TRI BUNAL OF I NQU RY I NTO PROTECTED DI SCLOSURES MADE UNDER THE PROTECTED DI SCLOSURES ACT 2014 AND CERTAI N OTHER MATTERS FOLLOW NG RESOLUTI ONS PASSED BY DÁl LÉl REANN AND SEANAD Él REANN ON 16 FEBRUARY 2017

ESTABLI SHED BY I NSTRUMENT MADE BY THE M N STER FOR J USTI CE AND EQUALI TY UNDER THE TRI BUNALS OF I NQU RY (EV DENCE) ACT 1921, ON 17 FEBRUARY 2017, AS AMENDED ON 7 DECEMBER 2018

CHAI RMAN OF DI V SI ON (P): MR. J USTI CE SEAN RYAN, FORMER PRESI DENT OF THE COURT OF APPEAL

## HELD I N DUBLI N CASTLE

ON MDNDAY, 14TH OCTOBER 2019 - DAY 99

> Gnen Mal one Stenography Servi ces certify the fol Iow ng to be a verbatim transcript of their st enographic not es in the above- named action.
> GWEN MALONE STENOGRAPFY SERU CES


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## THE HEARI NG COMMENCED, AS FOLLOVB, ON MDNDAY, 14TH OCTOBER 2019:

CHA RMAN Morning everyone. I think we will just take a moment while the preliminaries and pictures are taken and it will only take a few minutes. Okay, are we all set? Thank you very much. Good morning everybody. Now, how shal1 we proceed?
MR. MEGI NNESS: Chairman, I should introduce the
Tribunal legal team for the purpose of this module.
CHA RMAK Yes.
MR. MEGI NNESS: I am Diarmuid McGuinness senior counsel, appearing with Mr. Patrick Marrinan senior counsel, Ms. Sinéad McGrath BL, and Mr. John Davis, solicitor. We also have some very diligent documentary juniors, Ms. Emma Toal, Ms. Lalita Morgan-Pillay and some researchers, Ella Woolfson and Orla Doolin. So that is the Tribunal team, Chairman.

CHA RMAN Thank you very much. Mr. Kelly, I see you there, would you like to introduce your team?
MR. KELLY: I wil1, certainly, thank you very much, Chairman. My name is Matthias Kelly, I am representing Garda Nick Keogh. Sitting beside me is Patrick O'Brien junior counsel, beside him, Aisling Mulligan junior counsel and Mr. Keogh. Behind me sits my instructing solicitor, John Gerard Cullen.

CHAN RMAN Thank you. Mr. Murphy.
MR. MRPHY: Yes, Chair. My name is Shane Murphy, I am appearing for the Commissioner of An Garda Síochána and

34 other Garda witness. I am effectively appearing with Mr. Micheál P O'Higgins senior counsel, Dónal McGuinness junior counse1, Shelley Horan junior counse1 and Kate Egan junior counsel. We are instructed by the Chief State Solicitor's office.

CHA RMAN Thank you very much. Now, Mr. McGarry, moving over this way. Yes, Mr. McGarry, good morning. MR. MEGARRY: Thank you, Chairman. I appear for former Assistant Commissioner Fintan Fanning with Mr. Stephen o'Connor, instructed by Séan Costello Solicitors. CHA RMAN Yes. Who else do we need to...

MR. FERRY: Good morning, Chairman. My name is John Ferry junior counse1, I appear for Superintendent Noreen McBrien, instructed by Mr. Conlon and assisted by Anne Giles. I am also led by Mr. Paul Carroll SC. CHA RMAN Thank you very much. Thanks, Mr. Ferry. Yes.

ME. GLEESON Good morning, Chairman. I appear on behalf of Nicholas Farrell, Sergeant Aidan Lyons, Sergeant Andrew Haran and Sergeant Sandra Keane. I am 1ed by Mr. Dockery.

CHA RMAN Thank you very much.
MG. GLEESON I am here together with Siobhan Lafferty Solicitor, and Ms. Sarah Maher.
CHA RMAN Very good. Those are the introductions. I am sorry, I had forgotten.
MR. KANE: Chairperson, my name is James Kane, junior counse1, I appear for Fergal Greene, Stephanie Treacy, David Turner. I am instructed by Elizabeth Hughes and

Éabhall Ní Cheallacháin of Hughes Murphy Solicitors. Mr. Patrick McGrath and Eoin Lawlor are also instructed.

CHAI RMAN Thank you very much. That is very he1pful.

MR. CONELLAN Good mornings, John Connellan BL, I am
instructed by Paul Connellan of T\&N McLynn Solicitors. CHA RMAK Mr. Connellan, just a tiny bit closer towards the microphone, just a little bit now, not too much, so that we can all hear you.
MR. CONELLAN John Connellan junior counsel, instructed by T\&N McLynn Solicitors, we appear on behalf of witness number 2, Olivia O'Neill.
CHA RMAN Thank you very much. All right, so the introductions having been performed, Mr. Marrinan.

## OPEN NG STATEMENT BY MR. MARRI NAN

MR. MARR NAN Chairperson, it is my function to deliver an opening statement on behalf of the Tribunal for the purposes of outlining in publican an overview of the complaint of Garda Nicholas Keogh, as received by the Disclosures Tribunal under terms of reference (p), the responses to this complaint and the issues which have emerged on the same to date.

This overview is, of course, subject to the evidence that emerges, which will be tested by all the parties during the course of these public hearings.

By way of background and as mentioned in the Tribunal's opening statement delivered on 11th April 2019, the disclosures Tribunal was established by ministerial order on 17th February 2017 to inquire into definite matters of urgent public importance. These matters were set out in 16 terms of reference, listed from (a) to (p.

The first module, concerning terms (a) to ( 0 ) , has been completed by Mr. Justice Charleton, who submitted reports dated 30th November 2017 and 11th October 2018. Today we are commencing consideration of a complaint under the final terms of reference, term of reference (p).

That term of reference sets out that the Tribunal wil1 consider any other complaints by a member of the Garda Síochána who has made a protected disclosure prior to 16th February 2016 alleging wrongdoing within the Garda Síochána, where following the making of the protected disclosure the Garda making the said disclosure was targeted or discredited with the knowledge or acquiescence of senior members of An Garda Síochána.

The Tribunal addressed this term in some detail in the opening statement and clarified that:

[^0]of An Garda Sí ochána, made protected di scl osures bef ore the rel evant date and who allege that they were thereafter targeted or di scredited with the know edge or acqui escence of offices of superintendent rank or
hi gher." Tribuna1, a central tenet of which is the guarantee of fair procedures.

Garda Nicholas Keogh: On 1st July 2000, Garda Keogh was attested as a member of An Garda Síochána and assigned to Clonme1 Garda Station as a student garda. Following his training in Templemore, he was assigned to Bray Garda Station, where he was initially attached to the drugs unit. He served in Bray until his
transfer to the Westmeath division in 2006.

Garda Keogh has been allocated to the westmeath division since 10th October 2006, where he was initially posted to Ballynacargy Garda Station. One year later he was transferred to Athlone Garda Station, on 16th October 2017.

In October 2009, Garda Keogh successfully obtained a post in a competition for vacancies in the district drugs unit, Athlone. From October 2009 he served with the drugs unit until 22nd August 2011, from where he returned to regular policing duties. His secondment to the drugs unit was not a permanent posting and was subject to the rotation policy of the superintendent then in charge.

Garda Keogh returned to regular policing as a result of this policy.

The Tribunal is concerned with events subsequent to the making of a protected disclosure on 8th May 2014, as outlined below. Garda Keogh continued to work in Athlone Garda Station and following a period in which he had frequent sickness related absences, which are certified by his general practitioner as being due to work related stress, he ultimately reported sick and unfit for duty on 26th December 2015 and has not since resumed duty.

On 8th May 2014, Garda Keogh was named in Dáil Éireann by then deputy Luke ming Flanagan as a whistleblower. Deputy Flanagan stated that Garda Keogh was meeting with a confidential recipient from An Garda Síochána. In his address to the Dáil, Deputy Flanagan raised serious issues that Garda Keogh reported in relation to matters of policing which were alleged to have occurred in and around Athlone.

The Confidential Recipient for An Garda Síochána at the time, Judge Patrick McMahon, states that he met with Garda Keogh on 8th may 2014 and was provided with an affidavit sworn by Garda keogh. The Garda raised concerns about the operation of the drugs unit in Athlone, including, in particular, an operation code named "Operation Loki" and inquiries and prosecutions that followed it. In his meeting with Judge McMahon, Garda Keogh raised concerns about the conduct of some members in Athlone Garda Station.

An investigation into this protected disclosure was commenced under the Garda Síochána Confidential Reporting of Corruption or malpractice Regulations 2007, on 9th May 2014. The acting Garda Commissioner, Nóirín o'Sullivan, immediately appointed Assistant Commissioner Donal ó Cualáin to investigate the issues raised by Garda Keogh.

Assistant Commissioner Ó Cualáin and his team met with Garda Keogh during June 2014 and Garda Keogh made a statement in which he expanded on his affidavit, to include other issues concerning a member of An Garda Síochána, whom I will describe as Garda A, and his relationship with a person or persons allegedly in the sale and supply of drugs in Athlone. In particular, he made allegations concerning Garda $A$ and his relationship with a person who $I$ will describe as

Ms. B.

The Ó Cualáin investigation report into matters relating to policing and practises and activities in Athlone Garda station made under the Garda Síochána Confidential Reporting Corruption and Malpractice Regulations 2007, was finalised on 24th November 2015.

In his report to the Director of Public Prosecutions, Assistant Commissioner ó Cualáin stated that some of the allegations made by Garda Keogh were plausible and had substance, but the evidence, which was circumstantial, fell short of what was required to bring a criminal prosecution. The Director of Public Prosecutions directed no prosecution on 3rd March 2016.

I mention this by way of background on7y, to describe what happened after Garda Keogh made his protected disclosure.

Chairperson, as I stated at the outset, the purpose of this statement is to outline in public the issues that have emerged in respect of Garda Nicholas Keogh under term of reference (p).

There are two preliminary matters to address. The first is the issue of redactions.

During this overview and in the course of the public hearings, it will be evident that redactions have been made where necessary. The Tribunal may make any appropriate redaction to documents where there is material which is irrelevant to any issue and/or where it is necessary to protect the rights or privacy or confidentiality of any party or person. Documents may be redacted in any other case where the justice of the case so requires.

The second is the management structure in place in Athlone Garda station between 8th May 2014 and 26th December 2015. Athlone Garda station is within the Athlone division of the westmeath division of An Garda síochána.

On 8th May 2014, when Garda Keogh made his protected disclosure, the divisional officer in Westmeath division was Chief Superintendent Mark Curran. Superintendent Noreen McBrien was the district officer and superintendent in Athlone Garda Station.

The district management team for the Athlone district included Inspector Nicholas Farrell, Inspector Aidan Minnock, the sergeant in charge Michelle Baker and Detective Sergeant Eamon Curley.

On 9th March 2015, Chief Superintendent Lorraine wheatley was appointed as the divisional officer in the Westmeath division and Superintendent Pat Murray was appointed as the district officer in Athlone.

We will hear from these Gardaí and a number of other members attached to Ath1one Garda station. To avoid any confusion or misunderstanding, all the relevant members of An Garda Síochána will be referred by reference to their rank at the time of events concerning Garda Nicholas Keogh, notwithstanding any subsequent promotion or retirement.

Moving onto the issues for examination by way of public hearing, these have been identified to include the following:

Issue 1: The investigation of the Pulse entry by Garda Nicholas Keogh on 18th May 2014.

On 18th May 2014, Garda Keogh created an intelligence entry on the Garda Pulse system, which was recorded as PID 4085409. This intelligence entry stated as
follows:
"Observed Ms. B in her car at certai n location. On seei ng member she smiled and stuck out her tongue. Mb. B is seriously invol ved in the her oi $n$ trade in Athl one, with a turnover of approxi mately $€ 2,500$ per week. She has no previ ous convi ctions for drugs due to the fact that she has been ai ded and abetted for years by a seni or member of the drugs unit, who himelf is a cl ose associ ate of a hi gh ranking Garda officer.

Fact."

As soon as this entry came to the attention of his superiors, Garda Keogh says that Inspector Nicholas Farrell asked where he was getting the information in respect of the turnover. He says that he was also asked to change the entry.

Chief Superintendent Mark Curran queried whether the Pulse entry met the criteria outlined in CHIS (covert
human intelligence source system). CHIS is the procedure of An Garda Síochána, dealing with the registration and use of informants to assist with the investigation of crime. Garda Keogh was asked to provide a report in this regard.

Garda Keogh took the position that this was not a CHIS matter and that it was matter for the ó Cualáin investigation.

In a statement to the Tribunal, Chief Superintendent Mark Curran states that he was concerned about the accuracy of the data and whether Garda Keogh was operating outside the official guidelines in relation to the management of CHIS and the related HQ directives. He further states that:
"He was concerned about the serious allegations of criminality and potential corruption, both explicitly stated and inferred in this intelligence report. I was al so concerned that any investigation bei ng carried out coul d be compromised. "

In his statement to the Tribunal, Garda Nicholas Keogh stated:
"I bel i eved that this interference by Inspector Farrell and Chi ef Superintendent Curran was i nappropriate interferences fromsenor management in the independent pol ice internal investi gation headed by Assi stant Commi ssi oner Ó Cual ái n. "

It will be evident from the material referenced during these public hearings that this intelligence entry led to a series of extensive reports over a number of years.

The Tribunal will consider whether the questioning of

Garda Keogh on this issue was legitimate or whether it constituted targeting or discrediting of Garda Keogh.

Issue 2: The investigation of the Pulse check by Garda Keogh on 18th May 2014.

On the same day that Garda Keogh made the Pulse entry, the subject of Issue 1 , Garda Keogh carried out a search on the Garda Pulse system in respect of Garda A.

Garda A made a complaint in respect of this Pulse check on 24th September 2014, stating that this constituted a use of Pulse for personal reasons and these checks were in no way Garda relate matters. Garda A alleged that this check was sinister and asked for the matter to be fully investigated.

Superintendent Noreen McBrien requested Sergeant Andrew Haran to seek a report from Garda Keogh as to the reasons this enquiry was made in relation to personal data. In her statement to the Tribunal she says that:
> "The query to Garda Keogh was made in my governance capacity in my role as di strict officer. I was operating within my role and responsibility as di strict 10:51 of ficer when carrying out this enquiry. As di strict officer l have a duty of care to all my staff."

Garda Keogh subsequently stated to this Tribunal that:
"It was evident to seni or management that an independent police investigation was in train in respect of my complaint rel ating to Garda A. I had checked Garda A on the Pul se on 18th May 2014 (following specific intelligence recei ved froma source on 10th May 2014) whi ch was the subject of my forthcoming statement to the internal investigator. I was entitled to check the Pul se without such attempted interference by this said letter (which demanded a report that conflicted with my obligations to the internal investigation) and al so in the light of what l had been advi sed by the said source."

не further stated:
"As far as I can remenber, I did not reply to Superintendent MEBrien, because I had been advi sed not to speak to anybody about the investigation except the i nvestigation team I spoke with Detective
Superintendent Ml cahy about this, where I outlined the obvi ous reason why I checked Garda A on Pul se before I net him(that is Detective Superintendent Mul cahy) to be sure that there was nothing el se that l needed to be aware of. I nci dentally, I had never been asked to explain previ ously why I checked anybody on Pul se."

The Tribunal will consider whether senior Garda members were entitled or obliged to question him about this

Pulse check and, if so, whether he was entitled not to answer these questions and/or whether the questioning constituted targeting or discrediting.

Issue 3: The investigation into Olivia O'Neill's visit ${ }^{10: 53}$ to Athlone Garda station on 28th May 2014.

On 28th May 2014, Ms. Olivia O'Neill called to Athlone Garda station. It is not disputed that she wanted to make a statement about an alleged assault on her
daughter by Ms. B. It is further not disputed that Garda Keogh was on duty in the public office that night and that he told her that he could not take her statement. A dispute of fact, however, arises as to the content of the exchange he then had with Ms. O'Neill.

Garda Keogh in his statement to the Tribunal has set out that:
" Oivia O Neill then proceeded to allege spontaneously and of her own motion and volition that there was pol ice collusi on in Athl one in the drugs trade and that ME. B was doing favours for guards. Her allegations were general in nature. Given my invol vement as a witness in the internal investigation into corruption, I real ised that l would be conflicted in taking any statement fromher. I ther ef ore replied that in those ci rcumstances she shoul d make her statement to another
guard and that she shoul d name names and name guards. I went i mmedi at el y to Sergeant Har an to asked himto desi gnate another guard to take her statement."

Sergeant Haran designated Garda Stephanie Treacy to take this statement. Garda Treacy reported her dealings with Olivia O'Neill and reported that the witness told her that Garda Keogh had advised her of the information to include in her statement, including allegations concerning Gardaí and Ms. B. Both Garda Keogh and Ms. Olivia O'Neill deny this.

Garda Keogh continues in his statement to the Tribunal:
"No statement was taken from Oivia O Neill, either in rel ation to her assault or her cl ai $\mathrm{n} \$$ of corruption. Instead, I recei ved a formal request on 11th June 2014 for a written report setting out the nature and content of my conversation with Ol ivia O Neill. I was questioned a number of times about the content of my conversations with Oivia O' Neill on 9th June, 8th July 2014 (while the ot her matters were i gnored). It was sought to turn the desk encounter in a public office into a coaching of Oivia O Neill by me. There was no reason to request the content of the conversation ot her 10:56 than the fact that $O$ ivia $\mathrm{O}^{\prime}$ Neill wi shed to make a compl ai nt about Garda corruption. "

We will hear from Inspector Nicholas Farre11,

Superintendent Noreen McBrien, Chief Superintendent Mark Curran, Sergeant Haran and Garda Stephanie Treacy in respect of the enquiries subsequently carried out in respect of this incident.

Inspector Farrell stated in his report to Chief Superintendent Mark Curran on 29th May 2014, that:
"The advi ce allegedl y gi ven by Garda Ni chol as Keogh is not appropriate in the circunstances and projects the i mage of An Garda Sí ochána in an unf avour able light. It al so pl aces Ms. B in a vul nerable position from persons currently under investigation in the At hl one area. "

Garda Keogh continues in his statement to the Tribunal, that:
"I understand that Chi ef Superintendent Curran sent out guards again to take a statement from Ol ivia O Neill
about me only. I was advi sed by Oi via O' Neill that the guards would not take her statement of assault unl ess she made a compl ai nt about me."

Ms. O'Neill's daughter had in fact made a statement of complaint on the night in question.

Chief Superintendent Mark Curran has stated to the Tribunal that:
"I absol utel y reject the assertion that these enqui ries were an attempt to target or discredit Garda Keogh. "

The Tribunal will consider whether the investigation of $10: 57$ the matter constituted targeting or discrediting of Garda Keogh.

Issue number 4: The investigation into Liam McHugh's complaint to Garda Aidan Lyons on 31st May 2014.

A report made Garda Aidan Lyons of Ath1one Garda station dated 2nd June 2014, stated that:
"With reference to the above, I wish to report that on
31st May 2014, at approxi matel y 9pm, I was approached by Li am McHugh On bastion Street, Athlone. Mr. McHugh brought up the general topic of whi stlebl owers and we had a general conversation for a few mintes, during whi ch he inf ormed me as follows: "The bal d Garda came over to me the other day and asked if I could remember the time l was searched by the three guards and €800 was stol en from me and spent drinking in the castle, pub, the booki es, and casi no". He stayed if I wanted to make a compl ai nt about it, then he would back me up. 10:59

I asked Li am MkHugh if he was alleging that this had actually happened and hi s answer was no, not at all, I am not going to bringing trouble on myself. l asked
himif he was referring to Garda Nichol as Keogh and he confirmed that he was. He went on to say, he told me he was there himself when it happened and he would back me up if I wanted to make a compl aint."

Garda Keogh states that on 9th June 2014 he was called in to the office of Superintendent Noreen McBrien and told that she was investigating another complaint against him. He states that he had no idea what this was about.

Garda Keogh continues in his statement to the Tribunal that:
"On 8th July 2014, I was called in to the
Superintendent's office. Noreen McBrien informed me that she was sending persons out again to try and take a statement Liam MEHugh and al so $\mathrm{O}_{\mathrm{i}}$ via O Neill. She said that she had to do it. Garda Keogh says that he percei ved this to be an interference with the internal investigation and that he advi sed Assistant Commi ssi oner Ó Cual ái $n$ of this on 16th July 2014."

Superintendent Noreen MCBrien reported the matter to her divisional officer, Chief Superintendent Mark 2014, Chief Superintendent Mark Curran referred to a review of the matter by an independent chief superintendent and queried whether it had been
established with Garda Keogh if he had a conversation with Liam McHugh in relation to the matters outlined in the report of Garda Aidan Lyons.

Garda Keogh states that it was not until 5th August 2014 that he was told of the details of the Liam McHugh allegation. He says that he was shown the report by Superintendent McBrien, but was not shown the name of the author of the report at the time. He says that he later discovered that it was a report by Garda Aidan Lyons, who was a garda partner of Garda A at the time.

Garda Keogh states that:
"There was agai n no rigorous follow up or concl usi on to 11:00 thi s charge. It appeared to be just another fal se al legation left in the ether and used to bl acken and cause apprehensi on in me. It was inscrutable, was dropped out of nowhere and went nowhere."

However, Superintendent McBrien states in her statement to the Tribunal that:
"As di strict officer I had to address such issues and informed himthat he should not misunderstand this. He 11:01 sai d he understood this and it is recorded in my notes of that meeting."

The Tribunal will consider the manner in which senior
officers investigated the matter and whether the investigation constituted targeting or discrediting of Garda Keogh.

Issue 5: The micro supervision of Garda Nicholas Keogh 11:01 by Sergeant Yvonne Martin, Sergeant Cormac Moylan and Sergeant Aidan Haran.

As stated at the outset, Superintendent Patrick Murray took up the position of district officer in Athlone on 9th March 2015. Garda Keogh alleges that Superintendent Murray put in place a regime of excessive supervision by arranging for three sergeants to oversee his work.

Garda Keogh, in his statement to the Tribunal, states that:
"I was allocated Sergeant Martin as a liai son person to di scuss work rel ated i ssues. Ser geant Mbyl an and
sergeant Har an were al so di spatched to supervi se me. It was implied/alleged that my work out put, i nvestigations and reporting of inci dents were deficient. These implications were made without rational grounds or hearings. Up until the encounter with criminality and protected di scl osures in Athlone, I had never been hypercriticised since l joi ned the guards in 1999. I was apparently now bei ng placed under the microscopic supervision of Sergeant Martin,

Sergeant Har an and Sergeant Mbyl an. Everything I did was bei ng scrutini sed in great detail for possible mi st akes. "

He also stated that:
"I had a third sergeant allocated to monitor me, unlike anybody el se. This is basi cally three sergeants monitoring me and being asked to go through everything I am doing to find something I am not doing right or to 11:03 i dentity some misdemeanour on my part. It is my belief that Superintendent Pat Murray was targeting me in this respect."

Superintendent Murray rejects this allegation, saying inter alia:
"On 13th March 2015, at the request of Inspector Ni chol as Farrell, I net Sergeant Andrew Haran. He brought up Garda Keogh and told me of the support he was trying to gi ve Garda Keogh, whi ch was something he had taken on himself in an informal way. I spoke with Sergeant Har an agai $n$ on 20th March 2015 and he sai d he felt the support role he was providing to Garda Keogh should pass to someone el se and now was a good time for that to happen. I chose Sergeant Yvonne Martin for the role si mply because she had just arrived on transfer to Athl one and could be determined as neutral. I asked her to take on the role that day and she agreed."

Superintendent Murray met with Garda Keogh on 26th March 2015 and discussed the issues with him, which led to the decision of which Garda Keogh complains.

We will hear from Sergeants Martin, Haran and Moylan on this issue. Sergeant Haran agrees that he was Garda Keogh's supervising sergeant when Sergeant Moylan was absent and says that this was not unusual.

не further states that:
"In general terns l was glad to assist Garda Keogh in doing files and reports. He readily admitted it was a weakness on his part."

Sergeant Moylan states that:
"I would regularly question any menber of the unit in respect of their work. The reality is that I was Garda Keogh's unit sergeant and ltreated himno differently than any ot her nenber under my supervi si on."

The Tribunal will consider whether Garda Keogh was placed under micro supervision in Athlone under the direction of Superintendent Patrick Murray and whether the conduct of the sergeants, as ordered by Superintendent Murray, individually or collectively constituted targeting or discrediting of Garda keogh.

Issue 6: The disciplinary investigation in relation to the motor tax on Garda Nicholas Keogh's vehicle during 2015.

Superintendent Patrick Murray told Garda Keogh in March 2015 that his long outstanding claims for travelling expenses could not be paid until he properly taxed his motor vehicle, paying the higher private rate of tax and not the lower commercial rate, as he had been doing.

Garda Keogh maintains that Superintendent Murray treated him differently and more severely than he did other Gardaí in the district who had incorrectly taxed their vehicles.

Garda Keogh deals with this car tax issue in some detail in his statement to the Tribunal, stating that:
"I thought this very odd. I pointed out inter alia that the NCT authorities would not process my van as private (it had to be tested commercially by the Department of the Envi ronment). It had no back seats, was used for police duty and to carry dogs."

He also refers to Pulse records showing a number of checks on his car during 2014 by Garda Gerry white and Superintendent Noreen McBrien. The Tribunal will hear
from Garda white and Superintendent McBrien in this regard.

Superintendent Murray says in his statement to the Tribunal that:
"I then spoke to hi mabout his car tax and he got slightly annoyed and indi cated he felt people were getting at him I showed himthe results of enqui ri es I had Inspector M nnock make at a tax office in

Tullamore in rel ation to his jeep, whi ch showed it was taxed in the wrong category, commercial instead of private, resulting in a loss of revenue in the State. I spoke about the effect of that on his clains for travelling expenses. I offered a sol ution to deal ing with the matter, whi ch was that he would correct his tax and pay the arrears to cover the period of his travelling clains and when he showed me proof of same, I would approve his travel cl ai ns and finalise the matter by way of regul ation 10 caution. I expl ai ned that would concl ude the matter and it would never be mentioned to hi magai $n$. He agreed to that course of action. He then indi cated that other members in the district al so had similar issues with thei $r$ private cars, so l told himl woul d have everyone's vehicle checked. I subsequently had those checks carried out."

We will hear from Chief Superintendent Lorraine wheatley in relation to the issue, who says that:
"It was not within Superintendent Murray's gift to permit payment frompublic funds outside of financial regul ations. I believe this was a very fair and bal anced intervention. "

In a statement to the Tribunal investigators, Garda Keogh stated that:
"I al so made the poi nt that there were ot her Gardaí
that had the same tax and were al so driving commercial vehi cles in the same way as me."

It is the case that on 24th Apri1 2015, Superintendent Murray issued a minute entitled "mentors private
vehi cles" to "all members of Athl one district", stating that he had been made aware "in a general way" that the private vehicles of members were not in order in relation to tax, insurance, NCT and driving licences. He stated that checks would be carried out on 1st June 2015 and that "any cl ai $n \mathbb{s}$ i nvol ving the use of members' private vehi cles" would only be approved "if the vehi cle bei ng used complies with all road traffic l egi slations in force".

In a statement to the Tribunal Garda Keogh states:
"It was self-evi dent that there were, according to this letter, levels of severe derel iction whi ch were far
greater than mine and to whi ch a blind eye was being turned. Guards with such a degree of noncompl iance were gi ven a period of grace of two months in clear breach of cut and dry stat ut ory provi sions."

Garda Keogh describes in the letter of 24th April 2015 as "a retrospective attempt to justify a vi ndi ctive di sci pl inary procedure..."

This allegation is rejected by Superintendent Patrick Murray in his interview with the Tribunal investigators, who stated that he issued five regulation 10 notices in 2015 and that there was one other person who had to back tax and that was dealt with in the same way.

The Tribunal will examine whether this was so and will consider whether the handing of this matter constituted targeting or discrediting of Garda Keogh.

Issue 7: The disciplinary investigation in relation to the sick leave of Garda Nicholas Keogh during July 2015.

Garda Keogh reported sick and unfit for duty on the 9th 11:10 July 2015. He phoned the station to say that he was going off sick leave on 10th July 2015, but did not report for duty on the following four days. Sergeant Cormac Moylan reported the matter to Superintendent

Patrick Murray on 14th July 2015. Garda Keogh provided a retrospective sick certificate on 16th July 2015 to cover the relevant period.

Garda Keogh says in his statement to the Tribunal that: 11:11
"There was an issue of a mix-up about my si gni ng of $f$ sick and then not reporting for duty. I had apparently rung in off sick. I was on the contrary sick. It was at most a mistake. The medical certificate material ised retrospectivel y to certify my si ckness during the period. In any case, this medically certified absence was irrationally turned by Superintendent Patrick Murray into a charge of being absent without I eave."

Superintendent Patrick Murray states in his statement to the Tribunal that:
"On Wednesday, 15th July 2015 at about 12 noon I phoned 11:12 Garda Keogh regarding his absence. He acknow edged his absence without leave and said he had reported fit for duty on 10th July 2015 while drunk, had forgotten he had done so and had been continuousl y drinking over the next few days and so di dn't report for duty...l I eave in the manner described may be a breach of di sci pline and I would have to seek a formal expl anation fromhim.. on the 4th August, I reported
the natter to chi ef superintendent in West meath, recommending the matter be dealt with as a less serious breach of di sci pline. "

Chief Superintendent Lorraine wheatley appointed Superintendent Alan Murray to investigate the matter on 10th August 2015, under regulation 14 of the Garda Síochána (Discipline) regulations 2007. Superintendent Alan Murray carried out his investigation. Garda Keogh pleaded guilty to the charge of neglect of duty between 11th and 14th July 2015 and denied the charge of discreditable conduct.

On 18th September 2015, Superintendent Alan Murray found that Garda Keogh was in breach of the "negl ect of duty" charge and not in breach of the "discreditable conduct" charge. In mitigation he had regard to the fact that "Garda Keogh stated that he suffered from work rel ated stress and was drinking heavily and when questioned by superintendent Murray he admitted his mi stake". He was find $€ 300$.

Garda Keogh sought a review of that decision by Chief Superintendent Lorraine wheatley, who affirmed the penalty on the 9th November 2015. Garda Keogh raised issues regarding his contact with Sergeant Moylan and Superintendent Patrick Murray during 11th to 15th July 2015 period and later raised issues as regards the fairness of the review process in November 2015. These
criticisms are disputed by Superintendent Alan Murray and by Chief Superintendent Lorraine wheatley.

As a consequence of this disciplinary finding, a report was sent by Superintendent Patrick Murray to the Human 11:14 Resource Directorate Overpayment Section.

The Tribunal wil1 consider whether this disciplinary action was warranted or justifiable in the circumstances and whether the handling of the matter by 11:14 Superintendent Patrick Murray and/or the investigation constituted targeting or discrediting of Garda Keogh.

Issue 8: Former Commissioner Nóirín O'Sullivan alleged interference by telephone to Superintendent Patrick Murray in Apri1 2015.

In his statement to the Tribunal, Garda Nicholas Keogh states that:
"On the 10th April 2015 I was made aware that Nói rín Ó Sullivan had personally tel ephoned Superintendent Pat Murray about re. It appears to have happened bet ween the 2nd and the 10th April 2015. Thereafter, I was confidentially advi sed that Superintendent Pat Murray tol d ot her guards in Athl one station to "pull away from and alienate, me".

In his statement to the Tribunal investigators, he
stated that:
"All I can say is that I have no di rect evi dence that former Commissi oner O Sullivan cont acted Superint endent Murray in April 2015, ot her than saying the guards in the station told me this. That is as far as l can go. I am not willing to name the guards concerned for fear that they will be targeted."

Commissioner Nóirín O'Sullivan has stated to the Tribunal that this phone call never took place and that the allegation "is compl et el y untrue and without foundation".

Superintendent Patrick Murray further stated that he had never spoken to former Commissioner Nóirín O'Sullivan about Garda Keogh and that "she di d not phone me in April 2015 and I never suggested to anyone that they should pull away from or al i enate Garda Keogh, nor would I have any reason to do so."

On the 23rd May 2019, Garda Keogh informed the Tribunal that he believed that Sergeant Andrew Haran informed him about the telecommunication between former Commissioner Nóirín O'Sullivan and Superintendent recollection of his informant". The Tribunal will hear from Sergeant Andrew Haran in this regard, who had rejected the suggestion by Garda Keogh.

The Tribunal will consider whether Garda Keogh was targeted or discredited as alleged.

Issue 9: The criticism of criminal investigations by Garda Nicholas Keogh during 2015.

Superintendent Patrick Murray raised queries in respect of a number of crime files where Garda Nicholas Keogh was the investigating officer. Garda Keogh maintains that the criticisms were unjustified, that his sergeant did not comment adversely as they went before him and that it was inconsistent and unreasonable of Superintendent Murray to single him out for alleged policing deficiencies.

In his statement to the Tribunal, Garda Keogh states inter alia that:
"Pol ice work was agai $n$ irrationally scrutini sed and mi nutely criticised by Pat Murray."

Garda Keogh outlines in his statement that:
"The queri es from Superintendent Pat Murray were oppressi ve and irrational."

This is disputed by Superintendent Murray, who says in his statement to the Tribunal that:
"The queries l generated in this case were not in any way di rected at Garda Keogh personally but were instead to ensure that the investigation was carried out to a hi gh standard to fulfil my obligations as di strict of ficer."

Garda Keogh refers to his investigation of a robbery from the person which occurred in Ath1one on the 13th September 2015. While this investigation was initially recorded on Pulse as "robbery fromthe person" it was subsequently re-classified as "attention and compl ai nts".

Garda Keogh states in his statement to the Tribunal that:
"An interesting feat ure of this is that Pat Murray, who here expressly cl assified the inci dent as serious, has si multaneously and self contradictorily decl assified it on Pul se on the very same day as not serious, when he downgraded the "robbery" to "attention and compl ai nts". In ot her words, to a non-crime. Furthermore, Superintendent Pat Murray did not have jurisdiction to so recl assify this incident. In the latter action of deflating the importance of the inci dent, Superintendent Pat Murray was, with onl y i nconveni ence of self contradiction, massaging the crime figures downwards while si multaneousl y increasing the
i mportance of this same inci dent when he wanted to bl are пе."

This is disputed by Superintendent Murray, who states that he sought explanations from Garda Keogh "to demonstrate my commitment to hi gh standards". He states that:
"I was not targeting Garda Keogh in any way. In repl ying Garda Keogh accused me of harassment. In my response to hi mon 13th October 2015, I indi cated I felt his reply was not satisfactory in allowing me to provi de assurance that high standards rel ating to thei r i nvesti gation of crime were met. I advised Garda Keogh of his obl igation to account and I invited himto make a compl ai nt about me if he felt l was harassing him l agai $n$ sought a response to my substantive query. Garda Keogh replied on the 29th October 2015 in a similar vague fashi on and I si mply let the matter rest."

In his statement to the Tribunal investigators Garda Keogh stated that:
"All I can say is that everything I submitted was submitted through Sergeant Mbnaghan, and he never questioned anything or my work. And then when queries arose with Superintendent Murray, Sergeant Mbnaghan forwarded themto re. Sergeant Mbnaghan was the mi ddl eman in this. He hi nself, to my memory, was never
critical of anything l sent up to him It was only when my work went to Superintendent Murray that the criticismstarted and it would then come back down to те. "

Chairperson, the Tribunal will consider whether the response of Superintendent Murray in each case was reasonable and proportionate and in accordance with proper, appropriate or established practise for a district officer. The Tribunal will consider whether the handling of these matters constituted the targeting or discrediting of Garda Keogh within the meaning of term of reference (p).

Issue 10: Complaints by Garda Nicholas Keogh in relation to the denial of a request for cancellation of annual leave on the 31st August 2015.

Garda Keogh wrote to the sergeant in charge at Athlone Garda station on the 1st September 2015, stating that:
"I took annual I eave on 31st August 2015. However, I was requested to meet GOC that day in Portlaoise and I requested to have the annual leave cancelled for that day."

This application was approved by Sergeant Monaghan but Superintendent Murray subsequently refused it "in absence of any proper expl anation."

Garda Keogh was informed of this decision by Sergeant Monaghan on 10th September 2015 and told that he still wished to have this date considered for cancellation that he should "forward a comprehensi ve report as to the reasons".

In his statement to the Tribunal, Garda Keogh states that:
"Superintendent Pat Murray, who was aware of the confidentiality of GSOC communi cations with members, countermanded this approval citing absence of proper expl anation in circunstances where l could not provide any more specific expl anation gi ven the confidential nat ure of GSOC di scl osures."

In his statement to the Tribunal, Superintendent Patrick Murray states that he had met with Garda Keogh on the night of the 30th August 2015 at 9pm and that he:
"Made no mention of seeking to have annual leave cancelled for the next day. Therefore, l felt the application was vague in nature. I' m not aware of any 11:23 further expl anation being provi ded that allowed the matter to be revisited."

In his statement to the Tribunal investigators, Garda

Keogh states that:
"Superintendent Murray was looking for a comprehensi ve report of what I was going to meet GSOC about. The protected di scl osure process is supposed to be protected and confidential. Former Garda Commissioner O Sullivan was sayi ng publicly she supported whi stlebl owers, but I feel Superintendent Murray was looking to ascertain confidential information about my meeting with GSOC."

The Tribunal will consider whether the handling of this matter constituted targeting or discrediting of Garda Keogh.

Issue 11: Complaints by Garda Keogh in relation to his confinement to indoor duty on the 22nd October 2015.

On the 22nd October 2015, Garda Keogh was detailed for indoor duty at Athlone Garda Station.

Garda Keogh in his statement to the Tribunal states that:
"I was reduced to indoor duties and was confined to desk bound duties in the public of fice carrying out therefore the most stressful job in the station in circumstances where it was known to management that l was suffering from work rel ated stress. Thus, on the

22nd October 2015, Superintendent Pat Murray si mply "with i mmediate effect" reduced me to indoor duties. There was no analysis or right of representation. He said that he will "revi ew the matter agai $n$ on 1st

Novenber 2015". He never did."

Garda Keogh in his statement to the Tribuna1 investigators stated that:
"I suspect the real reason l was put on indoor duties at that time was that it was just after Garda A had been suspended and who was subject of my compl ai nt in October 2015. It was a message for everyone in the station (a circul ar was issued to every sergeant in the di strict by Superintendent Murray) so that every other Garda could see that they were making an example of me. Everyone in the station knew that l was desk bound and l believe that was a message for everyone. That is my bel ief. He never gave me a specific reason. My assi gnment to indoor duties was never revi ewed. "

Superintendent Murray in his statement to the Tribunal states that:
"I met Garda Keogh agai $n$ in my office in rel ation to this matter on 22nd October 2015 to serve a form 1A14 on himat the request of Chi ef Superintendent West meath. I noticed that Garda Keogh had deteriorated and that he di dn't seem well to me. I asked himabout
hi s health and his drinking and he woul dn't answer. I noticed his hands shaking a lot to the degree that he could barely sign his name while acknow edging recei pt of the form I di scussed with himhis frequent sickness absence and the impact of it on his ability to 11:26 follow up on work rel ated matters. I expl ai ned that I had di scussed the lack of progress on some matters i nvol ving Garda Keogh with Sergeant Mbnaghan while going through his incident list at a PAF meeting with Sergeant Mbnaghan on 19th October 2015. Garda Keogh 11:26 di dn't seem with it to me and I asked himif he felt fit enough to be in work. He said he did. As a result of what I saw I expl ai ned to that I would have to assi gn hi mto indoor duty and $I$ di scussed that with hi $m$ expl ai ning the reasons why and referring himto our conversation of the 30th August, where we had di scussed the possi bility of thi s happening. He appeared to me to agree with the course of action l was taking. I reported how I found Garda Keogh and my deci si on to confine hi mto indoor duties to Chi ef Superint endent West meath."

Sergeant Haran in his statement to the Tribunal says that:
"A deci si on was made by Superintendent Murray to confine Garda Keogh to indoor duty. I was not consulted in rel ation to this decision. I cannot recall how or when I becare aware of this deci sion.
was aware that Garda Keogh was unhappy with the decision frominformal conversations we had. He felt that his assignment to indoor duties was a ploy on the part of management to push himout. He did not make a formal complaint to me at that time. I am unaware as to whether he made a formal complaint to anyone el se in the station."

The Tribunal will consider the decision to assign Garda Keogh to indoor duty in October 2015 and whether this constituted targeting or discrediting of Garda Keogh by Superintendent Patrick Murray within the meaning of term of reference (p).

Issue 12: Complaints by Garda Nicholas Keogh in relation to the misrecordings of sick leave and the reduction of salary.

Chairperson, as I stated at the outset, Garda Keogh was on sick leave on a number of occasions in 2014 and 2015, until going on sick on 26th December 2015 until the present. He submitted sick certificates to the district office at Athlone Garda Station during 2014 and 2015, which were issued by his general practitioner Dr. David Bartlett in Athlone, and which recorded that Garda Keogh was medically unfit for work due to "work rel ated stress."

In his statement to the Tribuna1, Garda Keogh states
that he discovered that his absence through sickness was being recorded as "viral flu "and not "work rel ated stress" during this period. As a consequence of viral flu being specified as an ordinary illness, Garda Keogh was placed on reduced pay of $€ 290$ per week when he reached a threshold of 92 days absence in a 12-month period.

In his statement to the Tribunal investigators, Garda Keogh states that he recorded that he was being recorded as absent with "viral flu" in December 2015 when meeting with Garda chief medical officer Dr. Oghenovo Oghuvba. He says that doctor told him that "he was going to talk to someone high up about this". Garda Keogh states that this meeting took place 11:30 one week after a case conference had been held in respect of Garda Keogh with the Chief Medical Officer, Superintendent Patrick Murray and other senior officers attending.

In his statement to the Tribunal Garda Keogh states that:
"The police appeared to wi sh to deny know edge of my work rel ated stress while on the other hand deal ing punitively with my condition in terms of reduction of pay, monitoring, di sci plining etc. My recurrent si ckness was seen as di sci plinary and wage reduction matters rather than a wel fare or safety issue."

The Tribunal will hear from Garda Olivia Kelly, the district clerk in Athlone Garda station, who recorded the category of Garda Keogh's absence on the Garda sickness absence management system (called SAMS) and amended same on the 23rd May 2016.

The Tribunal will also hear from a number of witnesses in the Human Resources section of An Garda Síochána and from Superintendent Patrick Murray and Chief
Superintendent Lorraine wheatley on this issue. The Tribunal will consider why this illness category was changed from "viral flu" to "mental health" on the 23rd May 2016 and subsequently changed to "work rel ated stress/injury on duty" in late 2016. The Tribunal will 11:31 consider why Garda Keogh was placed back on full pay on the 13th October 2016, back dated to the 26th December 2015. The Tribunal will hear from Chief Superintendent Anthony McLoughlin, who is the Protected Disclosures Manager at the Human Resources and People Development 11:32 in this regard.

The Tribunal will examine the background to this matter and consider whether the handling of this issue by senior management constituted targeting or discrediting 11:32 of Garda Keogh.

> Issue 13: Complaints by Garda Nicholas Keogh in relation to the alleged denial of overtime.

In his interview with the Tribunal investigators, Garda Keogh states that he was the only member on his unit not offered overtime on a number of occasions during 2014 and 2015. Garda Keogh specified the relevant dates and festivals during his interview with the Tribunal investigators.

This allegation is rejected by the local management in Athlone. Sergeant Cormac Moylan states that:
"Wile Garda Keogh alleges that he was deni ed overtime, I wish to ref ute the assertion in its entirety that । deni ed himover time at any time. If I did have overtime to allocate, it was offered to all menbers on an equal basis."

Superintendent Patrick Murray states that:
"I was not invol ved in a general distribution of overtime to indi vi dual Garda members in Athl one as that was the responsi bility of the sergeant in charge and/ or unit sergeant. Overtime is not offered on the basis of seni ority. Si ckness absence has a bearing on overtime allocation as set out in Garda Finance Code 10.1(5)."

The Tribunal will consider whether Garda Keogh was refused overtime, whether he was singled out in this regard and if so, whether this constituted targeting or
discrediting of Garda Keogh by senior officers under term of reference (p).

Issue 14: Complaints by Garda Keogh in relation to the alleged delay in the payment of his travel expenses.

Garda Keogh met with Superintendent Patrick Murray on the 26th March 2015 and the issue of outstanding travel and subsistence claims arose. Superintendent Murray states that he was made aware of Garda Keogh's car tax issue by his predecessor, Superintendent Noreen McBrien and that "[s]he felt his cl ai ms for travelling expenses were in breach of financial code regul ations and could not therefore be paid in those circunstances.

This is in accordance with the statement of Superintendent Noreen McBrien who outlines how she became aware of his car tax issue and the audit she subsequently carried out. She says:
"I became aware that there was an issue with the type of tax on Garda Keogh's car. I advi sed that Garda Keogh' s outstanding clains be withhel d until I i nvesti gated the matter."

In his statement to the Tribunal investigators Garda, Keogh referred to the meeting on the 16th March 2015 and stated that he had never experienced any delay in the payment of his trave1 expenses before and that this
delay was at least one year. He states that:
"I recall Superintendent Murray saying to me, you won't get paid your sub until the car tax is cleared up."

These trave 1 and subsistence claims were paid after Garda Keogh paid the revised car tax rate on 27th March 2015.

The Tribunal will consider whether there was delay in any or all of Garda Keogh's expense claims and whether any such delay constituted targeting or discrediting of Garda Keogh by Superintendent Patrick Murray or any other senior officer.

Issue 15: Complaints by Garda Nicholas Keogh in relation to the alleged denial of commendations in respect of an incident involving the stabbing of a taxi driver on 4th August 2015, the arrest of a person for burglary on 28th October 2014 and the rescue of a 1ady 11:36 from drowning on 22nd September 2015.

Garda Nicholas Keogh refers to these incidents in his statement to the Tribunal and says that "it was as if any successful operation in which I was invol ved was to 11:36 be ai rbrushed".

Superintendent Patrick Murray refers to the incident involving the alleged stabbing of a taxi driver and
states that:
"A meticul ous investigation was carried out in rel ation to both crimes. It was coordinated by then Detective Sergeant Eamon Curley and his team I was not aware of Garda Keogh' s invol vement in either of these crimes whi ch were i nvesti gated toget her."

Garda Keogh states in his statement to the Tribunal investigators that:
"I was on the Pul se inci dent on the 3rd August 2015 or the 4th August 2015 as the investigating member. I was back in the public office on Sat urday 8th August 2015 when I noticed that I had been renoved from the Pul se inci dent all together in rel ation to that incident. The record of my i nvol vement was er ased from Pul se." Sergeant Monaghan confirms in his statement to the Tribunal that Garda Keogh attended at the scene and took details from the taxi driver. He states that:

[^1]The Tribunal will hear from Garda Aisling Shankey-Smith and Brian savage who are involved in the administration of the Pulse system and who will address the alteration of Pulse records. The Tribunal will also consider the
evidence of Detective Sergeant Eamon Curley in respect of why this Pulse record was changed and examine the Pulse audit records that have been made available to the Tribunal.

In relation to the burglary in October 2014, Garda Keogh states that:
"On the 28th October I arrested a burglar in the course of the Commission of a burglary. This is rare. I recei ved commendations for less serious cases. I recei ved no commendati on in this case."

In relation to the rescue in September 2015, Garda Keogh says that:
"Ser geant Mbnaghan applied for commendations for the whol e unit. Nobody recei ved any commendation."

Sergeant Monaghan states that he:
"Recommended all members present for consideration for a Sei ko Just in Ti me Award and deni ed the assertion made by 'garda Keogh that he was deni ed a commendati on for this incident and that he single handedly pulled the femal e fromthe water as this was a group effort." The Seiko award was given out almost one year later on the 8th September 2016"

Garda Keogh in his statement to the Tribunal investigators outlines his belief that his recommendation for this Seiko award was "bel atedly triggered by An Garda Sí ochána" in response to the issue of his civil litigation alleging bullying and harassment by An Garda Síochána.

He says that:
"It is my bel ief that this was a gui se to counteract the recei pt of the said application as it was difficult for the Gardaí to performa u-turn of their earlier position not to follow Sergeant Mbnaghan's recommendations for a commendation, hence the unusual of the sole award fromlrish Water Safety."

However Superintendent Patrick Murray states that:
"On 11th November 2015 I nomi nated even menbers, i ncl uding Garda Keogh, for a Sei ko Just in Ti me award for their part in the rescue of a lady fromthe River Shannon on 22nd Septenber 2015. The awards were presented to the members on 8th Novenber 2016 at a ceremony in Dubl in Castle. This was the second occasi on on whi ch I nomi nated menbers fromAthl one for recognition with the Sei ko Just in Time awards scheme. The menbers l nomi nated on the first occasi on were al so recogni sed, recei ving Sei ko wat ches as their rescue effort put themin greater danger. There was not an
ulterior motive for nomi nating Garda Keogh for this award. "

The Tribunal will consider whether Garda Keogh was denied commendations alleged and whether he was targeted or discredited by senior officers in this regard under term of reference (p).

Issue 16: Complaints by Garda Keogh in relation to the alleged tapping of his phone and/or his post was opened 11:41 in 2014/2015.

In his statement to the Tribunal Garda Keogh expressed a concern that his post may have been intercepted by An Garda Síochána. He stated that:
"There were further problems in terns of interference with my mail. I forwarded Pul se records of death threats to Garda Harrison by post to his address in Letterkenny in 2015. I am advi sed by Garda Harrison that my letter had been intercepted and opened. "

In his statement to the Tribunal investigators, Garda Keogh expressed a concern that his telephone may have been tapped by An Garda Síochána. He stated that:

[^2]1100 hours, he advi sed me twi ce in the course of that call not to go into details over the phone. We have applied for different records through Freedom of Inf ormation in rel ation to the tapping of my phone. I bel i eve the Garda Sí ochána has the technol ogy to do these thi ngs but I do not have the evi dence to support this."

In his statement to the Tribunal, Assistant Commissioner Ó Cualáin says that Garda Keogh states: 11:42
"I advi sed hi mtwi ce not to go into detail over the phone and asserts that this is the onl y evi dence he has to substantiate his belief that his private phone was bei ng tapped. "

Assistant Commissioner Ó Cualáin says that:
"I may well have advi sed himin this way, but not for the reasons outlined by the confidential reporter. The 11:43 purpose of the call was to introduce myself to him to expl ai $n$ what Commi ssi oner Ó Sul Ii van had appoi nt ed me to do and to make arrangement to meet with himat a time and place of his choosing to di scuss all aspects of his concerns in detail and take a statement of compl ai nt fromhim"

In her statement to the Tribunal, Chief Superintendent wheatley says:
"I am not aware and have no evi dence in regard to the tapping of Garda Keogh's private phone. I have never i nterfered with a member's personal post. I amnot aware that Garda Keogh's private inter net is being monitored. If somebody or organi sations were to carry out what Garda Keogh has alleged, it woul d not be a requi rement to consult local Garda management and I can categorically state that I was never consulted on any such issues in rel ation to Garda Keogh and was not made 11:44 aware of any actions as alleged by Garda Keogh in this matter."

The Tribunal wil1 consider whether Garda Keogh was targeted or discredited by senior officers in this regard under term of reference (p).

If should be noted, however, that a letter dated 4th October 2019 was received by the Tribunal from the solicitor acting on behalf of Garda Keogh, stating, and 11:44 I quote:
"He does not propose to pursue any such el ectronic enqui ry bef ore the Tri bunal."

Issue 17: Complaints by Garda Keogh in relation to the criminal investigation carried out by Assistant Commissioner Dónal O Cualáin.

Garda Keogh maintains that there were "serious and del i berate flaws with regard to this investigation, numbering approxi matel y 10, in addition to the matters that are separately listed for consi deration by the Tribunal. Some of the allegations are inadmissible or of questionable admissi bility, whi ch may have to be ruled on in by you in due course. The criticisms i ncl ude the following bri efly summarised compl ai nts agai nst the investi gati on team

1. There was a del ay in commencing the investigation during whi ch evi dence di sappeared;
2. There was a del ay in sei zing evi dence during whi ch mobile phone evi dence was rai sed;
3. There was a fail ure to suspend any person suspected with consequences for potential witnesses;
4. St at ements were taken from Gardaí in i nappropriate circumstances, at a time when a colleague accused by Garda Keogh was on duty and was able to be seen by wi tnesses;
5. There was a failure to revisit a crucial witness who had come forward with vital information;
6. A Garda under investi gati on was treated undul y favourably in respect of his interview with the
i nvesti gation team
7. Garda Keogh and his accused colleague were left in too close proxi mity as to workl ace and shift times;
8. There was a failure to deal with this compl ai nt that side investi gations were taking place by local management."

These are the matters listed at 1 to 8 that have been identified as complaints by Garda Keogh.

Assistant Commissioner Ó Cualáin and his investigators answered these complaints in detail. It is unnecessary at this stage to outline their responses to the individual allegations but two points may be mentioned.
a. The Assistant Commissioner says that when Garda Keogh complained about the circumstances of interviews, he directed that they be conducted away from the station.
b. In relation to the side investigations at no. 8 above, the Assistant Commissioner says that his inquiries concerned complaints made by Garda Keogh and 11:47 not allegations made against him.

The Tribunal will consider whether any of the criticisms of the investigation are justified and if so
whether they constituted targeting or discrediting of Garda Keogh by Assistant Commissioner Ó Cualáin.

Issue 18: Complaints by Garda Keogh in relation to the bullying and harassment investigation carried out by Assistant Commissioner Michael Finn.

The policy and procedures of the Garda Síochána for dealing with harassment, sexual harassment and bullying in the workplace is contained within the document "Wbrking Together to Create a Positive Wbrking Envi ronment".

Garda Keogh made a statement to Chief Superintendent John Scan1an on the 2nd and 27th March 2017 by way of formal complaint of bullying and harassment.

In his interview with the Tribunal investigators, Garda Keogh complains that his complaint "went missing for seven months". He believes that the motive behind this delay was to facilitate the promotion of Superintendent Patrick Murray to chief superintendent in late 2017, early 2018. He says that:
"The combi nation of general conduct of Assi stant Commi ssi oner Finn's unwi el dy investi gation of my compl ai nt together with his obf uscation and unnecessary del ay danaged the timel $y$ determination of my compl ai nt and I bel ieve facilitated the promotion of

Superintendent Patrick Murray to my di scredit."

On the 15th November 2017, Assistant Commissioner Michael Finn was appointed to investigate the matter. In his interview with the Tribunal investigators, Garda 11:49 Keogh complains about his meeting with Assistant Commissioner Finn and says that:
"AC Finn has di scredited me, in saying that he does not know agai nst whoml was making the complaint when to me 11:49 it was crystal clear who l was compl ai ni ng about and I bel ieve this del ayed the investigation of my compl ai nt."

AC Finn's report on the complaint of bullying and harassment made by Garda Keogh was not finalised until 20th December 2018. This report determined that:
"I n examining each of the compl ai nts and issues rai sed by Garda Keogh in his statement of compl aint, I have found no evi dence to support the allegation that any bullying or harassment has occurred agai nst Garda Keogh. "

Assistant Commissioner Finbar O'Brien carried out a review of the Finn report in January and February 2019. He issued reports dated 7th February 2019, affirming the conclusions of Assistant Commissioner Michae1 Finn.

In a recent statement to the Tribuna1, Garda Keogh states that:
"With reference to item number 18 on the list of itens for consi deration by the Tribunal entitled compl ai nts by Garda Ni chol as Keogh in rel ati on to the bullying and harassment investi gation carried out by Assistant Commi ssi oner Fi nn, I bel ieve the outcome of this i nvesti gation, as comprised by Assi stant Commi ssi oner Fi nbar O' Brien, constitutes a failure to uphol d my rights and entitlements as a Garda officer, in that there is no acknow edgment whatsoever of the correctness of my compl ai nts of having been Iongly har assed by Garda officers whi ch have arisen si nce I made my protected di scl osures in May/J une 2014."

Garda Keogh appealed this review by submission dated 19th March 2019 and a legal expert was engaged by Deputy Commissioner John Twomey to carry out an audit of the Finn investigation. This audit was completed on 11:51 the 4th June last.

On the 11th July of this year, Deputy Commissioner John Twomey determined, having examined a11 of the documentation submitted to his office together with this expert report, that the investigation was carried out "in a thorough, fair and impartial manner" and he dismissed the complaints of bullying made by Garda Keogh against the named personne1.

The Tribunal, Chairperson, will consider whether the criticisms by Garda keogh of these decisions are justified and whether the handling of the Finn investigation, including any review or appeal of the Finn Report constituted targeting or discrediting of Garda Keogh.

Issue 19: whether the disciplinary investigation carried out by Assistant Commissioner Ann Marie McMahon 11:52 constituted a discrediting or targeting of Garda Keogh.

Chairperson, as noted at the outset, a disciplinary process in respect of four members of An Garda Síochána, including Garda A, under An Garda Síochána (Discipline) regulations 2007 began under Assistant Commissioner Nolan, and continued under Assistant Commissioner Ann Marie McMahon on his retirement. It was completed in respect of Garda A by report dated 27th February 2019, in which Assistant Commissioner Ann 11:52 Marie McMahon recommended the establishment of a Board of Inquiry.

On the 7th May 2019, Assistant Commissioner David Sheahan considered this recommendation and determined that a board of inquiry was not warranted. The matter was then referred for a peer review to be carried out by Assistant Commissioner orla McPartlin. On the 19th June 2019, Assistant Commissioner orla McPartlin issued
a report stating that she was satisfied that the investigation of Assistant Commissioner Ann Marie McMahon was "t hor ough and compl ete".

In her statement to the Tribunal, Assistant Commissioner Ann Marie McMahon states:
"Whilst I note that I amnot personally named by Garda Ni chol as Keogh in his witness statement and in the absence of any clear differentiation bet ween the criminal or di scipline investigations within the statements of Garda Ni chol as Keogh, I must once again reaffirmthat my investigation was conducted with absol ute professionalism compl ete impartiality and progressed as expeditiously and as diligently as possi ble. "

The Tribunal will consider whether any criticism of Garda Keogh in relation to the disciplinary investigation are justified and whether the handling of 11:54 the McMahon investigation, including any review of her report, constituted targeting or discrediting of Garda Keogh.

Issue 20: Complaints by Garda Keogh in relation to the 11:54 promotion of Superintendent Patrick Murray to Chief Superintendent in 2017.

On 18th January 2016, Superintendent Patrick Murray
applied for promotion to the rank of chief superintendent. He was informed on the 25th May 2016 that he had been successful in the promotion competition but the nomination did not go ahead at that time. Over 12 months later, on the 29th January 2018, 11:55 the policing authority informed him that he would be promoted, with that promotion back dated to the 26th October 2017.

Garda Keogh states in his interview with the Tribunal 11:55 investigators that:
"The combi nation of the general conduct of Assi stant Commi ssi oner Finn's unvi el dy investi gation of my compl ai nt toget her with his obf uscation and unnecessary 11:55 del ay damaged the timel y determination of my compl ai nt and $I$ bel ieve facilitated the promotion of Superintendent Pat Murray to my di scredit."

He continues that:
"As stated in my addendumstatenent, it appears to me that the processing and investigation of my compl ai nt was del ayed purposel $y$ whilst the promotion of Superintendent Patrick Murray to chi ef superintendent was proceeded with. That is how it is percei ved by пе. "

Garda Keogh further states that:
"Assi stant Commi ssi oner Ó Cual ái n was al so the Garda point of contact with the policing authority in
rel ation to the promotions wher eby Superintendent Pat Murray, who origi nally came from hi s area (western regi on) into Athl one (eastern regi on) was promoted to chi ef superintendent, without any determination of my compl ai nt, whi ch I say Assi stant Commi ssi oner Ó Cual ái n had to be aware of at the time."

Assistant Commissioner Ó Cualáin states that he was not aware of the bullying and harassment complaint by Garda Keogh when he signed the clearance forms in respect of Superintendent Murray for the policing authority on the 9th September 2017.

Superintendent Murray complains about an orchestrated campaign to prevent his promotion and of character assassination by politicians.

The Tribunal will consider whether there is any evidence that the commencement of the investigation into Garda Keogh's bullying and harassment complaint was delayed to facilitate or progress the promotion of Superintendent Patrick Murray and/or whether the handling of this complaint constituted targeting or discrediting of Garda Keogh by senior officers within the meaning of term of reference (p).

Issue 21: Complaints by Garda Keogh that the Disclosures Tribunal order was deliberately withheld from him.

The Disclosure Tribunal order was dated the 20th February 2017. Members of An Garda Síochána were afforded eight working days from 20th February to make a application or submission to the Tribunal.

This order was received by Garda Keogh on the 21st March 2017. Garda Keogh states that he was notified of this post by Inspector Minnock on the 20th March 2017. In his statement to the Tribunal, Garda Keogh states that there was a cover note on the order from Superintendent Patrick Murray which was dated 6th March 11:58 2017.

Garda Keogh says that:
"It would appear that it was curiously withhel d from me 11:58 by Superintendent Murray in an apparent effort to obstruct me from complying with the Tribunal order in rel ation to evi dence I may have. Al so, the letter was then curiously withhel dromme for a further two weeks by Superintendent Murray, in what would appear to be an 11:58 effort to bypass Judge Charlet on's deadline of the 13th March 2017, whereby l would be deni ed any inf ormation and obstructed from compl ying with section (p)."

In a statement to the Tribunal investigators, Garda Keogh continues:
"I al so wi sh to state here that I note that Garda management at all times were able to contact me, whet her as in this example by post, and by personal del $i$ very and $i n$ ot her examples where they have cont acted me either through other Gardaí, the wel fare of ficer or inspector $M$ nnock. Further, I know that thi s document ation, the Di sclosure Tribunal Order, was circul ated to al l other Gardaí in the di strict sooner than it was sent to me."

Superintendent Patrick Murray disputes this allegation, stating that:
"When that letter was arrived I made inquiries with the then District Cl erk and Inspector M nnock, who deal t with the issue. I returned a report to Assistant Commi ssi oner Fanning and have I no know edge of whet her 11:59 any repl y was sent to Garda Keogh. There was no i ntention on anyone's part to withhol d anything from Garda Keogh, who, it appears, was fully aware of the Tri bunal's order in any event."

Inspector Aidan Minnock was tasked with the service of the order on Garda Keogh and states:
"I served the order at Garda Keogh' s resi dence on

Tuesday, 21st March 2017, havi ng made ot her previ ous unsuccessful attempts to serve it. Prior to service I rang Garda Keogh and we agreed to leave the Order in the post at his house. He stated that he was familiar with it."

The Tribunal will consider whether the Tribunal Order was deliberately withheld from Garda Keogh and whether this constituted the targeting or discrediting of Garda Keogh by senior officers within the meaning of term of reference (p).

Finally, issue 22: Complaints by Garda Nicholas Keogh that other material, including the section 41 report pursuant to the Garda Síochána Act 2005 was withheld from him.

Pursuant to the provisions of Section 41 of the An Garda Síochána Act 2005, the Minister For Justice and Equality may request a report on a matter from the Garda Commissioner. A Section 21 report was requested in respect of Garda Keogh and provided on the 9th September 2016 (an interim report) and the 11th October 2016 (the final report).

Garda Keogh requested copies of these reports and was not provided with the same.

The Tribunal will consider whether the alleged failure
and/or refusal of the Department of Justice and equality to provide these reports comes within the jurisdiction of the Tribunal under term of reference (p).

Conclusion: Chairperson, on the 16th April 2019 we wrote to all the parties with the schedule of the above issues. The parties were requested to confirm that the schedule was a comprehensive list of topics arising for consideration in the module. They were also invited to suggest any additional matter not included in the schedule or propose the deletion of issues as irrelevant or inadmissible. Garda Keogh's team was concerned that the review of the Finn Report as carried out by Assistant Commissioner Finbar O'Brien should be included in the said schedule of issues. This has been incorporated at issue number 18.

On the 30th April 2019, the Tribunal held a case management meeting in private sitting. Again, this was 12:02 designed to ensure that all the relevant issues were captured in the Tribunal's schedule of issues. All parties agreed that this was so.

The parties have been served with some 50 volumes of material. We believe that all relevant documentation has been disclosed to the parties. As a matter of procedure we would ask parties who wish to produce documents during the hearing which are not included in
the material to advise counsel for the Tribunal in advance and to make the document available so that it may be redacted if necessary to protect third party rights and be included in our system.

The Tribunal has provided a schedule of work and witnesses to the parties. It is intended to hear the evidence on the issues outlined above in three two-week periods as follows: 14th-25th of this month; from 4th-15th November; 26th November-6th December.

The Tribunal intends to call Garda Nicholas Keogh as the first witness at 2 pm today, Chairperson.
CHA RMAN Thank you very much.
MR. MEGU NESS: Chairman, one matter arises as a consequence of the Tribunal's procedures and its jurisdiction and its interpretation of the terms of reference and it relates to the following matters, Chairman: As will have become apparent from Mr. Marrinan's opening, Garda A, who is the subject matter of many of the allegations of wrongdoing, has been given that designation in the papers as circulated and also a civilian alleged to be associated improperly with Garda A has been designated Ms. B.

You, Chairman, obviously in the interpretation of the terms of reference, have properly concluded that the wrongdoings alleged in the protected disclosures are not the subject matter of the inquiry. As a
consequence, there will obviously be no adjudication on any aspect of the alleged wrongdoing. Garda A, his identity and Ms. B and, indeed, may I say in passing, all of the other civilians referred to in all of the criminal matters touched upon, their identities have been masked, as it were, redacted.

So I am going to ask you, Chairman, to make an order prohibiting in any way, directly or indirectly, the name or identity of Garda A, Ms. B or any of the other civilians referred to in the documents circulated. It's obviously hoped to avoid any accidental mention of the identities in the course of the Tribunal hearing and any such accidental mention will be expunged from the transcript and obviously the intention is that it shouldn't occur. So, Chairman, I would ask you to make that order.
CHA RMAN very good. I will make an order prohibiting pub7ication, directly or indirectly, of the names of Garda A and Ms. B and any other persons accused of any criminal activity, or of material that would lead to the identification of such persons. So I propose to make those orders here and now and everybody knows then exactly where they stand. All right. Very good.

I think we didn't know exactly how long the opening statement was going to be or whatever, so we will break now until two o'clock. Is everybody convenient for two o'clock? Garda Keogh, are you ready for two o'clock?

Very good. So we will start off at two o'clock then and we will have an afternoon session, so it won't be too long a session for anyone.

Just let me mention, if anybody has issues procedural or matters of that kind or concerns with documents, the best thing to do is to raise them with counsel for the Tribuna1. If they can be sorted out at that stage well and good. If we have to have a hearing about the matter or written submissions or argument or anything like that, we will arrange that in due course. But the best way to do it is by informal contact in the first instance with counsel for the Tribunal. Okay. Thank you very much.

## THE HEARI NG RESUMED, AS FOLLOVB, AFTER LUNCH:

CHAN RMAN Yes, Mr. Murphy.
MR. MRPHY: Chairman, before the evidence begins, can I make a short submission before you, arising from our comments before lunch, where you invited us to signal if there were any issues that might be worthy attention.
CHA RMAN Yes. Mr. Murphy, if it's the same issue that you mentioned to Mr. McGuinness and Mr. Marrinan, I was proposing, if it's convenient, to deal with that at four o'clock.
MR. MRPHY: May it please the Court.
CHA RMAN So we will get started. We will not have reached any point where your concern is relevant, but we will deal with it, if that's convenient.
MR. MRPHY: Thank you.
CHA RMAN Are you happy with that, Mr. McGuinness.
MR. MEGU NNESS: Yes, thank you.
CHA RMAN It's not a great mystery, Mr. Kelly, we will explain it all to you at four o'clock, it's a rather un-mysterious question, but $I$ know what it's about and it has been mentioned before. We won't make too much of it but we will deal with it, if it's convenient, at four o'clock.
MR. KELLY: That's fine, thank you.
MR. MEGI NESS: As Mr. Marrinan announced just before lunch, Garda Nicholas Keogh is the first witness. CHAI RMAN Thanks very much.

MR. MEGU NNESS: So I would ask him to come forward please to the witness box.
CHA RMAN Thank you very much, Garda Keogh. Yes, very good.

## GARDA N CHOLAS KEOGH, HAV NG BEEN SVDRN, WAS QUESTI ONED

 BY MR MCGU NESS, AS FOLLOVG:CHA RMAN Thanks very much. Sit down there, Garda Keogh.
MR. MEGI NESS: Garda Keogh, I wil1 be asking you questions on behalf of the Tribunal. I should say that my hope is that I can help you to give the evidence that you ought to give and that you want to give and that I know the Chairman is anxious to hear. So you will be asking you lots of questions. Obviously I will be proceeding through the issues, dealing with them on a sequential basis and I think you will understand why that is.

The other thing I should say is that obviously at different stages I will be referring to the volumes of documentation that you have received. You will be glad to hear, I hope, that I won't be taking you through every page or even a very large proportion of it, I will be hoping to focus on a lot of the material pages, but you are free to refer to any of it at any stage in the course of your answers, in the course of your evidence, if you think it's necessary, you understand
that.

We can deal with the evidence two ways, in the sense if I ask for a document it will be put up, Mr. Barnes, who is acting as registrar there, he will be able to put that on the screen in front of you so that you can see it there. You're entitled also obviously to see a paper copy. A lot of witnesses vary in whether they want to see the paper copy or are happy to view it on screen. If you want to see the paper copy, you will be 14:03 assisted by our researcher, behind you, to get the relevant volume and to help direct you to the page in question.

You follow that?
A. Yes.

CHA RMAN Just before you start, Mr. McGuinness, I think, did we agree that Mr. Kelly and his colleagues might like to sit in the row in front. In other words, we had the idea that the witness who is giving evidence might be assisted, am I right in this, by having one or more of his team sitting sort of close to him. Well, that's why we left that blank. Am I right?

MR. MEGI NESS: We11, it's primarily intended as an option for people who want to examine a witness also,

## Chairman.

CHA RMAN Very good. Okay. Sorry, correction, yes. So when the time comes, Mr. Kelly, for you to examine your client to the extent, whatever extent, then you
can move forward and equally, if somebody is cross-examining, they can move over there. Sorry, I got it slightly wrong. okay. Thanks very much. Now, Mr. McGuinness.

Also, if you have any problem about something or you don't understand something, just tell us, okay. MR. MtGU NESS: And of course, if you need to take a break at any stage, just signal or ask the Judge and we can organise that. Garda Keogh, I think you joined the 14:04 guards in may of 1999, is that correct?
A. Yes.

3 Q. What age are you at that stage?
A. Roughly 21.

4 Q. A lot of families have a history in the guards when they join the guards, had you any family background?
A. Well, when my grandfather was -- '51, he would have joined on the first day and my uncle would have been in the guards, I would have had granduncles, numerous granduncles and people -- yes, I would have had a lot of history.
5 Q. That family background, was that sort of influential in you joining the guards?
A. Possibly. Possibly. It was also just a career I would have been interested in anyway.
6 Q. Yes. I think you went down to Templemore and you were attested then in the following year, on the 1st July, is that correct?
A. Yes.

7 Q. Did you serve some time during that period in Clonmel, was that as a probationer?
A. No, that was a student garda.

8 Q. A student garda?
A. It was Bray then as probationer and I would have stayed 14:05 on in Bray.

9 Q. A11 right. So you went to Bray after being attested?
A. Yes.

10
A. Yes.

11 Q. Did you stay, did you pass out then? It was I think a year of probation at that time in the force, is that right?
A. Yes.

12 Q. Then you passed out in Bray the following July, is that 14:05 right, in 2001?
A. 2001, yeah.

13 Q. So as of the date of the events that we will be primarily concerned with, 2014 onwards, you had more or less 13 years service in the Guards, coming up to that? 14:06
A. Yes.

14 Q. What sort of duties did you do in Bray, when you were attached there?
A. When I started off it was regular uniform duties, then it was three years in the drugs unit and I would have 14:06 done a year in the detective branch in Enniskerry.

15 Q. Yes. Were they busy stations? Nothing much to compare them to, perhaps?
A. Well Bray would have been, yeah.

16 Q. Okay. Was that plain clothes duties in Enniskerry?
A. It was, yeah.

17 Q. I think you did some public order training in 2003, is that right?
A. Yes.

18 Q. You did then training I think in 2005, between Apri1 and May in the Garda National Drugs Unit, is that correct?
A. Yes.
Q. You decided to apply for a transfer at some stage, was there any particular reason or any particular area you wanted to go to?
A. It was just time to move.
Q. Yes.
A. I was about six years in Bray at that stage and I just 14:07 wanted to move down the midlands.
21 Q. Yes. You were I think ultimately assigned on transfer down to Westmeath, isn't that correct?
A. Yes.
Q. That's a small sub-district of the Granard district, is that right?
A. It is on the westmeath/Longford border, yes.

24 Q. Yes. I think that was a two-man station with no patrol car, is that correct?
A. Correct.
Q. Am I correct in saying that the superintendent in
charge of Granard at that time was Superintendent Scan1an?
A. That's correct.
Q. Is that is the superintendent who became the Chief Superintendent Scanlan that you later met?
A. In Portlaoise, yeah, he's currently the chief in Portlaoise, yeah.
Q. Is he the superintendent who ultimately took your statement of complaint in the bullying and harassment case?
A. Yes, 2017 I think. issue of a conflict of interest was raised and discussed between you and him, is that right?
A. Yes, yeah.
Q. He ultimately referred that issue upstairs, up to HQ at that time, isn't that right?
A. Yes.
Q. So you had known him obvious7y from that period, from the year you were in his division?
A. Oh yeah.

32 Q. In his district. You transferred to Ath1one then in
A. Yes.

33 Q. Was that a destination, a district or a station that you expressed a preference for, or is that possible?
A. Because I was in Ballynacargy there, I was sort of going mad because it was very quiet. So I wanted to go to a bigger, busier place.
Q. Yes.
A. Athlone was the biggest in -- it's just slightly bigger, larger than Mullingar, so I looked for Athlone.
Q. Yes. I think you moved there and you were put on unit C, is that right?
A. Yes.
A. Yes.
A. Yeah.

38 Q. How many did you have?
A. When I started above it was one in Athlone.
A. Yeah.

40 Q. Was there another one based in Mullingar as well at that time?
A. Mullingar was a different district completely to
A. Roughly. In Bray it was different; we had two guards per unit in Bray.

43 Q. At the initial stage you were only used to one sergeant supervising you, is that right?
A. Yeah.

44 Q. I think in September '09 you applied for the drugs unit, is that right?
A. Yes.

45 Q. That application was successful, is that correct?
A. Yes.

46 Q. I think you started in that on 28th October 2009, is that right?
A. Yeah.

47 Q. Am I correct in saying that you in fact had booked a break for some holidays at that point in time?
A. That's correct, yes.

48 Q. You went away for a number of weeks?
A. Yeah.

49 Q. You were back then from your holiday on 12th December 2009?
A. Correct. Rough7y, yeah.

50 Q. I think that was a date which gave rise to your involvement then in an investigation that started in early 2010, isn't that correct?
A. This is the Operation Loki.
A. Yeah, yeah.

52 Q. Okay. I am just asking you a few general questions about these matters because they gave rise to your concerns, which you included in all your PDs, isn't that correct?
A. Yes.

53 Q. One of your concerns was that this Operation Loki, it
was a clean streets operation, as it's called, where people try target people who are dealing, catch them, prosecute them and I suppose get them off the street, is the best way of summarising it, isn't that correct?
A. Yeah.

14:12
54 Q. I think one of your concerns in a general way was that some citizens may be induced to get drugs for the guards and you didn't think that was perhaps proper?
A. There was one particular incident that was done very wrong in that.

55 Q. okay.
A. There was also a second part with Operation Loki to do with nomination lists.

56 Q. Yes.
A. Yes.

57 Q. That's what I was going to come on to. One of your other concerns, and just to confirm it in a general way, was that you thought the smal1 fry were being targeted and big fish, as it were, weren't being either targeted enough or were being perhaps in some cases deliberately left alone, off the list?
A. Yes.

58 Q. That's a general concern. The particular concern that you have referred to there related to one particular operation, where a suspect was sort of misidentified by 14:13 one garda and the wrong address attributed to him. That led to the wrong arrest, as it were, of another person with the same name, isn't that correct?
A. wrong address and wrong date of birth.

59 Q. Wrong address and wrong date of birth, you're correct. I think you were actually the guard who conducted that arrest?
A. Yes.

60 Q. And the search of the house that preceded it, isn't that correct?
A. That's correct.

64 Q. We will come to that in a moment.
A. Yeah.

65 Q. You raised the issue about the prosecution and the circumstances of the plea of guilty. The person did in fact plead guilty in the end?
A. Yes.

66 Q. Since you mentioned it now, at a stage you got possession of the DVD of the interview of this suspect, you made a number of copies of it, I think.
A. Yes.

67 Q. Amongst the copies that you -- I use the word distributed in any pejorative sense, but that is one of the ones you gave to Judge McMahon?
A. Correct. correct?
A. I gave it to Luke Ming Flanagan, a number of copies, TD, a number of copies of it to --

69 Q. A11 right, we11 perhaps we needn't go into that at the moment. But just to deal with your other concerns, one 14:16 of the concerns, perhaps as important as others, you thought one particular guard, during searches that were being conducted, was taking DVDs from people's houses the subject of the searches?
A. Yes.

70 Q. That was included in your PDs?
A. That's correct.

71 Q. There was an allegation then of sort of inappropriate contact between one garda and a female suspect, isn't that correct?
A. Yes.

72 Q. That was one of your concerns?
A. That's correct.

73 Q. It developed into a concern that you believed this
guard had tipped off the lady suspect in advance of a particular search?
A. That's correct.

74 Q. There was also a concern that there was some suspicion that some evidence might have been planted in a car during the search of the car when it was stopped under the Misuse of Drugs Act?
A. That's correct.

Allied to that was a suspicion about preferential treatment of a suspect before the courts, who was suspected of being assistance to the Gardaí, or one particular garda, isn't that correct?
A. Just bear with me.

76 Q. Yes.
A. Just to clarify.

77 Q. I will repeat that, I think you had some suspicion or complaint that some accused got a bit of preferential treatment in the course of a prosecution?
A. Yes, yes.

78 Q. okay. Part of the complaint and part of your concern was that a suspect in custody had been given drugs while they were actually detained in the Garda station?
A. That was something that was reported to me.

79 Q. Reported to you?
A. I just passed it on.

80 Q. Yes.
A. I had my suspicions on that one myself, but I just passed it on to the investigation team.

81 Q. Yes. There was also a concern that this Ms. B had been
allowed, as it were, brazenly conceal some drugs during the course of a drug search in the presence of a garda, Garda A, isn't that correct?
A. That's correct. That was information that was given to me from, let's say, a better source than the previous one.

82 Q. Yes. But in any event, you would agree that that's a fair but general summary of the concerns that you had, that you put in your protected disclosures?
A. That's correct, yeah.

83 Q. Now, obvious7y, Garda Keogh, you know that the Tribunal isn't inquiring into the truth or otherwise of those?
A. I understand.

84 Q. You fully understand that. And that it's not the intention that either Garda A or Ms. B or any other civilian named in the original files be identified?
A. I understand.

85 Q. Their conduct isn't the subject of the inquiry?
A. Yes.

86 Q. You follow that. I suppose I should say for caution:
That also applies to any informant that we may come to discuss who you met at one stage?
A. Delighted to hear that, yeah.

Yes. That person is entitled to a different species of anonymity as a potential... In any event, as
Mr. Marrinan stated in the opening and as is the case, you made a protected disclosure by way of affidavit which you gave to Judge McMahon on 8th May 2014?
A. That's correct.

88
Q. You had obviously previously contacted him to make such an appointment?
A. I would have, yeah. I just can't remember the exact -how that happened at the moment, but, yes, I would have.
Q. Yes. The version of the protected disclosure that was initially provided to the Tribunal was, in fact, a draft of the affidavit dated the 28th May of -- sorry, 28th Apri1 2014. You had obvious7y prepared that in advance, isn't that correct?
A. Possibly, $I$ just can't recall or remember.
Q. Okay. But it appears that you had sworn that affidavit as of the date of 7th May 2014, do you recall that?
A. I recall getting the affidavit sworn.
Q. Yes.
A. I recall getting the affidavit sworn from a solicitor in Tullamore, I can't recall her name, but, yes.
92 Q. If that's the date on it, you would accept that, obvious7y?
A. Yeah, yeah.

Now, Mr. Marrinan has referred obviously to the speech of Deputy Flanagan on the 8 th?
A. Yes.

94 Q. He appears to have very clearly been aware that you were meeting the confidential reporter that afternoon, is that right?
A. Yes, that's correct, yeah.

95 Q. Is that a result of a meeting you had with him?
A. Yes. I had met with Deputy Flanagan, it could have
been a couple of months prior to that, in relation to corruption. At the time you could go to a member of the oireachtas under the Garda Síochána Act. I spoke to him in relation to corruption in Athlone, yeah.
96 Q. okay. I think you're referring to Section 62 of the 2005 Act; is that right?
A. That's it, yeah. Had you provided him with the affidavit or with the draft affidavit?
A. No, actually, he asked me to get an affidavit. When I told him what was going on, he asked me would I get an affidavit.
Q. I see.
A. Yeah.

99 Q. okay. That wasn't something that was required by the confidential recipient, Judge McMahon anyway, that was Deputy Flanagan's idea?
A. Yes, that was his idea.
Q. Okay, all right. I suppose it just follows on, did you know Deputy Fl anagan was going to raise it in that way in the Dáil on the 8th?
A. Yes, we discussed it and the reason for that was, look, knowing the history of when the Guards are investigating themselves, we felt that it would be better if it was out in the open and it would be harder 14:23 to do a cover up on it.
101 Q. okay. So can I take it from that, that you intended that it would get the publicity that he would give it? would that be a fair way of putting it?
A. It wasn't so much about -- it was to have it on the record there.
Q. okay.
A. That it would be more difficult for it to be buried.

103 Q. Yes. This may or may not be relevant to a consideration of later matters, but did you expect him to name you in fact as a...
A. I didn't -- I think he said he was going to do it, I didn't particularly want -- I wasn't too enamoured with that at the time, but he said he was and that was it. He had referred to you, it would seem, the previous week in the Dáil in another speech without naming you?
A. That's right. Myself, Deputy Flanagan and retired Garda John wilson actually tried to make our complaint to GSOC originally. What happened on the 8th May should have been done prior to that.

105 Q. Okay.
A. Only GSOC have basically -- the way the law was at the time, said because the complaint emanates from a guard, that they could not...
106 Q. That was the state of their jurisdiction based upon the law, the 2005 Act?
A. Yeah, at the time.

107 Q. At the time. We needn't go into any discussions around that but the effect of the publication and the speech by Deputy Flanagan to identify you, were you concerned about the effect that that might have in Ath1one or on the persons you suspected of being involved in these matters?
A. Everyone knew in Ath1one at the time what was going on. So, it wasn't going to have any impact really. Everybody at that time in -- I can't say everybody in the town of 23,000 people, but a large amount of the population would have known what was going on and they knew it for a number of years as well.
A. Yes.

110 Q. Presumably he told you he would bring it to the attention of the Commissioner immediately, is that right?
A. Yes.

111 Q. Did you subsequently receive a phone call and a letter informing you of the appointment of Assistant Commissioner Ó Cualáin?
A. That's right. It could have been around two weeks after, or think after, I'm not sure, but it was -- if I had my diaries actual1y, I could be able to tell you exactly.

112 Q. Yes. I think we can ascertain that from the documents anyway. The point I am coming to is, you obviously knew what the process would be, I take it, before going
into the confidential recipient?
A. I didn't really, no. No, it was new to me.

113 Q. okay. In terms of any advice you got, did people tell you or not tell you that if you go to the confidential recipient it has to become the subject matter of an investigation?
A. I knew that.

114 Q. You knew that?
A. Yeah.

115 Q. Okay. I suppose you couldn't foresee who would be appointed obvious7y?
A. No.

116 Q. But you expected an investigation to take place?
A. Yes.

117 Q. okay. Just going back to the meeting with Judge
A. No.

118 Q. That first meeting? or did he travel?
A. I think he travelled.

119 Q. Did he trave1 to Kinnegad?
A. I think it was kinnegad, yeah.

120 Q. Just to be clear, can you give a description of what took place during that meeting?
A. I think I sat into his car and had the affidavit with me and I just went through -- there was the incidents from the affidavit and then there was the main thing, the incident that I was to report, which was the whole conspiracy to supply heroin. So I went into basically both, the whole lot, as much as I could in the short

121 Q. Do you think you gave him a little more detail than was in the affidavit or did you talk him through it?
A. No, I would have to because the affidavit contained certain things but the real bulk of what I was ultimately to report was the conspiracy to supply heroin. So I would have had to have gone into -- there was one part, the last part of the affidavit actually went into the conspiracy.
122 Q. Okay. That's where you set out things, so A, B, C, D?
A. Yeah.

123 Q. Okay. Judge McMahon, what did he te11 you would happen, or do you recollect?
A. I just can't remember exactly what he said.

124 Q. okay.
A. Other than he was very helpful and he advised me as we11, just from recollection, to get diaries and not to use garda notebooks, just to get diaries and to record everything down.
125 Q. Yes.
A. From that point of view, he was very helpful, because, what, six years on, you know, I wouldn't have had a clue of dates or anything, you know, over the 1ast number of years.
126 Q. Yes. Okay. Well, presumably he must have told you investigation?
A. Oh yeah. He obviously would have had to, yeah.

127 Q. I think you got his phone number probably?
A. Yes.

128 Q. Because you were in touch with him on a number of other occasions, isn't that correct?
A. Yeah, correct.

129 Q. We will come to those in due course. I think on the 10th May, which would have been the Saturday, you got a phone call from Garda turner, isn't that correct, from Ath1one Garda Station?
A. I received contact, yeah.

130 Q. Without going into any names, somebody had phoned the station and left a number for you to ring and you rang the number and you made an arrangement to meet that person?
A. That's correct.

131 Q. Without identifying who or whether it's a he or a she 14:31 or otherwise, you met that person in Galway?
A. That's correct.

132 Q. On the Saturday night?
A. Yes.

133 Q. You took notes of the conversation, isn't that correct?
A. Yeah. Firstly I tried to get the person to make, volunteer a statement.

134 Q. Yes.
A. They didn't want to do that. So I asked the person was it okay if I took notes, because it was serious stuff. I took the notes then, yes.
135 Q. Yeah. Now again being very careful just to deal with matters carefully, you knew who this person was in advance of going to meet them?
Q. I take you knew this person had some criminal convictions?
A. I knew this person was well in the know, yes.

137 Q. And had knowledge of or involvement in the drugs trade in Athlone?
A. Yes.
Q. I don't want to go into whether it was big or small or otherwise, but the person, I suppose you could 1abel them criminal and consorting with criminals?
A. When I met the person in 2014, that person was a number of years finished with any sort of crime or anything like that. But in his previous life, yes.
139 Q. Yes. You would have known of the person and the fact that the person had some convictions?
A. Yes.
Q. I suppose a question arises which we will come to later, but at that stage, having arranged to meet such a person, did it trigger in your mind whether you might have obligations in relation to the handling of any information coming from that person or any duty in relation to the guards in relation to that person?
A. When I met that person the guards had not contacted me. So I met that person, as I said, I tried to take a statement, I took the notes.
141 Q. Yes.
A. When I eventually did meet with the garda investigation, $I$ handed all that over to them.

142 Q. I do want to proceed in sequence?
A. Yeah.

143 Q. I was going to obviously bring that out as a matter of fact. You made them aware of that and you gave them your handwritten notes and the draft statement.
A. I gave them everything.

14:34
144 Q. And they became aware of the identity also?
A. Yes.
Q. Is that right?
A. Yeah.

146 Q. You were obviously subsequently concerned to 1earn whether that person might cooperate at a later stage and/or provide a statement. You tried to follow up on that yourself later, isn't that right, with the investigation?
A. Oh yes, yeah.

147 Q. But perhaps I am not being clear, at the time when you got the phone call and spoke to this person, did you consider that you might be in fact going into the territory of taking information from someone who the garda organisation would regard as an informant?
A. This person was giving information on incidents that were six to seven years previous. And, as I stated, this person was no longer -- was a professional person when I met them and not involved with anything, but it was to do with that person's previous life, previous
A. So not technically an informant, because -- we11, it was a bit more, it's not as a simple as --

149 Q. No, I understand your concern. Perhaps we will separate out the strands. This person, to your knowledge, had left it behind them?
A. Yes.

150 Q. And didn't perhaps want to revisit that stage or phase of their life and said so?
A. That's correct.

151 Q. On the other hand, you wanted this investigated yourself, isn't that right?
A. Yes.

152 Q. And you wanted the people involved brought to book, as it were; $I$ mean that's a fair of putting it?
A. Yes. But equally, my information at the time --

153 Q. Yes.
A. -- was the person that I met actually had far more accurate information than what $I$ had at the time as we11.

154 Q. Yes.
A. That person had parts of the jigsaw that I didn't.

155 Q. Yes.
A. Yeah.
Q. Well in fact, $I$ don't want to go into the evidence at all, but you're making a very good point, you didn't have the evidence and they had much more?
A. No, I had some of the evidence and I had some incidents, but that person was able to go into far more detail with dates, way more than $I$ would.

157 Q. I understand that. Obviously respecting their position then at the time, you were anxious to get that
information, whether you were able to record it yourself, you were anxious for the investigation team to get that information?
A. Oh yeah. Yes.

158 Q.
So you wanted an investigation, and you wanted the team to get that evidence and knowledge from the person that we're talking about?
A. That's correct.
Q.
would that not bring your interaction with the person within CHIS, as it were, the covert human intelligence...
A. No, no. Again, it's a different scenario. This is where someone is reporting more an incident from years previous.
160 Q. Yeah.
A. Incidences from years previous. It's not as simple as...

161 Q. Okay.
A. Just for clarification, if I was to have handed that person over to CHIS, it would have been relevant in a way because I was already handing that person and I did hand that person over to the detective superintendent that was investigating.
162 Q. Yes.
A. It wasn't that I kept that informant or person to myself, I did hand that person over.
163 Q. Yes. Can I just ask you then, do I understand the distinction you're making correctly; that you weren't trying to solicit this person to become a current
source and provide you with information on an ongoing basis into the future as to what might be doing or what might be going on?
A. As I stated, that person, when they came forward and told me about their 1ife now, let's say back in 2014, where that person was at in their life now compared to where they were at when they were living in the mid7ands.
Q. Yes.
A. How that person's life had transferred so much. That person, I was happy enough, was not involved in anything and, as I said, was working and wasn't engaged in criminality when $I$ met that person.
Q. Yes. But to be a little more explicit in my questioning: You weren't intent on developing a relationship with that person to enable a continuing flow of information about what was then happening going forward into the future, you weren't going to be handling any other information from that person?
A. No, no, anything I got from that person I gave to the investigation team.

166 Q. Yes.
A. For short periods of time that person would make contact via phone and all that, $I$ passed it over.
167 Q. You referred to it as historic, you were getting historic information which would then be handed over, is that right?
A. In a sense, yeah.

168 Q. Historic from that person's involvement.
A. Yes.
Q. But unfortunately it was still ongoing in Athlone?
A. Yes.

170 Q. I think you're making the point that your duties under CHIS couldn't or didn't kick in because the person wasn't involved any more, is that what you're saying?
A. According to CHIS, I don't know anyone is supposed to be involved in crime to be a source in CHIS. But I believe that person was, in 2014, not involved in any criminality.
Q. Yes.
A. They volunteered information, which I ultimately passed onto the relevant investigation team.

172 Q. Yes. We11, it may not be necessary to go into the CHIS document in any detail, but would you accept from me that CHIS does deal with the recruitment of persons to give evidence to the police about criminal activities?
A. Yes.
Q. It does appear to require a referral of a potential source for assessment, am I right about that?
A. Correct. I have handed persons, other persons over to CHIS.

174 Q. Yes.
A. This person was in a different category.

175 Q. okay. I'm not trying to disagree with you or otherwise, I'm just trying to establish -- the understanding of what CHIS may require in the right circumstances is correct, whether it applied in this case is an entirely different matter. Do you follow
that?
A. Yeah.
Q. So it would involve a referral for assessment, a preliminary assessment of the source, isn't that correct?
A. Yes.
Q. The approval of the registration of the source and the actual registration of the source then, isn't that correct?
A. I can't even -- it's years since I've, as I said, handed somebody over to CHIS, so I can't fully remember the procedure.
179 Q. Yes.
A. All I know is that person was in a different category.

180 Q. No, I understand your position, but there was some to and fro about your knowledge of CHIS at the time. That's what $I$ am just asking about it now. It did layout a sequential process for how somebody became a source, was assessed, registered, handled and recorded?
A. It wasn't like that, this person came forward of their own free will.

181 Q. I understand that.
A. Once they volunteer information of a historical event and I duly passed that on to the relevant authorities. If they felt the need that that person should have been CHISSed, they could have done it, I passed it on in the appropriate time.

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182
Q. No, I understand your answer, Garda Keogh. I think we're not differing, I am just asking you to confirm: You did have an understanding of the process of CHIS and how it was meant to work in a case in which it was meant to work?
A. Yes. But this was not --
183 Q. No, I understanding your reservation.
A. This was not a CHIS matter.
Q. We11, I don't think I need to open the documents about CHIS to you at this stage. You got this information and you made your own notes of it on the 9th or the 10th.
A. Yeah.
185 Q. The person wouldn't sign a statement?
A. Correct.
186 Q. I think you left it open to keep in touch with them about reviewing that, as it were?
A. Yeah.
187 Q. And cooperating?
A. Yes.
188 Q. I think the person came back to you and told you that they didn't want to get involved, a couple of days 1ater?
A. That's correct.
189 Q. Isn't that correct?
A. I understood, because the person, as I said, had told me how that person's life had changed so much, you know, and everything was -- that person's life was going great in 2014 in comparison to where it was and
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really that person didn't want to -- wanted to pass on information, but not to get involved really. okay. But in any event, whatever about whether the person was going to come back to you or cooperate, you presumably must have regarded this information as hard intelligence?
A. Oh it was rock solid, because, as I stated, I had some of it, but what $I$ had was nowhere near as accurate as what I learnt on the 10th.

191 Q.
Yes. But can I ask you this: Is that intelligence that you could have brought, or I don't know whether you ought to have brought it to, as it were, district intelligence officer or divisional intelligence officer of some sort?
A. No. There's something I'm after forgetting to say.
A. One thing Judge McMahon did say was not to discuss the investigation with anyone other than the investigation team. So like, I passed that person on to the investigation team.

193 Q. Yes.
A. And that was it.

194 Q. Yes. But we're just dealing with the period before when you made the Pulse entry.
A. Right.

195 Q. And before you met the investigation team?
A. Yeah.
Q. Obviously Judge McMahon didn't know and you couldn't have foretold that you were going to meet this person
on the 10th?
A. Correct.
Q. As far as you knew the investigation hadn't started.

So what was your purpose in meeting the person then on the 10th?
A. Because I wanted to find out as much information as I could.
Q. okay.
A. That's my job.
okay. Having got that information, what did you think you ought to do with it then at that stage?
A. What I did. I can't see a problem with the way I did deal with it, I had the notes, $I$ had the statement.
Q. Yeah.
A. Then I ultimately met the investigation team, I think was it on the 7th Ju7y 2014, I passed everything to them; phone numbers, contact details, the notes, everything.
201 Q. Yeah.
A. And I pulled away. Now that person did ultimately contact me at some stage months later, just out of the blue with more contact numbers -- relevant numbers and things like that. Again, 1 passed them on. That person ultimately dropped phones and I never had contact with that person again.
202 Q. Obviously this first issue that we are concerned with is the creation of the Pulse record on the 18th May?
A. Yes.
Q. You recall that obviously. Perhaps we better look at a
copy of that. There's a very good copy, Chairman, at volume 7, page 1802?
CHA RMAN Thank you.
204 Q. MR. MEGU NESS: If parties want to look at it on the screen, they can perhaps do that. I don't know, can you see that on the screen? it will be coming up in a moment?
A. I know what's on it.
Q. You know what's on it?
A. Yeah.

206 Q. Okay. Obviously, at the top left-hand side corner, as it were, where the blue is, that's space for putting in personal details relating to the person to whom the entry relates?
A. That's correct.

207 Q. So was it your intention then to create this entry only in relation to that person?
A. Judge, that --

CHA RMAN Mr. McGuinness, I am a little concerned about the information that's on this. I thought it was 19:48 more redacted than it is. So I think we should take that down and redact it a bit more.

MR. MEGU NESS: we will take that down.
CHA RMAN I don't think anybody would have much difficulty, notwithstanding my comments earlier.
MR. MEGU NESS: I wasn't going to ask the witness about it.

CHA RMAN oh no, I appreciate that, it's simply the information that exists on the document, it gives the
make and model of the car and it gives a location and I am a little concerned, I would have preferred, now that I see it, I mean I would prefer to black it out because I think that would be -- do you understand what I am saying.
A. Oh yeah.

208 Q. MR. MGGU NESS: I can deal with this. This incident happened when you saw somebody driving?
A. No.

CHA RMAN Te11 us what happened.
209 Q. MR. MEGUNESS: Somewhere in a car somewhere?
A. No, Judge. I think the date on the incident, just from recollection, is it the 18th May.
210 Q. Yes.
CHA RMAN May 2014.
A. Judge, if you look, the first line of what's on that.

211 Q. CHA RMAN Yeah.
A. It was at a petrol station.

212 Q. CHAN RMN Yeah, about three in the morning.
A. And Ms. B --

213 Q. CHA RMAN Yeah.
A. -- at the petrol station stuck her tongue out at me.

214 Q. CHAN RMN Right.
A. I took that up, this was common, it had been in the news and that, I took that up as that this person is back to the station then and I said right, and --

215 Q. CHA RMAN It was early in the morning?
A. oh yeah.
Q. CHAN RMAN In the very early hours of the morning sometime; is that right?
A. I just remember it was dark, I can't remember the time.

MR. MEGU NESS: Can we just do one thing, Garda Keogh, can we exclude the location? It wasn't at the person's house or on the road, it was in a public place?
A. Yeah. I didn't name the petrol station or anything. CHA RMAN Sorry, am I being too concerned.
MR. MEGI NNESS: No, Chairman, it's always good to be vigilant.
CHA RMAN No, no, I mean it's fair, but anyway, there it is, you can proceed, Mr. McGuinness, sorry.
218 Q. MR. MEGUNESS: Were you in the patrol car yourself?
A. I wasn't on my own and I can't remember who was with me.

219 Q.
Were you on foot duty, as it were, or in a patrol car?
A. No, no, it was at a petrol station, I think it was just coincidence, I think. I don't know what we were getting, petrol -- I can't remember, perhaps both cars happened to be getting petrol or whatever at the same time. But Ms. B stuck her tongue out at me.
Q. Yes.
A. I took that very much as, you know, she was making a point that she was untouchable. of course, she was probably correct in hindsight, but...

221 Q. Just to go back to the question that I had asked originally: This was an entry created in relation to her, to go on the Pulse record relating to her?
A. Yes.

222 Q. Did you intend it to relate to any other person, a member of the guards and to go on file in relation to them?
A. Obviously it had crossed my mind, because only eight days previous $I$ had received the information, the confidential information in Galway.

223 Q. Sorry, are you telling me you did contemplate putting it on somebody else's Pulse record?
A. I mean, it probably went through my mind for a moment.

224 Q. okay.
A. The fact is I didn't.

225 Q. No, I understand that, but just in terms of what you did enter, there's a thing called source there, A is always reliant?
A. Yes.

226 Q. Was that one of the drop down options?
A. It probably was.

227 Q. Okay. I mean, had you received information previous7y from the source?
A. No. But as I have stated, I knew a lot of stuff and the source had it more accurate than I had. So I knew the source was reliable.

228 Q. Just as of this time when you created the record, you hadn't handed over the material to the ó Cualáin investigation?
A. Correct, because where were they? I don't meet them until the 7th July.

CHA RMAN I thought it was the 7th June. I may be wrong.
A. Sorry, no, no, you are correct, the 7th June. The 7th June.
Q. CHA RMAN Don't just agree with me because I say it. But I think it's the 7th June.
A. No, no, you're correct.

230 Q. CHA RMAN When you met the Ó Cualáin team, isn't that right? okay.

231 Q. MR. MEGU NESS: Mr. Marrinan in his opening referred to a portion of Assistant Commissioner ó Cualáin's statement saying that he rang you and offered to meet you at a time and place of your choosing?

CHA RMAN Yes.
232 Q. MR. MEGU NNESS: And that you nominated the 7th June, is that accurate?
A. That part is accurate.

233 Q. CHA RMAN You met him at Portumna?
A. Portumna, that is correct.

234 Q. CHA RMAN We have the 7th June anyway, we are clear on that?
A. If I perhaps could have my diaries.

CHA RMAN There is no problem with that.
MR. MEGU NESS: Yes, we will get the original diaries. CHA RMAN No problem.

MR. KELLY: It's the original diaries the witness wants.

CHA RMAN Have we got the original diaries?
MR. MEGU NESS: we have them, yes.
CHA RMAN We will find those for you, don't worry, we clarified it for you, it's June, not July and that was
in Portumna Garda station, okay. So we're back to the 18th May.
235 Q. MR. MEGU NESS: Yes.
236 Q. Is this intelligence that you reported to anyone within
Athlone Garda Station or within the district or division, prior to making the entry?
A. Sorry?

237 Q. Prior to making this entry?
A. Prior?

238 Q. Yes.
239 Q. CHA RMAN Before you made the entry?
A. No.

240 Q. MR. MEGU NNESS: okay. Content, you seem to have entered in there:
"Content: 1. True wi thout reservation."

Is that one of the options that's given on drop down?
A. Yes.

241 Q. That was your conclusion obviously then, is that right, by adopting that?
A. That's correct. I based that on, as I previously stated, I already knew certain things and the source that I met on the 10th was able to pinpoint in finer detail than what I knew. So I knew the information was 14:56 correct.
CHA RMAK Mr. McGuinness, would it help, I was going to suggest leaving out the first line and simply saying that what Garda Keogh said was that he observed the
person in her car, on seeing him then, if you want to read the rest of that.

MR. MGGU NESS: Yes.
CHA RMAN It would make sense, so people would understand. Does that make sense?

MR. MEGU NESS: Yes, Chairman.
CHA RMAN Do you understand what I am saying?
A. Yes.

CHA RMAN It leaves out the make and model of the car, it leaves out the number and it leaves out the location, not that that's vital and so on.

243 Q. MR. MEGU NESS: In any event, it records you observed Ms. $B$ in her car:
"On seei ng menber, she smiled and stuck out her tongue. Mb. B is seriously invol ved in the her oi $n$ trade in At hl one with a turnover of approxi matel y €2, 500 per week. She has no previ ous convi ctions for drugs due to the fact that she has been ai ded and abetted for years by a seni or member of the drugs unit, who himelf is a cl ose associ ate of a hi gh ranking garda officer. Fact."
A. Yes.

244 Q. You appear to have entered that, if I am interpreting this correctly at 23:38, is that right?
A. That's...

245 Q. The date occurred is said to be 18/5/2014, time 03:09. That's nearly ten past three in the morning, is that
when you observed this?
A. Can I just see the document?
Q. Yes. Volume 7, 1802, we will give you the actual volume.
A. Thank you.

CHA RMAN Is that a clear enough copy?
A. It is crystal clear, I am just trying to figure it out, Judge, that's all.
Q. CHAN RMAN okay.
A. The only way I can explain this, I think I understand where you're coming from.
Q.

MR. MtGU NESS: Yes.
A. It has to be that the incident itself happened at 23:38 and that $I$ put on the incident on Pulse at --
CHA RMAN No, it would be the wrong date.
A. No, no, no, we're in a different day, yeah, sorry.

250 Q. CHAN RMAN Mr. McGuinness is suggesting the way it makes sense, now this may not be right, but the way it makes sense is, you're on night duty, it would appear?
A. Yeah, midnight.

251 Q. CHAN RMAN we have two times, we have 03:09, the observation takes place, the event takes place that you're recording?
A. That's correct, and I put it on the --

252 Q. CHA RMAN 23:38. So it's within the same 24-hour period, it's the same date. Presumably you're on night duty. It happens last night and I put it on Pulse next night?
A. Yes.

CHA RMAN Okay, that's what happened. That seems to be it.

MR. MEGU NNESS: Yes.
MR. KELLY: Chairman, I wonder --
CHA RMAN Sorry, Mr. Kelly, are we getting this wrong?
MR. KELLY: No, I am just suggesting that at the top of that entry.
CHA RMAN Yes.
MR. KELLY: The original one, there is material which should also be redacted. There is already a redaction, we then see the whole vehicle.

CHA RMAN That's right, absolutely. Thank you. I am uneasy about the thing, absolutely. So that's why Mr. McGuinness read out the relevant part, we will deal with the redactions in due course, Mr. Kelly, but I think you're absolutely right.

MR. KELLY: There is also the first line.
CHA RMAN Yes, absolutely. Sorry, glitches happen, sometimes thing make their way through the system,
we've 51 volumes of materials.
MR. KELLY: I thought it best to point it out.
CHA RMAN You're very good, thank you very much. But anyway, as to the time, we seem to be agreed, happened just after three in the morning. It would seem that when you're next on duty at whatever it is, 11:38, 23:38.

253 Q. MR. MEGU NESS: You probably don't recollect the time that you saw this incident, as it were, but would you
have made a note of that in your official diary or your notebook?
A. I can't remember.
okay. It seems very precise anyway, 3:09. You've no recollection of who you were on duty with on that occasion?
A. No.
Q. I am not criticising you at a11, but obvious7y you would normally return to the station to go off your tour of duty by seven in the morning, is that right, if 15:01 you are doing night duty?
A. Yeah.
Q. okay. Then you would be coming, would you come at seven the next night?
A. Just for clarification, the hours have changed. At the 15:02 time I think it was 6am duty changed, it's now 7am, there was a change of the rosters. But, yes, it would have been finished at roughly 6am. CHA RMAN Ten to two, is that right. 10pm, 2200 to 0600.
A. Yes.

CHA RMAN okay.
257 Q. MR. MEGU NESS: In any event, did it strike you as an alternative way of proceeding, that if you were going to publish on the Pulse within the force, as it were, that the alternative would perhaps be to write a report that you could control the distribution of?
A. Yes. Now there's something that's missing here from al1 this. I understand where you are coming from now.

At the time, 8th May 2014 I had come out as a whistleblower. So I had hadn't met the investigation. I don't meet them for a period of a month. That first month was difficult in the station for me, because a lot of guards didn't know what $I$ was going on about. Therefore, at the time, for self preservation as well, I had to put this on to make sure it was that some guard thought, oh is this lad going to report that I 1et some lady go because she wasn't wearing a seatbelt or Mickey Mouse things like that. That was for -- part 15:03 of it was for survival in a way for me because things in that week start occurring, which I am sure people will be getting on to. But that was a difficult period, that first month, because I was a sitting duck in the station at that stage, but a lot, a lot, not a11, but a lot of the guards didn't know, in particular junior guards, for some reason, the older guards would have had some idea, junior guards didn't know what was going on, and so it was important to have a record on Pulse so that everyone knew I wasn't going to be firing 15:04 stuff about any sort of Mickey Mouse stuff that went on. It was serious stuff. It was concentrated to -you know.
258 Q. I am not suggesting that members of Gardaí should or shouldn't read the Dáil debate. what you had alleged had been announced by Deputy Flanagan in the first instance, isn't that right?
A. That's correct. what was in an affidavit and announced in the Dáil, it was the small stuff, the big stuff was
the collusion in the heroin supply. Ironically as well, that report has not been handed in to this Tribunal. It's not in those 51 documents or anywhere there.
we're not quite sure about that, Garda Keogh, and we're 15:05 addressing any concerns you have to see is there some misunderstanding. So we are going to just leave that aside for the moment. But I think after you had come on duty, after Deputy Flanagan had made his speech, I think you were given an opportunity to parade before your unit and speak to the other colleagues you were working with?
A. That's right, yeah.

260 Q. I think you did take the opportunity to outline to them what your disclosure was about?
A. That's correct, yes.

261 Q. I think, without naming names, you gave them a clear picture of what was involved?
A. I did.

262 Q. So your colleagues, how many would there have been at that stage?
A. You see again, because it's shift work, not everyone in the station was there. It was probably just my unit really and whoever else would have been working at the time. More or less I just said to them, none of ye have anything to worry about, it's nothing to do with ye. That was it. But there would have been others from other units that would have been resting or on different shifts that weren't there for that, so I
didn't get to -- you know.

263 Q
Q. So I mean, the question $I$ had asked is: In terms of reporting this, is it the case that you, as it were, deliberately chose not to put this on a piece of paper and either keep it for the investigation team or for the criminal intelligence officer or some superior you could trust? You decided to put this up as a public flag, as it were?
A. Again, as you just said there, a superior you can trust. When you come forward in the guards, that's a rare thing to find. Ironically, that is the on7y thing on Pulse about the whole investigation and I think that's why they were quite upset, that it's on Pulse.
264 Q. I don't know whether that's right or not, I am not arguing with you.
A. Yeah.
Q. I am just trying to work out, was that your intention; did you deliberately decide not to make a written report to anyone, but to put this up on the Garda Pulse system which could be viewed by anyone?
A. Look, I'd say just reading them, the dates and that, obviously I put it on the next evening. I obviously stewed over it as well the following day and you know, obviously gave it a lot of thought. I put it on Pulse, that's it and I stand by it.

266 Q. I'm not going into it one way or the other and neither is the Chairman, but in terms of what occurred then, I think Inspector Farre11 had his attention drawn to it the following morning, isn't that correct?
A. Yeah.

267 Q. We have your diary now, if you want to refer to it at any stage. Would you like to see it now in the context of one of your previous answers?
A. Thanks. okay.
Q. Inspector Farrell's attention was drawn to the entry on the following day, on the 19th and he received instructions to meet and enquire with you whether you had information from a specific source and to advise him on contents of HQ Directive 126/10?
A. The HQ circular is not relevant, as is stated in relation to this, this information.
269 Q. That may be your opinion. I am going to ask you what happened during that meeting? Do you understand that?
A. Yeah, yeah.

270 Q. So he said at 9:45 in the meeting he spoke with you in the office. He drew your attention to the entry and you asked him had he solid information to the effect that this person was seriously involved in the heroin trade, is that right?
A. I don't have a note of that part, but I can't dispute -- I'm not disputing it, it sounds...
271 Q. He said that he informed you that if you had an informant that they should be registered with CHIS in accordance with Directive $126 / 10$ ?
A. Yeah, yeah.

272 Q. Is that right? He did say that?
A. He did ask about an informant and CHIS. I am not sure what the...
Q.
Q.

MR. MEGUNESS: Four lines down then it continues:
"He stated that he was due to meet AC Ó Cual ái $n$ and coul dn't di scuss the entry with me."

Is that correct?
A. Yeah.
Q. Perhaps we should look at his note of the meeting, the contemporaneous note, it's at page 640 of our documents, which is in volume 3. We will get you that. CHAN RMAN Can you see it? oh, it's up on the screen. I am sorry. You don't need that, it's up on the screen 15:11 in front of you, I am sorry, I was forgetting that it was going up on the screen. Yes, Mr. McGuinness, sorry about that.
"He stated that it was advi sed by the confidential reci pi ent he di dn't need to talk to anyone el se except AC Ó Cual ái n. "
A. Yeah.
"I expl ai ned that any entry had to be supported by strong information to withstand scrutiny froma credi bility perspective."

Do you recal1 him saying that?
A. If he says that, I would accept it.

277 Q. Yes.
"I then asked hi mabout the entry rel ating to Mb. B bei $n g$ ai ded and abetted by a seni or menber of the drug squad. He agai $n$ stated he coul dn't talk to me about that as I friendly with the persons who were friendly with the person invol ved."
A. That's correct.
"He went on to say that he doesn't bel ieve that the seni or of ficer knew what was going on. "

Is that correct?
A. That's correct.

279 Q.
"I put it to himthat would it not have been better for hi mto have spoken to AC Ó Cual ái $n$ bef ore creating the entry. He said it's done now, what can I do, everyone has seen it."
A. Yeah.
"he then went on to say if this referred to an empl oyee i n Tesco. "

We don't have the rest of that there.
A. Yeah. I know what I meant by that, yeah, yes. That is correct. If this referred to anybody else, that would never have been questioned on Pulse. The fact, the
thing about a senior officer involved is what they went bananas over.
281 Q. Well, the continuation of the note is at page 642, it continued on:
"He went on and said, if this referred to an empl oyee at Tesco and a manager at Tesco, there woul dn't be a word about it."

He records himself as saying to you:
"When you say that persons are ai ding and abetting in the drugs trade, it is a serious allegation that would have to be investigated further."

Do you recall him saying that?
A. I don't remember, but I would accept it.

282 Q. Yes.
A. I would accept it, yeah.

283 Q. But just at this stage, I wonder could I ask you to comment on this suggestion to you, that obviously you hadn't discussed the creation of the Pulse entry with anyone?
A. Correct.

284 Q. You hadn't reported the information to anyone?
A. Well, I was still waiting to report it.

285 Q. I understand that, yeah. You have put it in a form on the Pulse entry, which implies that you have got an always reliable informant, isn't that right? That's
what the form has on it?
A. Well, they have tabs and you can only click down on whatever they have and that was obviously the most accurate one to the situation.
Q. Yes.
A. It wasn't that I typed in "always reliable", it would have cropped up on a tab.
Q.

I understand that. I'm asking you, would you agree that the way it would appear to persons reading it might lead them to wonder well, had you an informant that was always reliable. That's a reasonable interpretation of the entry, isn't it?
A. Yeah.
Q. Okay. In terms of the content of the entry, referring to the lady, the amount of the trade and then being aided and abetted, you hadn't previously reported that within the force?
A. I hadn't got the opportunity, I am still waiting to report it.
Q. I am not criticising you, Garda Keogh, I am just trying to establish how the facts were on that day or how they might have appeared to persons. Do you understand that?
A. Yeah.
Q. So would you agree that that could give rise to a concern that you had information relating to a senior member in the drugs squad about their involvement?
A. Yes.

291 Q. Okay. Would you expect that to give rise to any
enquiry to be made of you about who or what the source was, whether they were registered or who or how, what information you have?
A. Wasn't that all to be dealt with when $I$ was to meet the investigation team, it took them a month to come to me. 15:15 CHA RMAK Had you made an appointment with them at this stage?
A. Well, we find out when Donal ó Cualáin first rings me. MR. MEGI NNESS: I think it's suggested he rang you on the 14th.

CHA RNAN Anyway, if you don't remember, you don't remember, that's okay?
A. The 15th I think. 15th May 2014.

294 Q. CHA RMAN what did you think was the effect of putting this on Pulse?
A. Well, I would have liked everyone to know this is what I am reporting as opposed to not, $I$ am not going in with a machine gun firing allegations at everyone, you know, $I$ am going in on a specific thing.
CHA RMAK This isn't reported as an allegation, it's reported, as you say yourself, fact. This is an allegation. You have information that's very serious allegation, as a policeman would you expect that to be investigated?
A. Yes, but it ultimately was to be investigated.

CHA RMAN I am not understanding why you are, so to speak, jumping the gun for self preservation, as you say yourself, by putting it as a fact, when it is an allegation, admittedly a very serious allegation and as
far as you are concerned from a very reliable source. That's your state of mind.
A. I had evidence, other evidence, circumstantial, a lot of it circumstantial evidence, Judge.
CHA RMAN Okay.
MR. MEGU NESS: One of the matters that you have included in your statement, you say that Inspector Farrell asked you to change the entry?
A. Yes.
well, he doesn't recollect any discussion of change.
He made a report to Chief Superintendent Curran the following day, it's at 1806. You have probably seen that report yourself, have you, previously?
A. I am sure I have. I have seen it.

301 Q. It's in volume 7, I should have said, 1806?

302 Q. MR. MGGI NESS: Yes. At the bottom, the second paragraph there, sort of five lines -- or let's start three lines in:
"He went on to say that he does not believe the seni or officers knew what was going on. I put it to himwould it not be more appropriate for himto have spoken to Assistant Commissioner Ó Cual ái $n$ before creating the
entry. He said, it's done now, what can l do, everyone has seen it."

Is it possible that you interpreted what Inspector Farrell was saying to you as a desire on his part to change it, but that he didn't actually ask you to change it?
A. No, no, no.
Q. Is that possible?
A. I clearly remember, when he said about changing it, I said, what part do you want me to change? You know.

304 Q. Right.
A. I still stand by every word what's on that now.

305 Q. Okay. If we could go to page 165 , which is in volume 1 , you were asked by Superintendent McBrien on the 27th 15:20 July -- we should probably go to page 163 first, my apologies. I think this was copied to you and Superintendent McBrien --
CHA RMAN It's actually 23rd Ju7y.
MR. MEGU NESS: I am sorry, the 23rd, it's stamped on the 27th.

CHA RMAN Yes.
306 Q. MR. MEGU NNESS: It says:
"Regard to intelligence report 48549, created on 18th
May 2004, I requi re a report fromyou indi cating whet her the informant had been regi stered with CHIS in accordance with HQ Directive 126/ 10 for attention and report."

I think you endorsed a rely on that to the superintendent.
"This is not a CHIS matter. The information is in the care of Assi stant Commi ssi oner Donal Ó Cual ái n. "

I think you have explained why you thought it wasn't a CHIS matter.
A. Yeah. And as I stated, when I do meet the
investigation team $I$ ultimately give them everything.
Q. Yes.
A. Pass everything on to them.

308 Q. Yes. Just one final question, just on this point of it at this stage: would you agree that at that stage in time that we're talking about, after you had created the entry, it could give rise to a reasonable belief that you had a CHIS source?
A. I mean, look, it's possible. The fact is, I handed -I have passed persons, put persons -- how would I put it? Forwarded persons into the CHIS system previously. This was a person that's in a different category completely.

309 Q. okay.
A. It's a different situation.

310 Q. Okay. But at all events you didn't as a fact explain that to anyone who was enquiring with you about it at this time?
A. Well, I would have explained it, I am sure, to the
investigation team.
311 Q. Okay. We then have a document at page 164, it's from Superintendent McBrien to Sergeant Haran. She has passed on your report. She says:
"Pl ease see attached report from Garda Ni chol as Keogh dated 27th July 2014 whi ch was forwarded to Chi ef Superintendent Curran divisional officer. Chi ef Superintendent is not satisfied that this negates our responsibilities as outlined in HQ Directive 126/10 has 15:23 requested that the source be referred in line with Garda policy. Garda Keogh should comply with this request and report by return."

I think you got that from Sergeant Haran?
A. Yeah.

312 Q. I think that's the second, as it were, letter from her then, asking you to address this issue?
A. Yes.

313 Q. I think you did address that then and that's on page
165. I think there was no typed version of it, this is the only report. It says:
"Wth reference to above, Chi ef Superintendent Curran, di visional officer West meath di vision, is fully aware
that there is ongoing investigation into alleged criminality invol ving nembers of An Garda Sí ochána in the south Westmeath division. I believe it's inappropriate while the investigation is ongoing for

Chi ef Superintendent Curran to seek the source rel ating to the intelligence report 48549 whi ch is directly I inked to this investigation at this stage at least as it could jeopar di se the said investigation. I believe the investi gation team under Assi stant Commissioner Ó Cual ái $n$ shoul d be left do thei $r$ job without any internal interference. At some point they will make a finding and it can deal with the intelligence report then in rel ation to the HQ Directive 126/10. This does not appear to cover this particul ar situation. Perhaps 15:25 Chi ef Superintendent Curran could furnish to me the exact wording that refers to outlined in Directive 126/10. I wi sh to add that I have been advi sed by Judge Patrick McMahon not to speak with any menber of An Garda Sí ochána about any part of this investigation with the exception of the investigation team under Assi stant Commi ssi oner Ó Cual ái n. Ther ef ore, I request that any deal ings bet ween myself and Superintendent Curran, di vi si onal officer, West meath di vi si on, should not be informal. I intend to be compliant once the i nvesti gati on has been concl uded. Forwar ded for your inf ormation pl ease."

Now, that went up to your superiors obviously. I think one of the issues is whether you perhaps misunderstood the request, that you were being asked to identify the source?
A. I do recal1 when I asked for copy of $146 / 10$ circular, from recollection, I didn't get one.
Q. Yes.
A. But I can't remember. Now if I did, it was by way of phone call.

317 Q. Yes.
A. I don't think we would have notes or anything in relation to that, I don't know.
318 Q. Okay. But you made the investigation team aware of it, isn't that correct?
A. Oh yeah.

319 Q. Okay. I think they made it clear, both to you and to your superiors, that they weren't investigating the creation of the source or the validity of it?
A. They said that at the start but later on they do say,
yes, we are investigating this.
320 Q. No, they were investigating the content of it in terms of an allegation, but they weren't investigating any issue concerning the creation of the Pulse entry?
A. Oh yeah.

321 Q. Isn't that right?
A. Yeah.

322 Q. So, when you were told that, did that not leave it open to your superiors to raise the issue as to whether you were acting in accordance with the policy, as it were?
A. It goes into the garda intelligence, I would have put on over 500 and something pieces of intelligence over the years and not one of them was ever questioned. And some of them, you know, would have been -- a lot of them would have been to do with drugs and this fella, that fella, whatever, selling $X$ or whatever, and there's no issue. The thing is, it's because there's a senior garda, that really is the crux of the matter there that there's always this stuff over. You've probably seen that Sergeant Curley did an analysis of your intelligence created on Pulse at a later stage in the year, which was reported up. Di you see that?
A. He'd a couple of snippets for previous...

324 Q. You apparently, it would seem and we will hear
obviously from Sergeant Curley, that you hadn't created on Pulse such an entry before, relating to a perceived informant and relating to a Garda Síochána, that's I think factually right?
A. Garda stuff, oh no.
Q. Just the final sort of line of this letter, in which you say you intend to be compliant once the investigation has been concluded. One interpretation might suggest that you knew you weren't complying with what was required of you at the time?
A. From my recollection, HQ Circular 126 doesn't cover this.
Q. Okay. That's your position, is it, on that?
A. Mm-hmm. Just from my recollection, I will have to look 15:30 it up and see, I could be wrong but.
Q. 126 Circular, it's a one-page circular, isn't it?
A. I can't even remember when I read it, I would have read it around this time a couple of years ago.
Q. Yes. But it simply informs everyone, all and sundry, and it's to be brought to everyone's attention that the CHIS policy has been amended and updated and is now on the Garda portal, is that correct?
A. I can't disagree.

We11, I suppose it begs the question: when you got these queries, did you look at the directive to see whether it was applicable?
A. I would have had to have because I remember I wrote to Chief Superintendent Curran looking for it and he didn't give it.
Q. But if we look at perhaps Volume 28, it's page 8122. It does appear to be a one-page circular, which refers you back to the amended CHIS document. Do you see that:
"CHIS intelligence sources came into effect on 3rd April."

Second paragraph:
"Revi sed code has been pl aced on garda portal to be accessed and per used by all members. CHI S incl uded compliance with code of practice....regul ar item.. di strict management, accountability meetings. Managers 15:32 and supervisors will ensure that instructions cont ai ned in the code of practice are strictly complied with."

Then it's to be construed with another HQ directive. Did you read that at the time that you were responding to these issues?
A. No. I asked for -- sorry, excuse me, I must have, because I asked, in the previous letter do I not ask what part where in HQ circular and can I have a copy of what lines in HQ circular 126, and nothing comes of it.
331 Q. Yes. This reply that you wrote of the 26th September, it's stamped on that date, received by the public office, I think that was your last response to the last communication to you in connection with this, isn't that correct?
A. I haven't a note of that but I would accept...

332 Q. Yes. It would appear both from Superintendent McBrien and Chief Superintendent Curran, it was never followed up directly with you, isn't that correct?
A. This is the CHIS matter.
Q. Yes.
A. You see, at that stage the main investigation is full steam.
Q. Yes.
A. I think at some point and I could be wrong, but I think Detective Superintendent Mulcahy at some stage, I may be wrong, but I think he states somewhere that this is not a CHIS matter as well.

CHA RMAK Can I just ask you, Garda Keogh, as far as you were concerned, from the beginning you said, I am either in the course of making a statement or I am going to be making a statement very soon, there's going to be a big investigation and all of this is a matter for that investigation. And more or less whatever it said in CHIS, that was your position. That seems to me to be the situation.. is that right?
A. Yeah.
Q. CHAN RMAN And that was your response, rightly or wrongly, that was your response to those queries?
A. And Judge -CHA RMAK when I say rightly or wrongly, I mean you were taking a clear position as far as you were concerned?
A. Like that's back, we're going back 2014 and this is now 15:34 2019 and there's a lot of things I wish I could change but that's not one of them.

338 Q. CHA RMAN okay.
A. I'd put that back on the same --

think that kind of just -- that was the end of it.
344 Q. You may be referring to the fact that he communicated with Chief Superintendent Curran to assure them that they were aware of the informant and that he, for his part, Chief Superintendent Curran, didn't need to worry 15:36 himself about any issue of compliance from then on?
A. Yes. And my understanding again is that this was not a CHIS matter.
well, I'm not sure if he went that far, we will hear from him in due course. We received a great deal of papers from HQ and from the division to and fro and within HQ , which seems to show that a number of issues were being considered as emanating from the creation of the Pulse entry, relating to data protection, whether the creation of it was appropriate and proportionate and supportive. Presumably you'd agree that no one brought any other concern to you at any later stage, whatever their concern was? Nobody came back to you after this last response that we have seen, isn't that correct?
A. Well, it just finished off then at some point, just that was it. That's where why my recollection is, and as I said, I could be wrong, is that Detective Superintendent Mulcahy said it wasn't a CHIS matter, they were dealing with the substance of it, that was the end of it, from recollection now.
346 Q. Yes. But you weren't aware that issues were being considered of either discipline, redaction of it, investigating it further?
A. I don't know, I mean, I have read notes now, but at the time it didn't matter to o me. Once the main investigation was moving at that stage. But what does seem clear is that you made at a later stage a complaint of bullying and harassment in relation to this issue, isn't that correct?
A. Yeah.

We have looked at what your superiors had required of you, both through Inspector Farre11, Superintendent MCBrien in the first request of you of the 23rd July and the second request of the 28 th September 2014, and the way you answered them, but are you construing those two requests as bullying and harassment?
A. There was a number of -- there was a lot of paperwork in relation to this. The contents of that were being investigated by Donal ó Cualáin's investigation team. The chief in Mullingar, who at the time was -- it wasn't just that, there was a number of other incidents that we will yet get on to. There was a whole lot of things that there were. A lot of those different things should have just been put into the main investigation by the appointed investigation team. Because it ended up it started to mount all these miniature little investigations into, whether it's Pulse or whether it's to some of the other matters we

349 Q. But in one of your statements to the Tribunal, you describe this as an attempt to manufacture complaints against you and this is one of the instances.
A. I know the two next instances, but I mean, this is fairly straightforward. As I said, if this was a Tesco worker or anybody else, there wouldn't be a word about this. I mean, if one was to look through the --
CHA RMAN I don't understand that. what do you mean by a Tesco worker? Explain that to me.
A. The big deal with this is because I have guards involved in criminality. That's what they go bananas over. That's why, if it was any other profession or anything like that, there wouldn't be an eyelid blinked 15:41 to it. That's really the crux of the matter there. It's because it's guards. If I had put in, I used Tesco, but any, in any employment or whatever, anywhere.

351 Q.
CHA RMAN So if anybody else, anybody else was
involved.
A. Yes.

352 Q
CHAN RMAN Or any other job, you say, okay.
A. Yes. There wouldn't be a word about it.
Q. CHAN RMAN Okay. But Mr. McGuinness is asking you, do you say, whether the queries were entitled to be done under CHIS or not, do you say that was bullying and harassment or targeting and discrediting?
A. I have already said this is not a CHIS the matter, I have said that.

CHA RMAN No, I understand that. But what he is saying is, these queries that the guards made about this, the authorities made, do you say that was bullying and harassment, and if so, why?
A. I mean, okay, they're entitled to ask obviously, you know, was there -- they're entitled to ask was it CHIS.
Q. CHA RMAN Sorry, let me explain for a moment.

## A. Yes.

356 Q. CHA RMAN I can understand that you or your team can say, look here, it's not just one particular incident. I can understand that you or your team can say, look, it's not just one, you have to look at the whole context. That, I have no difficulty with. But obviously we do have to look at each specific incident. 15:42 We can't just ignore them. It's clearly possible that the answer might be, no, this particular incident on its own does not amount to something but when seen as a pattern might be something. okay. So it doesn't seem to me to be unreasonable for Mr. McGuinness to say, in 15:43 what way do you say these particular queries, expressed as they were in the form of letters, how do you make them out to be bullying and harassment? That's what he says to you, if I am understanding him.
MR. MEGU NNESS: Yes, Chairman.
357 Q. CHA RMAN So, what do you say to that?
A. I explained at the start this wasn't a CHIS matter.
Q. CHAN RMAN I understand that.
A. The letters kept coming.

359 Q. CHA RMAK Let's say they were wrong, let's say it's 15:43 not a CHIS matter, but the chief superintendent thought it was a CHIS matter. Let's say he was wrong about it. Is that bullying? Because he gets it wrong and he thinks maybe it is a CHIS matter, I better check this
out, do you say that's bullying?
A. I understand, Judge, yeah, what you mean. I mean, I wouldn't call it bullying, but I don't know --
360 Q. CHAL RMAN Do you see where I'm coming from?
A. Yeah, I do, of course, Judge, yeah, yes.
Q. CHA RMAN Chapter and verse?
A. Correct. And I don't get it.

364 Q. MR. MEGINESS: Garda Keogh, I don't know whether it's unfortunately fortuitous or not, but Superintendent McBrien unfortunately, she did go ill in early October and she was out for some considerable period. The
matter had been escalated up the line and was orbiting around headquarters for a number of years, but these documents that I have opened to you, which were directed to you, they were the only documents which were asking for a response and you were never subsequently asked for any other response about them, isn't that correct?
A. I would have to accept that.
Q. Yes.
A. Yes.

366 Q. But that's why I am just asking you the question in a direct way. You included these requests that were made of you by Superintendent MCBrien as part of a bullying complaint?
A. I think, just to clarify, I never made -- I didn't make 15:46 an allegation ever against Superintendent McBrien for bullying or harassment or anything like that.
367 Q. No, but you took it that these were emanating from and reflecting Chief Superintendent Curran's concerns?
A. From higher up.

368 Q. He was aware and was requiring these responses and you did complain about Chief Superintendent Curran?
A. Yeah.

369 Q. Are you, in fact, maintaining that what was required of you here, and nothing further was ever required, amounts to bullying and harassment?
A. I'd accept not bullying but harassment, if you put it in with a few other things that they're doing, cooking at the same time, you know, they're sending me down
this HQ 126 and all the rest, you know, and from recollection, it doesn't contain the lines, you know. They have read that circular themselves, I mean they could have quoted the line or whatever out to me, they certainly didn't, that I was getting anyway.

370 Q. I do want to deal with each of your complaints in a fair but separate manner?
A. $\mathrm{Mm}-\mathrm{hmm}$.

371 Q.
It is the case that you isolated these requests, albeit that they came through Superintendent McBrien, you did identify these as bullying and harassment and put it into your statement to that effect, isn't that correct?
A. Yes.
Q. well again, that's obviously a separate complaint, as to the conduct of it?
A. Yes.

Perhaps we will leave the findings over in that respect until then. There was an independent expert, a Mr. deBruir commissioned to sort of do an audit review. He appears to have thought that it was reasonable
requirement being made by your superiors at the time?
A. I would have loved to have met him to maybe explained my -- I never met that man. So he did a review, he didn't even come to me to ask me for anything.

CHAD RMAN Through your solicitor you had an opportunity to -- this is only what he is saying, I'm not saying this?
A. Yes.

CHA RMAN He's saying, didn't your solicitor have an opportunity to comment on the Finn Report which he put forward counsel, Mr. deBruir. Nobody says that you spoke to him?
A. Oh yeah, but I think it's --

379 Q. CHAL RMAK He said you had an opportunity to speak to
it, by which he meant, you had an opportunity to comment on it. Do you understand?
A. On the Finn?

380 Q. CHAN RMAN You were given an opportunity to comment, that's what I think Mr. McGuinness is asking you?

MR. MEGU NESS: Yes.
CHA RMAN He is putting that to you and asking you what your response is?
A. Yeah. I mean, my instructions to my solicitor were that the whole Finn investigation was a joke. As I said, it's questionable what sort of investigation --

382 Q. CHA RMAN Okay. You weren't happy with any part and you're not going to agree to any part of the Finn Report?
A. Yeah.

383 Q. CHA RMAN okay.
384 Q. MR. MEGU NESS: Now, you did bundle together these enquiries that were being made of you together and you complained in a number of different documents that you were subjected to five internal investigations to date, four of which went nowhere. You categorise this as an investigation into you. Is that the way you still see it?
A. You see, this was the first month again, as I said, all these things --

385 Q. Yes, I understand that.
A. -- the first five came in that first month, when I'm waiting to meet the investigation team, all this stuff starts coming down, you know.
Q. Yes.
A. At the same time, in one month, in the first -- like, you know -- as I said, nothing was ever queried before, either as intelligence or doing a check on Pulse or anything like that, it was just within the first few weeks from me making my protected disclosure I was getting all this sort of stuff.
Q. I can understand how you believe you felt at the time and how it seemed to you. Were you getting support, though, locally at that time during this period?
A. I don't know, how do you mean support?
Q. Well, did Superintendent McBrien speak to you and offer you support?
A. Yes.
Q. Through a number of different guises?
A. Yes, Superintendent McBrien did, yeah.
Q. Did you avail of those as well?
A. I didn't at the time. I did ultimately later, at a certain point $I$ do recall $I$ rang Detective Superintendent Mulcahy and I said, if you're still
offering the Garda welfare service then $I$ will take it. And they have been very good, yeah.
Q. It's not the subject matter of a separate complaint that you didn't get support either at any stage or throughout, isn't that right? You never complained about the lack of support?
A. Oh no, I didn't. No, no, no. On the contrary, the Garda welfare Service have been excellent. Yeah.
Q. Just on this point, you're making the point that at
this time these things were all happening in a short space of time?
A. Yes, correct, yes.
Q. And I suppose the Gardaí might say the same, I don't know whether they will or not.
A. You see, I saw myself as a sitting duck at that time, as wel1. 2015, 2016, 2017, you did bundle this matter in as an investigation that had been mounted against you and it would seem that you're implying that it was totally unjustified and unwarranted and unreasonable. Is that the way you still regard these requests that were made of you at that time?
A. I mean, I am sure it was very simple for somebody at the top to say, look, ye guys, for example, Donal Ó Cualáin's investigation, there's this Pulse incident, you're dealing with, investigating this stuff, just deal with that as well, end of story. And all of that should have just gone in to there. And we wouldn't have had to have been bouncing it around to each other and generating all this paper. Someone could have made the decision, you're dealing with this lad, he is you're a confidential reporter, just deal with it. They could have done that. I had already passed all

395 Q. Just one matter: Did you speak to Judge McMahon about the intelligence entry?
A. I can't remember. I just, I can't remember -- oh, I the information in relation to it anyway.
did. I did. Yes. And he did say I shouldn't have done that. you have?
A. His thing was that you're meeting, you're due to meet the Ó Cualáin investigation team, you know. But look, I had explained to him what I've told you. Obviously, the Ms. B sticking the tongue out at me, you know, in defiance, that she was untouchable, and obviously I stew over it the next day. What is going on around me in the station, where $I$ do feel like a sitting duck at that stage and I put it, ultimately put the intelligence on the system and...
397 Q. I mean, that might wel1 reflect, I think, some advice that Superintendent McBrien gave to you; that you shouldn't get involved in doing any investigating yourself, is that right? Do you recall any such matter being --
A. I think, yeah, but I think that was to do with a different matter, I think. I don't think that was to do with this particular matter.

398 Q. Okay. But your answer there, is that how you saw how this entry came about; that you were in fact doing a bit of the investigating yourself and putting it on Pulse, in the way that you would do if you were an investigating member? Is that part of it?
A. I don't think so. No. We11, I certainly didn't look at it like that. To think, to try and comprehend what you are saying there. Because I didn't look at it ever

1ike that.
MR. MEGU NNESS: Yes, okay. Chairman, that is as far as I want to take that issue today.
CHA RMAN Very good. Thanks very much. Well, that is probably a convenient time to -- I am not forgetting you, Mr. Murphy. That is probably a convenient time, you will have a break and we will see you back here at 10:30 in the morning. Very good. And you're proposing to move on then to the next issue. That's as far as you want to go.
MR. MEGU NESS: I think. I may have one.
CHA RMAN I understand. Broadly speaking, okay. Thank you very much.

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CHAN RMAN Now, Mr. Murphy, you have a -MR. MRPHY: Thank you.
CHA RMAN We will give Garda Keogh a chance to get himself out. Yes.

## SUBM SSI ON BY MR. MRPHY

MR. MRPHY: Chairman, I have a short submission. I am very grateful for you allowing me to made it at this time. Just in aid of the submission, could I ask if it 15:57 is possible for document 14176 to be put on the screen? CHA RMAN Thank you. Do you want to te11 us, I probably know what it is and we will be able to see it. MR. MRPHY: This is the letter which Mr. Marrinan
referred to in his letter this morning; a letter of the 4th October, from Garda Keogh's solicitor.
CHA RMAN Yes.
MR. MRPH: Dated 4th October 2019.
CHAL RMAN Thank you.
MR MRPH: And that related to issue 16, a part of issue 16 that is a previously asserted allegation of phone tapping. And this morning the letter confirmed in the following terms, if I can read it for the record:
"Garda Keogh doesn't remember who tol d him whose phone could be tapped. The latter is of no evidential val ue. Garda Keogh has not made an allegation of phone tapping in his statements to the Tribunal. As he says, it is virtually i moossi ble to prove and would therefore be a waste of the Tribunal's time."

And I welcome that realistic assessment by Garda Keogh of that issue. However, in our respectful submission, a similar position arises in relation to issue number 8. And in that regard I wonder if we could bring up on the screen please for the assistance of the Chairman, page 49, volume 1.
CHA RMAN Yes.
MR. MRPH: Chairman, this relates to a question in the statement that Garda Keogh made to the Tribunal investigators in 2018. And at page 48 the question was asked, in relation to the allegations that Nóirín
o'Sullivan personally telephoned Superintendent Pat Murray --
CHAI RMAN Yes.
MR MRPH: -- and he is asked to indicate what evidence did he have to support this. At the top of page 49 Garda Keogh says as follows:
"All I can say is that I have no direct evi dence, ot her than saying that guards in the station tol dee this, that's as far as l can go. I am not willing to name the guards concerned for fear they will be targeted."

Then next, if I can ask the Chairman to be shown document 5971, please. And what happens here, Chairman, is there is a progression.
CHAI RMAN Yes.
MR MRPFY: The Tribunal actually can't accept a statement that a person is willing to rely upon a third party without identifying that party. And so, in correspondence on the 23rd May of this year, you will see, if I can ask you to turn up to the phrase where it says "he believes", just scroll please down further, yes. Yes. Just pause there, please.
CHAN RMAN Thank you.
MR. MRPH: "On my client's instructions, I can
confirmthat the identity of my client's informant is
Sergeant Andrew Haran. My client confirns to me that
Sergeant Haran was the person who advi sed him"

And it goes on to talk about the other issues which are present.

So at this point, Sergeant Haran is identified by Garda Keogh as the person who told him that Nóirín O'Sullivan 16:01 had made a phone call. And that is the evidence.

Moving forward then please, if I can ask you to be shown page 11764 , and this is the statement of Sergeant Haran produced on the 19th June 2019.
CHA RMAN Yes. Carry on, while we are getting it up, yes.

MR. MRPHY: Sergeant Haran unequivocally denies that he was the person who presented that information to Garda Keogh.

CHAL RMAN Yes.
MR. MRPHY: So ultimately, a progression has developed whereby at first Garda Keogh says he doesn't wish to disclose the informant, then he does, then that person is approached and that person says no, that never happened. And thereafter, we are stuck in a situation where in effect Garda Keogh's perception and beliefs are the only evidential basis being put forward to support the proposition contained in issue number 8.
CHA RMAN Yes.
MR. MRPHY: And to paraphrase the words used by Garda Keogh through his --

CHA RMAN Sorry, we have Sergeant Haran now up. MR. MRPHY: Yes. And at page 11764 --

CHA RMAN Right.
MR. MRPHY: -- can I ask you to draw attention to line 231?

CHA RMAN Thank you very much.
MR. MRPHY: And it says:
"I take issue with bei ng characterised as an i nf or mant."

And goes on then to talk about various issues to do with the station itself. But further down he says, towards the end:
"I di dn't tell Garda Keogh any of tel ecommuni cations bet ween the Commissi oner and Superintendent Pat Murray. I di dn't know of any. Had I known that it would have been hugel y i mportant to Garda Keogh, so l woul d definitel y remenber it."

So unequivocally he denies that conversation ever took place or that he said it.

Thereafter in terms of the actual position, we have, coming back to the letter that was written on the 4th October, Garda Keogh confronted with a situation where he accepted that, in his words, "it's virtually i mpossi ble to prove and would theref ore be a waste of the Tri bunal's time". We respectfully submit that looking at this progression that the position
confronting the Tribunal today is akin to that which applied to the phone tapping issue. That is to say, there is no evidence.
CHA RMAN okay.
MR. MRPH: And in those circumstances we respectfully 16:03 ask the Tribunal at this stage to consider acting, as Mr. Justice Charleton did in one of the earlier modules, where he, of his own motion, without even any application being made, having looked at the documentation, indicated that he believed there was no evidence to show that in that case a false allegation of sexual assault had been made against the whistleblower in that case and as far as he was concerned unless there was any evidence he did not proceed, he would not proceed any further. And we respectfully say that is a safe precedent for this Chair to considerably rely upon.
CHA RMAN okay.
MR. MRPH: Because we say the evidence at this stage indicates that there is no evidential basis for that
particular clause. And to save time, I would respectfully say that you, Chairman, consider that it is not necessary to proceed to deal with that clause. CHAI RMAN Okay. Mr. Kelly, this comes as a -- you haven't known anything about this. You probably are aware that there was a preliminary discussion. The situation was originally that the -- and which is why it was issue number 8, there was an issue. And counsel, Mr. Murphy suggested that there should be some
evidential basis for it, and that it was legitimate to ask your client what's the source of this information, where does it come from and so on. So, that is the background to this. Here we are. What do you say to Mr. Murphy's application?

MR. KELLY: Judge, I need --
CHAL RMAN or do you feel comfortable in answering it not having been aware of it until this minute?
MR. KELLY: The latter, Judge. I will need to just speak to my instructing solicitor. I can see where Mr. Murphy is coming from, but...
CHA RMAN I want to be fair to everybody, and I don't want to spring this on you and then demand that you make a submission about it. Can I tell you what my thinking is? I am wondering, if there's no suggestion of a source whereby Sergeant Haran might have had it or whatever it is, I am wondering about the fairness of putting an allegation to the former Commissioner and let's say saying, ah well, you have to come in here, you have to be examined and be represented and cross-examined and then we will see about all of that, I am just wondering whether it's reasonable to say there should be admittedly even a low threshold of proof, a standard. But I am happy to leave that. That is a concern I would have. In other words, that the rights and obligations of the Tribunal -- somebody -if we go back as far as Lord Salmon, he said somebody isn't to be dragged -- he didn't say dragged into an inquiry, but he said somebody isn't to be brought
before an inquiry without a good reason to do so. And I think that has been echoed more or less directly or indirectly. So I would be a little concerned about that as much as the specific point. But I am happy to
leave that over.

Mr. Murphy, we're not going to be at that for some time. If we do reach that one, we can put it back until such time, it is only fair to you, Mr. Kelly, to give you a chance to consider it. And if you look at the thing, look at the evidence and then see what your position is. And if we said that maybe we would mention it on Wednesday maybe.
MR. MRPHY: Yes, Chairman. And, Chairman, I should say that I would respectfully suggest this is an opportunity for Garda Keogh to consider taking a course of action that will save time.

CHA RMAN Absolutely. But I mean that is a matter for -- Mr. Kelly, if I said we will look at it on Wednesday, is that comfortable to you?
MR. KELLY: Yes, that is fine. I would like an opportunity to take instructions from two people. One, my instructing solicitor, which I can do, but then there's Garda Keogh, but clearly he is giving his evidence at present. what I would suggest is that we put it back until I can speak to him.
CHAl RMAN We11, I am sure -- let me stop you for one second. I appreciate that. Nobody will have any difficulty, $I$ will have no difficulty and neither will
anybody else, because I won't allow them --
MR MRPH: I have no difficulty, Judge.
CHA RMAN -- nobody will have any difficulty if you speak to Garda Keogh, Mr. Kelly, on this particular topic. That would not a problem. In fact, I would welcome the opportunity that I would invite you to speak and take instructions from your client, because he may be some considerable time and this may be -- and obviously you need to know what he thinks about it.
MR. KELLY: Yes.
CHAN RMA You will want to advise him about it and then you will want to reflect and tell me what the situation is.

MR. KELLY: Yes.
CHA RMAN So, feel completely free to talk to Garda Keogh Mr. Kelly on this topic.

MR. KELLY: Yes.
CHA RMAN Are you happy with that?
MR. KELLY: well, I would prefer not to speak to him at all whilst he is giving his evidence but I will at the request of the Tribunal speak to him.
CHA RMAN Thank you very much. That would be greatly appreciated. And I appreciate your reticence to do so, Mr. Kelly. Quite understandable. Mr. McGuinness, you have nothing to add to any of that, do you?
MR. MEGU NESS: Nothing to add, Chairman.
CHA RMAN And we can hear then what we have to say or what my team have to say in light of views that are expressed. okay. Thanks very much. So we will that

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over and we will discuss it on wednesday at a convenient time when there's a break, okay. Thanks very much. very good.








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| $\begin{aligned} & \text { 113:18 } \\ & \text { 6th [1] }-66: 15 \end{aligned}$ | $\begin{aligned} & \text { 46:1, 46:6, 47:4, 47:5, } \\ & \text { 48:24, 63:10 } \\ & \text { absences [1]-11:25 } \\ & \text { absent [3]-28:9, } \end{aligned}$ | ```44:18, 153:17 actions [1] - 56:11 activities [2] - 13:13, 99:17``` | $\begin{aligned} & \text { afforded }_{[1]}-66: 7 \\ & \text { AFTER }[1]-73: 1 \\ & \text { afternoon }[2]-72: 2, \\ & \text { 87:25 } \\ & \text { aqe }[1]-76: 13 \end{aligned}$ | $\begin{aligned} & 18: 14,20: 10,35: 14 \\ & 37: 3,37: 14,47: 29 \\ & 49: 5,50: 17,50: 29 \\ & 54: 5,54: 10,56: 7 \\ & 56: 11,68: 29,70: 23 \end{aligned}$ |
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[^0]:    "The essence of this reference is that the Tribunal is to consi der compl ai nts made by persons who, as members

[^1]:    "Garda Keogh' s name was apparently removed from Pul se but I do not know why his name was renoved or who did this."

[^2]:    "The onl y evi dence that I have to substantiate this bel i ef is that in a phone call from Assistant Commi ssi oner Ó Cual ái $n$ to me on the 15th May 2014 at

