, 82:8, 84:21, 91:15, 91:17, 91:18, 93:19, 97:24, 102:3, 106:5, 106:12, 107:21, 108:10, 108:25, 118:28