

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

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

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

HEARING HELD IN DUBLIN CASTLE
ON TUESDAY, 1ST FEBRUARY 2022 - DAY 158

158

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

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1 THE HEARING COMMENCED, AS FOLLOWS, ON TUESDAY, 1ST
2 FEBRUARY 2022:

3
4 CHAIRMAN: Good morning everybody and welcome to the
5 Tribunal in the case of Sergeant William Hughes. 11:59

6
7 So, I suppose the sensible thing to do is to begin by
8 taking appearances, I think. Do you agree.

9 Mr. McGuinness, that is the sensible way to begin?

10 MR. MCGUINNESS: Yes, Chairman. I think so. 12:00

11 CHAIRMAN: Very good.

12 MR. MCGUINNESS: I should say on behalf of the
13 Tribunal, I am appearing with Mr. Patrick Marrinan SC,
14 Ms. Sinéad McGrath BL, instructed by Ms. Ciara Walsh,
15 solicitor. 12:00

16 CHAIRMAN: Thank you.

17 MR. MCGUINNESS: Thank you.

18 CHAIRMAN: Now, moving around the room. Who have I
19 got? Who is -- Mr. O'Higgins, you're for An Garda
20 Síochána, is that right? 12:00

21 MR. MÍCHEÁL O' HIGGINS: Yes, Chairman. I appear for
22 members of An Garda Síochána and with Mr. Shane Murphy,
23 Donal McGuinness, Shelley Horan and Kate Egan
24 instructed by those people from the Chief State
25 solicitor's office. 12:01

26 CHAIRMAN: Thank you very much. Then we have -- good
27 morning, Mr. Lynn.

28 MR. LYNN: Good morning, Chair. Yes, I appear for
29 Sergeant Hughes.

1 CHAIRMAN: Yes.

2 MR. LYNN: Colm O'Dwyer SC, Nora O Loinsigh, beside me
3 here BL, Finn Keyes BL, instructed by Sheehan &
4 Partners.

5 CHAIRMAN: Thank you very much. 12:01

6 MR. KANE: James Kane is my name, junior counsel.

7 CHAIRMAN: Is that Mr. Kane?

8 MR. KANE: Yes.

9 CHAIRMAN: I am not quite so easy with the mask, Mr.
10 Kane, to understand you. 12:01

11 MR. KANE: Yes, I am sorry, Chairman.

12 CHAIRMAN: Don't apologise. I am just explaining why I
13 didn't immediately recognise you. Yes, Mr. Kane.

14 MR. KANE: I am for Garda Declan Nyhan, Chairman,
15 instructed by Hughes Murphy solicitors. 12:02

16 CHAIRMAN: Mr. Kane, we have had some correspondence
17 from you and, I dare say -- look, the Tribunal was
18 happy to make an order giving your client legal
19 representation during the time when he was giving his
20 evidence. But, your solicitors came back and said no, 12:02
21 please could we have representation for the whole of
22 the evidence of Sergeant Hughes, possibly further than
23 that, I don't know. Do you want to make that
24 application? You better make it now, I suppose.

25 Mr. McGuinness, isn't that the sensible thing to do, 12:02
26 for Mr. Kane to make it now?

27 MR. MCGUINNESS: I think so, Chairman.

28 CHAIRMAN: Okay.

29 MR. KANE: Chairman, I am seeking representation for

1 the entire module insofar as it relates to the
2 complaint of Sergeant Hughes. Chairman, your power to
3 grant representation is set out in section 2(B) of the
4 Tribunals of Inquiry Evidence Act, which provides that
5 you may grant representation where it appears to you 12:02
6 that a party is interested in matters before you. And
7 I say, Chairman, that it's an appropriate case for you
8 to exercise that discretion for a number of reasons.

9 CHAIRMAN: Yes.

10 MR. KANE: First, Garda Nyhan was involved in the 12:03
11 abduction investigation and the prosecution which
12 followed, and was one of two members who met
13 Ms. Saulite on her arrival to the station in November
14 2006, and while your jurisdiction is investigating
15 allegations of targeting following that incident, in my 12:03
16 submission it can't be seriously denied that this is an
17 important part of the matters that you are
18 investigating.

19
20 My client will say, Chairman, I suspect, if asked, that 12:03
21 he agrees with some aspects of the allegations made by
22 Sergeant Hughes. I understand that he will say,
23 effectively, that some of the complaints which you are
24 investigating are true, and in fact he had some very
25 similar complaints himself which you are not being 12:04
26 asked to investigate. He was subject to long running
27 disciplinary investigation by the Garda authorities.

28
29 And finally, Judge, there's a very specific issue

1 arising in relation to the issue of Mr. Justice Cross,
2 and I certainly have no desire to reopen that with you,
3 Chairman, but a very specific arises: Garda
4 authorities rely heavily on it in their various
5 statements, and I understand my client will say, if 12:04
6 asked, that the evidence he gave to Mr. Justice Cross
7 was truthful and was correct and, in essence, he does
8 not agree with the findings of Mr. Justice Cross. And
9 that's probably a matter that you don't have to
10 resolve, Chairman, although I am not binding myself to 12:05
11 that position before hearing the evidence and
12 arguments. But it places me in a position whereby I am
13 potentially affected by evidence that the Garda
14 authorities will give in reliance on that.

15
16 So for those reasons, Chairman, I am asking you to 12:05
17 exercise your discretion to grant me representation for
18 the entire module on the basis that I am interested
19 within the meaning of the Act.

20 CHAIRMAN: Mr. McGuinness, Mr. Murrinan -- which -- do 12:05
21 you want to say anything about that?

22 MR. MCGUINNESS: Yes, Chairman. I suppose I should
23 just point out for the record of the Tribunal that, on
24 behalf of Garda Nyhan, there was correspondence with
25 the Tribunal in February of 2020 when clarification had 12:05
26 been sought and given whether he was asking the
27 Tribunal to regard his statement to the Tribunal as a
28 complaint to the Tribunal or not, and it was confirmed
29 that he was not. Now, that letter did raise the issue

1 of representation at that stage and the Tribunal
2 decided to defer it, depending upon what material arose
3 in relation to Garda Nyhan.

4
5 But what is quite clear from the outset is that the 12:06
6 Tribunal is not concerned with a complaint made by
7 Garda Nyhan under term of reference [p], he has not
8 made such a complaint.

9
10 His status then has been identified, and was identified 12:06
11 in the most recent correspondence to Garda Nyhan's
12 representatives as that of a witness, and the Tribunal
13 communicated a grant of representation to Garda Nyhan
14 limited to the time when he will be appearing as a
15 witness. And his rights and his concerns in relation 12:06
16 to his own evidence and any approach taken to his
17 evidence, either by the Tribunal or by any of the other
18 parties represented, can and will, no doubt, be
19 protected by his representation here for that purpose.

20 12:07
21 Today, the application is made to extend that on what
22 might be called a quia timet basis; that he fears that
23 issues will arise both perhaps in the cross-examination
24 of Garda Hughes and/or in subsequent evidence which
25 will potentially reflect on him. He goes further than 12:07
26 that by exhibiting a desire, perhaps, to either reject
27 or challenge the findings of Mr. Justice Cross, or the
28 basis upon which they were reached.

1 Now the place to do that is in the Court of Appeal, and
2 I don't believe that an appeal was taken to the Court
3 of Appeal against that judgment.
4

5 So, the issue, Chairman, is one for decision by you as 12:08
6 to whether you think it is necessary for the protection
7 of any possible interest that may arise in relation to
8 Garda Nyhan and his evidence at this stage. It would,
9 of course, Chairman, be a possible option to consider
10 deferring a ruling on it until Garda Hughes had given 12:08
11 his evidence and he had been finished
12 cross-examination. But, Garda Nyhan and his
13 representatives are in the position where, as someone
14 who has been granted limited representation is entitled
15 to hear the evidence in another capacity and to have 12:08
16 access to the transcripts of Garda Hughes, which would
17 be put up on the website in due course, and if
18 necessity arose, Chairman, if you decided either to
19 refuse today, or to defer it, if matters changed, it
20 might be possible to renew an application if 12:09
21 circumstances warranted it. But at present, Chairman,
22 it appears that it may not be warranted at this point
23 in time to allow a general grant of representation to
24 enable Garda Nyhan and his representatives to intervene
25 in the module and, as it were, be a second complainant, 12:09
26 as it were, although he had not in fact formally
27 complained to the Tribunal.

28 CHAIRMAN: Thanks very much. Now I don't think it is a
29 matter for anybody else to comment on this, possibly An

1 Garda Síochána but I don't propose to ask them. Do you
2 want to say anything in response, Mr. Kane, in response
3 to Mr. McGuinness?

4 MR. KANE: Just one thing, Chairman. I think most of
5 what Mr. McGuinness said was fair but I'd like to make 12:10
6 clear I'm not in the position of a complainant; I don't
7 have any intention of asking you to investigate my
8 complaints. I don't think you would have jurisdiction
9 to do so, Chairman.

10
11 I am simply concerned about my client's rights and the
12 record of the Tribunal in relation to his evidence, and
13 I think it would be appropriate to have a
14 representation in those circumstances, Chairman. 12:10

15 CHAIRMAN: Thanks very much. Well, I suppose one has 12:10
16 to say that I have to agree, first of all, with
17 Mr. McGuinness' point that any tribunal, of course, has
18 to operate in accordance with the rules of fairness and
19 that it is at least possible to envisage some
20 circumstances that could arise where a person's rights 12:11
21 to good name or reputation or whatever could arise, but
22 that mere possibility is not a ground for giving a
23 general right of representation to a party to be
24 present and participate at every stage of the
25 proceedings. If such an issue arises, it's appropriate 12:11
26 for either counsel -- most likely counsel for the
27 Tribunal to -- or for the Tribunal to notify the party
28 and invite an application at that stage. The present
29 state of affairs was notified to Garda Nyhan's

1 solicitors, Messrs. Hughes Murphy, in a letter of the
2 31st January to say:

3
4 "Please note the Tribunal confirmed to you that your
5 application for representation was approved in respect 12:12
6 of Garda Declan Nyhan appearing as a witness at the
7 public hearings. As far as the Tribunal is concerned
8 no other party has made allegations against Garda Nyhan
9 and/or impugned his representation, there is therefore
10 no basis to extend the grant of representation to you 12:12
11 other than for when your client is giving evidence as a
12 witness."

13
14 And a letter came back from that on the 31st -- that's
15 yesterday -- saying: 12:12

16
17 "Whilst we acknowledge that our client is a witness
18 only, on our reading of the papers and based on our
19 client's instructions, our client is a witness to many
20 of the matters which ground retired Sergeant Hughes' 12:12
21 complaint.

22
23 Our client is conscious of what weight other parties to
24 the Tribunal might attach to his evidence, his
25 experience at the time working so closely with the 12:12
26 retired sergeant and as a person who had his own views
27 on his treatment by Garda management which he
28 ventilated before the High Court in the judgment,
29 contained in the papers distributed by the Tribunal.

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The evidence and cross-examination of retired Sergeant Hughes by any other party to the Tribunal may give rise to a necessity to put our client's position."

12:13

So, the matter is stated merely as a possibility. And the situation, as I say see it, is this: Garda Nyhan is not the subject of any investigation by this Tribunal. He is not involved as an interested party in any of the issues that have been listed and circulated to the parties. He won't be the subject of any criticism at the hearings or in the report because he's not relevant to any of those issues. Nobody makes any allegation against him. He doesn't make any complaint. He doesn't make any allegation. He has no function to perform in the inquiry by the Tribunal. In the circumstances, there is no legal or legitimate ground for having an extra legal team operating at large, so to speak, with no defined function, and that's not a basis on which a discretion could legitimately or properly be exercised.

12:13

12:14

12:14

So, I propose -- so I will therefore refuse Mr. Kane's application, but of course his entitlement to be present and to represent Garda Nyhan when the garda is giving evidence remains unaffected. Thank you very much.

12:14

MR. FREEMAN: Chairman, in relation to appearances, my name is Andrew Freeman, and I appear for former

1 Assistant Commissioner Fintan Fanning, together with
2 Mr. McGarry and John Ferry. Thank you very much,
3 Chairman

4 CHAIRMAN: Thank you very much. Have I got everybody's
5 representation then? Is there anybody else who hasn't
6 been represented? Very good. Now, Ms. McGrath, would
7 you like to open -- to make the opening statement?

12:15

8 MS. McGRATH: Thank you, Chairman.

9
10 OPENING STATEMENT BY MS. McGRATH:

12:15

11
12 Chairman, it is my function to deliver an opening
13 statement on behalf of the Tribunal for the purposes of
14 outlining an overview of the complaint of Retired
15 Sergeant William Hughes as received by the Disclosures
16 Tribunal.

12:15

17
18 I will address the statements made in response to this
19 complaint and the issues which have emerged from the
20 same to date.

12:15

21
22 This overview is subject to the evidence that emerges,
23 and which will be tested by all the relevant parties,
24 during the course of the public hearings.

12:15

25
26 By way of background, Chairman, on the 16th February
27 2017, following approval by the Government of draft
28 resolutions to that effect, the Houses of the
29 Oireachtas each resolved that it was expedient that a

1 tribunal be established under the Tribunals of Inquiry
2 (Evidence) Acts, 1921-2004.

3
4 The tribunal was chaired by Mr. Justice Charleton,
5 Judge of the Supreme Court, and requested to inquire 12:16
6 urgently into definite matters of urgent public
7 importance set out in Terms of Reference from (a) to
8 (p).

9
10 The first module, Chairman, concerning terms (a) to (o) 12:16
11 was completed by Mr. Justice Charleton, who submitted
12 reports dated 30th November 2017 and the 11th October
13 2018.

14
15 By further resolutions of the Houses of the Oireachtas 12:16
16 in November 2018 and Ministerial Orders following them,
17 you were appointed Chairperson of division [p] of the
18 Tribunal which states that the Tribunal is:

19
20 "To consider any other complaints by a member of the 12:17
21 Garda Síochána who has made a protected disclosure
22 prior to 16th February, 2017 alleging wrongdoing
23 within the Garda Síochána where, following the
24 making of the Protected Disclosure, the Garda making
25 the said Protected Disclosure was targeted or 12:17
26 discredited with the knowledge or acquiescence of
27 senior members of the Garda Síochána."

28
29 The first complaint considered under term of reference

1 [p] in a public hearing concerned that made by Garda
2 Nicholas Keogh of Athlone Garda Station. The report of
3 the inquiry into his complaint was the Fourth Interim
4 Report of the Disclosures Tribunal and was published on
5 the 8th July 2021. This report addressed in some 12:17
6 detail the mandate of the Tribunal under term of
7 reference [p] as follows:

8
9 "The tribunal noted the context of paragraph [p] in
10 relation to the other Terms of Reference of the 12:17
11 Tribunal, the majority of which directed an
12 investigation into grave allegations of misconduct
13 against senior garda management in relation to
14 Sergeant McCabe. The Oireachtas was concerned to
15 ascertain whether there were other gardaí in a similar 12:18
16 situation to Sergeant McCabe who maintained that they
17 were victimised because they spoke out by wrongdoing in
18 the force and that senior officers knew about it and
19 condoned it. So members who made protected disclosures
20 reporting serious malpractices and were subsequently 12:18
21 targeted or discredited with official or senior
22 condonation were intended to be covered."

23
24 The conditions of admissibility of a complaint under
25 term of reference [p] were also outlined in the report 12:18
26 as follows:

27
28 "An essential condition of admissibility under term
29 of reference [p] is that the garda concerned made a

1 protected disclosure prior to the date when the
2 Tribunal was established. Any later disclosures are
3 excluded were consideration by this body as a matter
4 of jurisdiction.

12:18

5
6 A protected disclosure includes a report to an
7 appropriate person or body, by a garda, of
8 wrongdoing in the force that constitutes an offence
9 in law or a failure to comply with a general (not
10 merely a contractual) legal obligation and that came
11 to the garda's attention in the course of their
12 work.

12:19

13
14 Another essential jurisdictional requirement under
15 term of reference [p] is that the targeting or
16 discrediting directed towards the whistleblower,
17 after the disclosure, was condoned, tolerated or
18 tolerated or known about by senior members of An
19 Garda Síochána. Mr. Justice Charleton defined
20 'senior officers of the Garda Síochána' as being
21 officers of the rank of superintendent and above, as
22 well as anybody acting within those capacities and
23 the Tribunal adopts this definition.

12:19

12:19

24
25 It was emphasised by the tribunal that:

12:19

26
27 "An important limitation on any consideration by the
28 Tribunal is that the focus of the mandate, and
29 therefore the tribunal, is not on the wrongdoing

1 reported in the disclosure, no matter how serious
2 the allegations, but rather on the conduct towards
3 the reporting garda subject to the disclosure. While
4 these matters may not, in particular circumstances, be
5 sealed off in discrete compartments and there may be 12:20
6 some elements of overlap, the focus of any inquiry is
7 clearly defined in term of reference [p]."
8

9 In respect of the complaint of Retired Sergeant William
10 Hughes, a preliminary investigation has taken place and 12:20
11 extensive material has been provided to the Tribunal in
12 compliance with the discovery requests or orders. The
13 relevant parties have provided statements and in some
14 instances attended for interview with tribunal
15 investigators. 12:20

16
17 We are now proceeding to a public hearing of the
18 evidence which is expected to take a number of weeks.
19 These hearings will be conducted in accordance with the
20 scheme of fair procedures which has been published by 12:20
21 the Tribunal and also addressed in some detail in the
22 Fourth Interim Report as referenced above.

23
24 Retired Sergeant William Hughes was attested as a
25 member of An Garda Síochána on the 27th April 1982 and 12:20
26 assigned to Blanchardstown Garda station. During his
27 early career he was transferred to Coolock and Swords
28 Garda Stations.
29

1 He was promoted to the rank of Sergeant in 1993 and
2 stationed at the Bridewell Garda Station. He was
3 transferred to Fitzgibbon Street Garda Station in 1997,
4 returning to Swords Garda Station in January 2002.

12:21

5
6 During his career at Swords Garda Station he was
7 assigned first to the regular policing unit and later
8 to the community policing unit where he was working at
9 the time of the events arising for consideration by the
10 tribunal.

12:21

11
12 while attached to the community policing unit, Sergeant
13 Hughes carried out extensive investigations between
14 2004 and 2006 into the abduction of two children from
15 the State reported by the children's mother, Baiba
16 Saulite. Ms. Saulite was a Latvian national living in
17 Ireland since 1999. She was tragically murdered at her
18 home in Swords, Co. Dublin on 19th November 2006.

12:21

19
20 Following the murder of Ms. Saulite, Sergeant Hughes
21 continued to work in Swords Garda Station with sickness
22 related absences in late 2006 and early 2007. These
23 absences were certified by his General Practitioner as
24 being absent with 'work related stress'. He reported
25 sick and unfit for duty on 17th May 2007 and remained
26 on extended sick leave until 21st December 2009. On
27 returning to work he was stationed in the Staff
28 Sergeant's Office in Coolock Garda Station having been
29 certified as fit or 'light duties' by the Assistant

12:22

12:22

1 Chief Medical Officer of An Garda Síochána, Dr. Richard
2 Quigley.

3
4 He ultimately reported sick and unfit for duty on 4th
5 January 2011 and retired from An Garda Síochána on 12th 12:22
6 February 2013 on medical grounds.

7
8 Sergeant Hughes, along with a colleague, Garda Declan
9 Nyhan, carried out a complex and detailed investigation
10 into the child abduction case over a two-year period. 12:23
11 Mr. John Hennessy, solicitor, acted for Ms. Saulite
12 during the course of this investigation and in related
13 family law proceedings.

14
15 Following the entry of a guilty plea to the abduction 12:23
16 charges by the accused, Ms. Saulite met with Sergeant
17 Hughes, in the presence of Garda Nyhan, at Swords Garda
18 Station on 14th November 2006 where she handed him a
19 handwritten twelve-page draft of a Victim Impact Report
20 for the sentencing hearing. This document outlined a 12:23
21 history of abuse perpetrated against Ms. Saulite and
22 included near the end of the draft that "I am very
23 scared for my life, because [Mr. A] is blaming me for
24 everything that has gone wrong in his life'. As
25 outlined above, Ms. Saulite was murdered at her home in 12:23
26 Swords, Co. Dublin five days later on 19th November
27 2006.

28
29 Sergeant Hughes made serious allegations in respect of

1 the investigation of the murder of Baiba Saulite and
2 the ancillary investigations prior to her death. He
3 referred in particular to an arson attempt on the home
4 of Mr. Hennessy, an arson attempt on the car of
5 Ms. Saulite outside her home and intelligence 12:24
6 indicating a threat to Mr. Hennessy's life during 2006.
7 In his interview with tribunal investigators he stated:

8
9 "I began making allegations about a 'systems
10 failure', in respect of all investigations related
11 to the murder, including the child abduction case, in
12 which I was involved... What I was saying was that
13 numerous related crimes, including the child abduction
14 case and threats to Baiba Saulite and her Solicitor
15 John Hennessy which occurred in 2006, were not properly 12:24
16 correlated or coordinated."

17
18 He later told an investigation into these allegations
19 that "[t]here was a systematic failure to coordinate
20 the investigations which ultimately permitted a 12:24
21 critical chain of events to transpire before the death
22 of Baiba Saulite. The responsibility for the failure
23 rests with senior management." He also said that
24 "I believe that by raising the issue that a systems
25 failure had contributed to Baiba's death, I was 12:25
26 subjected to a horrendous cycle of intimidation,
27 bullying and harassment at the hands of Garda
28 management".
29

1 Sergeant Hughes has referred the tribunal to a press
2 release which was issued shortly after the murder on
3 the 22nd November 2006 by the Garda Press Office. It
4 stated that "[a]t no time, prior to her tragic death,
5 were Gardaí aware of any specific threat against the
6 life of Ms. Baiba Saulite and no complaints were
7 received by Gardaí in relation to any person in this
8 regard". In his complaint to the tribunal Sergeant
9 Hughes states that "[a]t the time of the press release
10 I was aware there had been a systems failure in the
11 investigations mentioned above, yet the press release
12 only referred to her (Baiba Saulite) submitting the
13 Victim Impact Report and failed to mention any of the
14 other failures that I believed were evident".

12:25

12:25

15
16 In his statement to the Tribunal, Sergeant Hughes says
17 that he submitted these allegations to senior officers
18 by way of written and verbal reports from 2006 onwards.
19 He has described some of these reports as protected
20 disclosures. You, Chairman, conducted a private case
21 management hearing on the issue.

12:25

12:26

22
23 In his statement to tribunal investors Sergeant Hughes
24 said that his first protected disclosure was made to
25 Detective Inspector Christopher Mangan in a report he
26 made to a fact-finding investigation (outlined below)
27 on 17th December 2006. This was disputed by Detective
28 Inspector Mangan in his statement to the Tribunal.
29 You, Chairman, have ruled that it did not describe any

12:26

1 wrongdoing as defined in the Protected Disclosures Act,
2 2014.

3
4 Sergeant Hughes also outlined a conversation he had
5 with the new District Officer, Superintendent Mark
6 Curran, in April 2007. Sergeant Hughes told Tribunal
7 investigators that:

12:26

8
9 "I directly told him of my concerns (systems failures)
10 and I warned him that if the matters were not fully
11 investigated it would have serious implications for the
12 murder investigation and upcoming coroner's inquest. I
13 told him that these were very serious allegations I was
14 making and one would expect that senior management
15 would act on this."

12:27

12:27

16
17 In his response to the Tribunal, Chief Superintendent
18 Curran stated that "I note that Sergeant Hughes alleged
19 that he told me about what he claims was his first
20 protected disclosure, namely, the report supplied dated
21 17th December 2006 and related interactions with
22 Detective Inspector Mangan. This is not the case. I
23 do accept that Sergeant Hughes began using the term
24 'systems failure' at some point in conversations with
25 me, but he never mentioned the term 'protected
26 disclosure' or 'whistleblower'."

12:27

12:27

27
28 You, Chairman, in the same case management hearing,
29 have ruled that "[i]n the circumstances where only

1 Sergeant Hughes' s account is being considered, it is
2 possible to construe this as a protected disclosure. "
3 You will now of course be hearing all the evidence
4 relevant and necessary for you to determine that
5 question.

12:28

6
7 It is not disputed by the parties that Sergeant Hughes
8 made a report to the Confidential Recipient for An
9 Garda Síochána, Mr. Brian McCarthy, on 16th September
10 2008. He outlined serious allegations of a cover-up of
11 a systems failure and allegations of targeting for
12 raising the issues.

12:28

13
14 Following the murder of Ms. Saulite, Assistant
15 Commissioner Al McHugh, Dublin Metropolitan Region (now
16 retired) instructed then Chief Superintendent Michael
17 Feehan on 6th December 2006 to undertake a fact-finding
18 investigation into the level of knowledge in possession
19 of An Garda Síochána prior to her murder. Chief
20 Superintendent Feehan was assisted with this
21 investigation by Detective Inspector Mangan, who met
22 with and obtained a report from Sergeant Hughes dated
23 17th December 2006 as referenced above.

12:28

12:28

24
25 The investigation interviewed a number of gardaí and
26 Chief Superintendent Feehan filed his report with A/C
27 McHugh on 26th March 2007 stating that "there was
28 knowledge in existence and available to An Garda
29 Síochána in relation to the threats from [Mr. A]to

12:29

1 Baiba Saulite" and he recommended that a full
2 investigation should be carried out.

3
4 On the 2nd May 2007, A/C McHugh appointed Chief
5 Superintendent Feehan in accordance with Regulation 8 12:29
6 of the Garda Síochána (Discipline) Regulations 1989 to
7 investigate an alleged breach of discipline on the part
8 of Sergeant Hughes that he was in possession of
9 documentation and information as a result of meetings
10 with Ms. Baiba Saulite, and being in possession of same 12:29
11 knew or ought to have known at the time of the
12 existence of a real and immediate risk to the life of
13 Ms. Baiba Saulite, and failed in his duty to take
14 measures that might have been expected to avoid that
15 risk. A similar investigation was launched in respect 12:29
16 of Garda Nyhan.

17
18 Chief Superintendent Feehan submitted his completed
19 file in respect of Sergeant Hughes to Assistant
20 Commissioner McHugh on the 3rd June 2009 reporting that 12:30
21 "This investigation has not established that the member
22 concerned was aware 'of the existence of a real and
23 immediate risk to the life of Ms. Baiba Saulite."
24 Assistant Commissioner McHugh considered the file and
25 was satisfied that there was no breach of discipline 12:30
26 disclosed against Sergeant Hughes. He determined to
27 discontinue the disciplinary investigation.

28
29 Prior to the outcome of the disciplinary investigation,

1 Sergeant Hughes made his report to Mr. Brian McCarthy,
2 the Confidential Recipient for An Garda Síochána, on
3 16th September 2008. This was forwarded to the then
4 Garda Commissioner Fachtna Murphy on 14th October 2008.
5 In his letter, the Confidential Recipient outlined
6 Sergeant Hughes's complaint in as follows:

12:30

7
8 "The Confidential Reporter in this case alleges that
9 there was a failure to coordinate a number of
10 investigations which ultimately led to the death of
11 Ms. Saulite. The specific issues raised by the
12 Confidential Reporter are as follows:

12:31

13
14 - Information concerning the criminal connections
15 of Ms. Saulite's husband was in garda
16 possession prior to the murder but was not
17 disseminated to relevant garda personnel
18 including gardaí who had been dealing with the
19 abduction case involving her two children.

12:31

20
21 - Had this information been provided it is impossible
22 that the murder would not have happened.

23 - Individual investigating officers have been harassed
24 and improper disciplinary proceedings have been taken
25 against them because they raised these issues. No
26 attempt has been made to interview the officers who are
27 the subject of these proceedings.

12:31

28 - The press release that was issued in relation to the
29 murder on 22 November 2006 contained a number of

1 falsehoods and omissions. These included the fact that
2 senior garda managements were aware of numerous threats
3 to Ms. Saulite from her husband and had considered the
4 question of providing protection for her but had
5 decided against this. 12:31

6 - In addition, it was suggested that Ms. Saulite had
7 expressed fears of her husband to a number of gardaí
8 prior to her murder and reports on this were submitted
9 to the garda authorities.

10 - At no stage during the murder investigation was 12:32
11 there any attempt at coordinating the information
12 obtained by gardaí who had been investigating the
13 abduction case.

14 - There was also information relating to the threats to
15 the life and property of solicitor John Hennessy who 12:32
16 was acting for Ms. Saulite. Again this information was
17 not acted upon.

18 - There is an attempt by garda management to suppress
19 the facts in this case and cover up a systems failure
20 in the manner in which the case has been dealt with." 12:32

21
22 Assistant commissioner Michael Feehan, who was now
23 Assistant Commissioner of the Northern Region, was
24 appointed by former Commissioner Murphy to conduct an
25 investigation under the Garda Síochána (Confidential 12:32
26 Reporting of Corruption or Malpractice) Regulations
27 2007. This investigation commenced on the 7th November
28 2008.
29

1 By report dated 10th April 2010, the investigation
2 determined that "all the various allegations in
3 relation to the confidential report are without
4 foundation". Assistant Commissioner Feehan submitted
5 his findings to the Garda Commissioner, whom, having 12:33
6 considered the file, agreed with the recommendations
7 and determined not to take any further action.

8
9 Following the making of his confidential report in
10 September 2008, an article was published in the Irish 12:33
11 Daily Star newspaper on the 20th November 2008 entitled
12 "cop never looked at tragic complaint by Sgt Hughes
13 Bai ba' s warni ng". This article was written by crime
14 journalist Mr. Michael O'Toole. Following a complaint
15 by Sergeant Hughes regarding the content of the 12:33
16 article, and the reference to 'Garda sources', the
17 Commissioner directed that the complaint should be
18 investigated. On 22nd December 2008, Assistant
19 Commissioner McHugh appointed Assistant Commissioner
20 Feehan to carry out this investigation. 12:33

21
22 By report dated 17th May 2010 Assistant Commissioner
23 Feehan advised that "with the exception of the
24 reference to the instigation of formal disciplinary
25 proceedings against a 'Garda based in North Dublin' 12:34
26 Mr. O'Toole's article contains nothing that appears to
27 have not already been in the public domain". He could
28 find no basis for Sergeant Hughes's contention that the
29 article was hugely defamatory or alleged gross

1 negligence on his part.

2
3 Following interviews with Sergeant Hughes, Mr. John
4 Hennessy and Mr. Michael O'Toole, Assistant
5 Commissioner Feehan advised further on the 27th January 12:34
6 2011 that:

7
8 "In light of the above and refusal of Mr. O'Toole to
9 disclose his source it is not possible to progress this
10 investigation any further. As (sic) this juncture 12:34
11 there is no evidence to identify or even confirm that
12 the source was indeed a member of An Garda Síochána."

13
14 This was noted by the Garda Commissioner on 2nd
15 February 2011. 12:34

16
17 Sergeant Hughes makes complaints about each of these
18 investigations including that he was 'scapegoated' and
19 that he was targeted and discredited by senior officers
20 in An Garda Síochána because he made allegations of a 12:34
21 systems failure. These complaints will be addressed by
22 the Tribunal. However, the scope of the inquiry's
23 function does not extend to any examination of the
24 allegations of wrongdoing.

25 12:35
26 I now propose to give brief overview of the issues
27 arising for examination in this public hearing and the
28 factual background to the same.
29

1 There are three preliminary matters to address.

2
3 The first is the management structure in place in
4 Swords Garda Station between November 2006 and February
5 2013. Swords Garda Station is within the Coolock 12:35
6 District of the Dublin Metropolitan North Division of
7 An Garda Síochána. This District also includes Coolock
8 and Malahide Garda Stations. On 19th November 2006,
9 the Divisional Officer was Chief Superintendent Gerard
10 Phillips and Inspector Donal waters was the Acting 12:35
11 District Officer. Superintendent Mark Curran was
12 assigned to the role of District Officer on 6th March
13 2007. To avoid any confusion or misunderstanding, all
14 of the relevant members of An Garda Síochána will be
15 referred by reference to their rank at the time of 12:35
16 events concerning Sergeant Hughes notwithstanding any
17 subsequent promotion or retirement.

18
19 The second is the issue of redactions and
20 confidentiality. During this overview and in the 12:36
21 course of public hearings it will be evident that
22 redactions have been made to material where necessary
23 to protect the rights of privacy, privileged material
24 or the confidentiality of any party or person. The
25 material circulated in respect of these hearings 12:36
26 includes documents indirectly relating to a murder
27 investigation. They have been redacted where necessary
28 to protect the integrity of that investigation and
29 where the justice of the case so requires. The

1 Tribunal will also apply this principle during the
2 course of the evidence and asks all legal
3 representatives, witnesses and members of the media to
4 be conscious of the same.

12:36

5
6 Finally, as referenced above, a private case management
7 hearing was conducted by the Tribunal in respect of
8 this complaint. I have already outlined relevant
9 extracts from your ruling in respect of disclosures
10 made by Sergeant Hughes. It should be noted that you
11 further ruled that:

12:36

12
13 "This decision means that the Tribunal cannot undertake
14 an investigation into the targeting and discrediting
15 alleged by Sergeant Hughes to have occurred in the
16 period between the murder of Ms. Saulite and the date
17 in April 2007 when he had the conversation with
18 Superintendent Curran (the press release and the
19 fact-finding investigation). That means that Sergeant
20 Hughes is not permitted to make the case that these
21 events targeted or discredited him. That does not mean
22 there can be no references to these events by him or
23 other witnesses; they may be relevant by background or
24 context and the Tribunal is not ruling at this point on
25 the legitimacy of any reference or questions in the
26 context of the complaints arising from the 2008
27 protected disclosure that are being considered."

12:36

12:37

12:37

28
29 Moving on to the issues for examination by way of

1 public hearing, these have been identified to include
2 the following:

3
4 Issue 1.

5
6 Did Assistant Commissioner Al McHugh or Chief
7 Superintendent Michael Feehan target or discredit
8 Sergeant William Hughes because he made a protected
9 disclosure to Superintendent Mark Curran --

10 (a) by initiating disciplinary proceedings against him
11 in June 2007?

12 (b) by continuing the investigation from 2008 onwards?

13 (c) by unreasonably protracting the investigation?
14

15 As outlined above, on the 2nd May 2007, Assistant
16 Commissioner McHugh appointed Chief Superintendent
17 Feehan to investigate an alleged breach of discipline
18 on the part of Sergeant Hughes. This appointment was
19 made in accordance with Regulation 8 of the Garda
20 Síochána (Discipline) Regulations 1989 which states
21 that:

22
23 "... where it appears that there may have been a breach
24 of discipline, the matter shall be investigated as soon
25 as practicable by a member not below the rank of
26 inspector..."

27
28 Chief Superintendent Feehan appointed Inspector Fergus
29 Dwyer to assist in this investigation and on the 15th

1 June 2007, Sergeant Hughes met with both officers in
2 Santry Garda Station where he was served with a
3 disciplinary notice in accordance with the provisions
4 of the Regulations. The notice stated that:

5
6 "It appears that you were in possession of
7 documentation and information as a result of meetings
8 with Ms Baiba Saulite, and being in possession of same
9 knew or ought to have known at the time of the
10 existence of a real and immediate risk to the life of
11 Ms Baiba Saulite, and failed in your duties to take
12 measures that might have been expected to avoid that
13 risk."

14
15 In his interview with Tribunal investors, Sergeant
16 Hughes stated that he found the service of these
17 documents and their contents to be 'extremely
18 shocking'. He asked Chief Superintendent Feehan who
19 else was being served with disciplinary papers to which
20 explained only Sergeant Hughes and Garda Nyhan.
21 Sergeant Hughes told Tribunal investors that "I
22 believed that the service of the disciplinary papers
23 was done to shut me up and keep me quiet, to clip my
24 wings".

25
26 On the 1st November 2007, Sergeant Hughes was requested
27 to attend at Store Street Garda Station for the purpose
28 of being interviewed. Sergeant Hughes was on sick
29 leave at the time, having been certified his doctor as

1 absent with work related stress. Sergeant Hughes spoke
2 with Chief Superintendent Feehan and the chief
3 superintendent undertook to contact the Chief Medical
4 Officer before proceeding with an interview. It is
5 Sergeant Hughes's case that he told Chief
6 Superintendent Feehan during his conversation that he
7 was being targeted. This is disputed by the then chief
8 superintendent in his statement to the Tribunal.

12:39

9
10 By letter dated 9th November 2007, Chief Superintendent
11 Feehan informed Sergeant Hughes's solicitor that he
12 would make an application to the Chief Medical Officer
13 requesting that Sergeant Hughes be medically assessed
14 to ascertain his fitness to be interviewed. It is
15 Sergeant Hughes's case that he did not hear from the
16 chief superintendent or the investigation team for
17 almost one year.

12:40

12:40

18
19 In his statement to the Tribunal Chief Superintendent
20 Feehan said that he did seek guidance from the CMO and
21 that in September 2008, Human Resource Management, on
22 the basis of advices from Dr. Quigley, confirmed that
23 he was fit to be interviewed in relation to the
24 disciplinary issues. Sergeant Hughes provided an
25 extensive pre-prepared statement to Inspector Dwyer on
26 29th November 2008 and a further interview was
27 conducted with Sergeant Hughes in February 2009.

12:40

12:40

28
29 Chief Superintendent Feehan submitted his completed

1 file in respect of Sergeant Hughes to Assistant
2 Commissioner McHugh on the 3rd June 2009 reporting that
3 the investigation had not established that Sergeant
4 Hughes was aware 'of the existence of a real or
5 immediate risk to the life of Ms. Baiba Saulite'. He 12:41
6 said that:

7
8 "On the 20th October 2006 Sergeant Hughes apprised his
9 District Officer of his concerns for Ms. Saulite,
10 however, there was nothing to indicate that her life 12:41
11 was under threat. Sergeant Hughes denies having read
12 the Victim Impact Report wherein she actually states
13 that she feared for her life, and there is no evidence
14 to hand that would indicate otherwise. Even if he had
15 read the report in full it is unlikely that the 12:41
16 contents could be interpreted as a real and immediate
17 risk to the life of Ms Baiba Saulite."

18
19 Assistant Commissioner McHugh subsequently informed
20 Sergeant Hughes by letter dated 21st July 2009 that, 12:41
21 having considered the file carefully, he was satisfied
22 that there was no breach of discipline and he was
23 discontinuing the proceedings against him. Deputy
24 Commissioner Martin Callinan informed the Garda
25 Commissioner of the outcome of the investigation on the 12:41
26 5th August 2009 stating that Assistant Commissioner
27 Feehan was satisfied that there were no breaches of the
28 Disciplinary Regulations and he said that "I concur
29 with that view, on the basis of the evidence contained

1 on the file".

2
3 In a statement to the Tribunal, Sergeant Hughes said
4 that the service of the disciplinary papers 'was the
5 first direct action' in what he believed to be 12:42
6 targeting. In his later interview with Tribunal
7 investigators, Sergeant Hughes referred to the meeting
8 with his District Officer in April 2007 and stated that
9 'within six weeks I was served with disciplinary
10 papers'. He said that: 12:42

11
12 "... I felt the service of the documents was a direct
13 result of me raising the spectre of systems failure in
14 the Baiba Saulite murder investigation ... I believed
15 that the service of the disciplinary papers was done to 12:42
16 shut me up and keep me quiet, to clip my wings... It
17 was an abuse of process, and represented suppression of
18 investigations. This process hung over me for two
19 years."

20 12:42
21 This is disputed by Assistant Commissioner McHugh in
22 his statement to the Tribunal. He said there was no
23 basis in fact for Sergeant Hughes's allegations about
24 the institution of the disciplinary proceedings and
25 referring to the notice served on Sergeant Hughes 12:43
26 stated that:

27
28 "There was absolutely no question that I was preferring
29 a breach of discipline against Sergeant Hughes in that

1 notice nor was a breach of discipline ever preferred
2 against Sergeant Hughes. When I discontinued the
3 proceedings on receipt of the investigation file he was
4 completely exonerated in the matter with absolutely no
5 blemish on his character or history." 12:43

6
7 The Tribunal will now proceed to consider whether the
8 institution and conduct of these disciplinary
9 proceedings constituted the targeting or discrediting
10 of Sergeant Hughes under Terms of Reference [p]. 12:43

11
12 Issue 2:

13 Did Assistant Commissioner HRM or Chief Superintendent
14 Gerard Phillips or Superintendent Mark Curran target or
15 discredit Sergeant Hughes because he made a protected 12:43
16 disclosure --

17
18 (a) by failing to carry out an investigation into his
19 condition of work related stress as required by the
20 Garda Code? 12:43

21 (b) by failing to establish whether his work related
22 stress was an jury on duty?

23 (c) by treating his absences, or allowing them to be
24 treated, as due to ordinary illness so that his pay was
25 subject to severe reduction?" 12:44

26
27 As I stated at the outset, Sergeant Hughes was on sick
28 leave on a number of occasions in late 2006 and early
29 2007. These periods of absence were certified his

1 General Practitioner and described as being absent with
2 "work related stress".

3
4 He reported sick and unfit for duty on the 17th May
5 2007 and remained on extended sick leave until 21st 12:44
6 December 2009 when he returned to work at the Staff
7 Sergeant's Office in Coolock Garda Station having been
8 certified as fit for 'light duties' by Dr. Richard
9 Quigley.

10
11 He ultimately reported sick and unfit for duty on the
12 4th January 2011 and remained on sick leave certified
13 as being due to stress until he retired from an Garda
14 Síochána on the 12th February 2013 on medical grounds.

15
16 In his statement to the Tribunal investors, Sergeant
17 Hughes said that:

18
19 "I was first absent from work between 19th December
20 2006 and March 2007. I believe that the fact that I 12:44
21 was not visited by Garda management whilst on sick
22 leave during this period or the fact that there was no
23 investigation into the work related stress which was
24 the reason for my absence represented targeting me. I
25 believed at the time I was being isolated, that this 12:45
26 was an abuse of process in respect to noncompliance
27 with Garda Code in respect of absence of work through
28 illness ... I felt that the non interview of me by the
29 Garda authorities represented suppression of the

1 related investigations into Baiba Saulite.

2
3 When I returned to work in April 2007 ... I was not
4 sought out by management in respect to a return to work
5 interview following my extended absence. Again I 12:45
6 believe this represented targeting of me, as it
7 isolated me, it was an abuse of process, and I believe
8 represented a cover up in relation to the serious
9 issues I had raised, the systems failure."

10
11 In respect of his extended period of sick leave from
12 May 2007 to December 2009, he also stated that his
13 absence for this period was not properly investigated.

14
15 In accordance with the Garda Code, a member of An Garda 12:45
16 Síochána whose period of illness exceeds 183 days will
17 be reduced to half pay. Should the period of absence
18 through illness be for a further 6-month period, the
19 member is reduced to a pension rate of pay. These
20 provisions apply unless the member is certified as 12:46
21 absent due to work related injury. This certification
22 process is outlined in Code 11.37 of the Garda Code.

23
24 Sergeant Hughes told the Tribunal investigators that
25 his pay was cut from 3rd September 2007 and that this 12:46
26 was an abuse of process, harassment and caused him
27 financial hardship. He said that no decision was made
28 as to whether his absence was work related at that
29 juncture. He said that "Garda management opted to cut

1 my pay deliberately without that determination having
2 been made" and that Assistant Commissioner HRM was
3 responsible.

4
5 Sergeant Hughes said that on 2nd May 2008 he went from 12:46
6 half pay to a pension rate and that this again was
7 targeting and a decision made without a workplace
8 investigation.

9
10 In his statement to the Tribunal, Sergeant Hughes said 12:46
11 that this was 'another tactic condoned by Garda
12 management - a way of 'starving' a 'whistleblower' back
13 to work'.

14
15 The Tribunal will hear from Divisional Officer Chief 12:47
16 Superintendent Gerard Phillips and the then District
17 Officer Superintendent Curran, who reject these
18 allegations. In his statement to the Tribunal,
19 Superintendent Curran said that "I took the view that
20 the source of his stress was best dealt with by a 12:47
21 referral to the CMO". The Tribunal will also hear from
22 Assistant Commissioner Clancy HRM who has set out in
23 her statement the requests made to the Divisional
24 Office for a report under Code 11.37. She referred to
25 a letter dated 19th June 2007 to Chief Superintendent 12:47
26 Santry instructing that Sergeant Hughes should be
27 interviewed to establish the source of his stress. She
28 stated that "the responsibility for carrying out code
29 instructions rests with local management. HRM would

1 merely have oversight of these matters'. In respect of
2 his reduction in pay, she stated that "I do not have
3 any evidence to hand as yet where a determination as to
4 the status of Sergeant Hughes' illness, being injury on
5 duty, was made prior to his reduction on pay". 12:48

6
7 The Tribunal will also hear from the subsequent
8 Assistant Commissioner HRM, Fintan Fanning. During the
9 course of 2011, he sought reports from the Divisional
10 Office on investigations carried out in respect of the 12:48
11 Sergeant Hughes's work related stress. In a letter
12 dated 29th July 2011, Superintendent Curran informed
13 Chief Superintendent DMR (North) that:

14
15 "No investigation was conducted locally in respect of 12:48
16 any specific 'injury on duty' to Sergeant Hughes."
17

18 The Tribunal will consider whether the manner in which
19 his sick leave absence was treated constituted the
20 targeting or discrediting of Sergeant Hughes because he 12:48
21 made a protected disclosure.
22

23 Issue 3: Did Chief Superintendent Michael Feehan
24 target or discredit Sergeant Hughes because he made a
25 protected disclosure by failing to carry out a proper 12:48
26 investigation into his report to the confidential
27 recipient as to systems failure to An Garda Síochána?
28

29 As outlined above Sergeant Hughes made a report to the

1 confidential recipient for An Garda Síochána on 16th
2 September 2008 and the confidential recipient then
3 outlined the complaint to the then Commissioner Fachtna
4 Murphy on the 14th October 2008.

5
6 On 28th October 2008, the Commissioner directed
7 Assistant Commissioner Feehan to carry out an
8 investigation under the Garda Síochána (Confidential
9 Reporting of Corruption and Malpractice) Regulations
10 2007. This investigation commenced on the 7th November 12:49
11 2008.

12
13 Following the commencement of the confidential
14 reporting investigation, Sergeant Hughes made two
15 further extensive reports to the investigation team in 12:49
16 January 2009 (to Superintendent Gabriel O'Gara) and
17 February 2009 (to Inspector Peter O'Boyle). He later
18 wrote to the confidential recipient on the 24th
19 February 2009 raising concerns about the direction of
20 the queries raised with him by Inspector O'Boyle. 12:49

21
22 Assistant Commissioner Feehan provided an interim
23 report to the Garda Commissioner on the 13th March 2009
24 outlining the volume of interviews and enquiries being
25 carried out into the reporter's allegations. The 12:49
26 Commissioner notified the confidential recipient on the
27 13th July 2008 that approximately 400 lines of enquiry
28 were being pursued and that the investigation was
29 nearing completion. The Commissioner wrote to

1 Assistant Commissioner Feehan in 2009 and early 2010
2 requesting that the investigation would be completed
3 without further delay.

4
5 By report dated 10th April 2010 the investigation 12:50
6 determined that "all the various allegations in
7 relation to the confidential report are without
8 foundation".

9
10 The confidential recipient was notified of the outcome 12:50
11 of the investigation by Commissioner Murphy on the 7th
12 May 2010 who informed him that:

13
14 "The investigation examined a total of eight
15 allegations as outlined in your correspondence on the 12:50
16 14th October 2008. The seriousness with which the
17 Garda authorities viewed these allegations is reflected
18 within the depth and thoroughness of this
19 investigation. All Garda management personnel,
20 together with all the Garda members identified as 12:50
21 having contact with any or all of the principal parties
22 in this matter have been interviewed and all existing
23 documentation pertaining to the issues raised has also
24 been perused.

25 12:51
26 As a result of the investigation Assistant Commissioner
27 Feehan is satisfied that all the various allegations in
28 relation to this confidential report are without
29 foundation.

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29

Having studied his report I agree with the finding of Assistant Commissioner Feehan and do not propose to take any further action in this regard.

12:51

In the course of investigation into matters arising from the confidential report two members of An Garda Síochána, namely Sergeant William Hughes and Garda Declan Nyhan, both attached to Swords Garda Station, raised Human Resource Management issues with Assistant Commissioner Feehan. These issues are now addressed separately."

12:51

By letter dated 10th April 2010, the Commissioner informed Assistant Commissioner Feehan that he agreed with the findings and did not propose to take any further action. He instructed that the substance of the report should be notified to the person complained of. The confidential recipient notified Sergeant Hughes of the Commissioner's views and by letter dated 1st July 2020 Sergeant Hughes stated that he was disappointed with the outcome of the investigation.

12:51

12:51

In his statement to the Tribunal investors, Sergeant Hughes said that:

12:52

"I believe that the reports I submitted and the ensuing investigations were inadequate and not carried out properly. I supplied a report to Superintendent

1 Gabriel O' Gara on the 9th January 2009 which contained
2 all the allegations relating to systems failure and
3 again these were not attended to by Garda management.
4 On the 20th February 2009 in response to queries raised
5 I supplied another report and also complained about the 12:52
6 process and identified the systems failure issues
7 again. Nothing came of that, in that I wasn't
8 contacted any further in relation to what I submitted."
9

10 He said that as a result of that process he felt 12:52
11 bullied, harassed and scapegoated. He said that the
12 investigation failed to uncover if there had been an
13 offence of reckless endangerment committed insofar as
14 the alleged failure to properly coordinate serious
15 crimes involving John Hennessy and Baiba Saulite prior 12:52
16 to the murder.

17
18 Sergeant Hughes was later requested by the Tribunal to
19 outline the basis of this allegation and in a letter to
20 the Tribunal dated 3rd December 2021 he referred to his 12:53
21 reports in January and February 2009 and stated that:

22
23 "There was a failure to properly investigate the
24 systems failure alleged in the above reports as the
25 investigation failed to uncover what he believed to be 12:53
26 irrefutable wrongdoings.

27
28 Sergeant Hughes highlighted in previous correspondence
29 lack of feedback from senior management arising from

1 the confidential recipient investigation along with his
2 perception that the file was not forwarded to other
3 entities for investigation or attention. It is his
4 view that this represents further failure in that
5 investigative process. "

12:53

6
7 In his statement to the Tribunal Assistant Commissioner
8 Feehan disputed the allegations of shortcomings in the
9 confidential reporting investigation and said that:

10
11 "This investigation examined a total of eight
12 allegations outlined in the report made by the
13 confidential recipient to the Commissioner. Several
14 hundred individual lines of enquiry were investigated
15 by this team in the course of the investigation. All
16 Garda management personnel, together with all the Garda
17 members identified as having contact with any of the
18 principal parties in this matter were interviewed by
19 the investigation room and all existing documentation
20 pertaining to the issues raised were also examined. "

12:53

12:53

12:54

21
22 It is his response that the investigation team did not
23 uncover any evidence to support an assertion that any
24 member of An Garda Síochána was in possession of any
25 information concerning a threat to Baiba Saulite prior
26 to her murder on the 19th November 2006. He concluded
27 that:

12:54

28
29 "I wish to assert that the investigations into the

1 allegations contained in the report from the
2 confidential recipient was properly conducted in terms
3 of the scope of the investigation and in its scale.
4 Having conducted in-depth investigations into each of
5 the allegations set out in the report from the 12:54
6 confidential recipient, the investigating team did not
7 find evidence to support the allegations as set out
8 above. "

9
10 The Tribunal will now consider whether the conduct of 12:54
11 this investigation constituted targeting or
12 discrediting of Sergeant Hughes under term of reference
13 [p].

14
15 Issue 4: Did the Garda Commissioner target or 12:54
16 discredit Sergeant Hughes because he made a protected
17 disclosure by failing to refer the investigation file
18 as to his complaints to the confidential recipient in
19 respect of the disciplinary investigation to the
20 Director of Public Prosecutions or to the Attorney 12:55
21 General?

22
23 As already outlined above, Sergeant Hughes provided an
24 extensive pre-prepared statement to the disciplinary
25 investigation on the 29th October 2008. He also made 12:55
26 extensive statements to the investigation into his
27 confidential report on the 9th January 2009, 20th
28 February 2009 and 24th February 2009.
29

1 In his statement to Tribunal investors Sergeant Hughes
2 said that:

3
4 "I felt that the investigations failed to uncover if
5 there had been an offence of reckless endangerment 12:55
6 committed insofar as the alleged failure to properly
7 coordinate serious crimes involving John Hennessy and
8 Baiba Saulite prior to the murder. I felt that the
9 investigation file should have been forwarded to the
10 law officers for their determination in that regard. 12:55
11 The investigation files I'm referring to here are those
12 arising from my report to the confidential recipient
13 and the disciplinary investigation file relating to me,
14 which included these complaints. I believe these files
15 should have been forwarded to the law officers to 12:56
16 determine whether offences had been committed and I
17 felt intimidated because of this, that these serious
18 matters that I was raising were not properly examined.
19 Also, as a result of these matters not having been
20 properly examined this led to me being further 12:56
21 isolated."

22
23 He said that the persons responsible for this targeting
24 included former Garda Commissioner Noel Conroy.

25
26 Sergeant Hughes was requested by the Tribunal to
27 outline the basis of this allegation and in a letter to
28 the Tribunal dated 19th January 2022 it was stated
29 that:

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"Our client notes that the allegations of a systems failure or cover-up were clearly set out in the confidential recipient investigation and perhaps to a lesser extent in the disciplinary investigation. He asserts that the investigations were not however, for reasons best known to those in charge, developed to expose the failures alleged. As a result no file was apparently compiled for the law officers in respect of the actions of any senior officers."

12:56

12:56

He noted that Commissioner Noel Conroy was retired when the confidential reporting investigation was commenced and was not in office when he submitted his report to the disciplinary investigation in October 2008. He continued that, having read the responding Tribunal statements the "responsibility for any perceived failures in relation to Issue 4 more suitably may more rest with other individuals" and he withdrew his allegations against the former Commissioner.

12:57

12:57

In respect of the disciplinary file, Assistant Commissioner Feehan said in his statement to the Tribunal:

12:57

"The duty of the investigating officer in this disciplinary investigation therefore, was to investigate the breach of discipline which Sergeant Hughes may have committed and to report the outcome of

1 that investigation to the Appointing Officer. I would
2 assert that the scope of the disciplinary investigation
3 was appropriate and that the approach taken by the
4 investigating officer was correct, given that he was
5 duty bound to focus on the alleged breach of discipline 12:57
6 as set out in the disciplinary form which had been
7 served on Sergeant Hughes ... A report on the
8 disciplinary investigation was forwarded by me to the
9 Appointing Officer, Assistant Commissioner Al McHugh,
10 on the 3/6/09. All statements and reports as mentioned 12:58
11 above were appended to the report."

12
13 A/C McHugh disputed in his statement to the Tribunal
14 that the disciplinary investigation was part of a
15 'cover up' and stated that Sergeant Hughes was 12:58
16 'completely exonerated' by the process."

17
18 In respect of the investigation into Sergeant Hughes's
19 confidential report, A/C Feehan said in his statement
20 that:

21
22 "I wish to assert that the investigation into the
23 allegations contained in the report from the
24 Confidential Recipient was properly conducted in terms
25 of the scope of the investigation and in its scale. 12:58
26 Having conducted in-depth investigations into each of
27 the allegations set out in the report from the
28 Confidential Recipient, the investigating team did not
29 find evidence to support the allegations as set out

1 above . . . Despite significant enquiries having been
2 made by the team investigating matters reported to the
3 Confidential Recipient, no intelligence was discovered
4 in relation to a threat to the life of Baiba Saulite."

12:58

5
6 In a letter to the Garda Commissioner dated 5th May
7 2017, the Minister for Justice requested a report on
8 the allegations made by Sergeant Hughes, including "why
9 a criminal investigation was not launched into serious
10 allegations of internal systems failure, malpractice,
11 cover-up, etc, made to the Garda authorities following
12 Baiba Saulite murder". In a letter of response to the
13 Minister for Justice dated 20th February 2018 it was
14 stated inter alia that:

12:59

15
16 "Mr. Hughes made a complaint under the Confidential
17 Reporting of Corruption and Malpractice Regulations
18 2008. The then Assistant Commissioner in the Northern
19 Region was assigned to investigate these allegations.
20 A comprehensive and detailed investigation was
21 conducted and the findings were presented to the then
22 Commissioner. The investigation determined that the
23 allegations were without foundation and no further
24 action warranted. The findings of the investigation
25 were accepted by the then Commissioner and the
26 Confidential Recipient informed of the outcome. . ."

12:59

12:59

12:59

27
28 The Tribunal will consider whether Sergeant Hughes was
29 targeted or discredited under term of reference [p] by

1 an alleged failure to refer his allegations to the
2 Director of Public Prosecutions or to the Attorney
3 General.

4
5 Issue 5:

13:00

6 Did the Garda Commissioner or Chief Superintendent
7 Michael Feehan target or discredit Sergeant Hughes
8 because he made a protected disclosure by failing to
9 carry out a proper investigation into his report about
10 the article published in the Irish Daily Star on 20th
11 November 2008?" --

13:00

12 CHAIRMAN: Ms. McGrath, may I stop you for a second?
13 would you refer to carry on to the end -- I am just
14 looking at your statement -- would you refer to carry
15 on to the end, which may take perhaps until close to
16 two o'clock or would you prefer to take a break at this
17 point? I am entirely in your hands. I am sure that
18 everybody is happy to go with whatever you'd prefer.

13:00

19 MS. McGRATH: I am in your hands, Chairman. I really
20 don't mind. I am happy to keep going if people don't
21 mind.

13:00

22 CHAIRMAN: I think we will take a break in that case.
23 We will reassemble at two o'clock. Thank you very
24 much, Ms. McGrath, we will take it up then with Issue 5
25 in your statement. Thank you very much.

13:00

26 MS. McGRATH: Thank you, Chairman.

27
28 THE HEARING THEN ADJOURNED FOR LUNCH AND RESUMED AS
29 FOLLOWS.

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CHAIRMAN: Now, Ms. McGrath, when you're ready.

MS. McGRATH: Thank you Chairman. Chairman I was just starting at:

Issue 5:

Did the Garda Commissioner or Chief Superintendent Michael Feehan target or discredit Sergeant Hughes because he made a protected disclosure by failing to carry out a proper investigation into his report about the article published in the Irish Daily Star on 20th November 2008?

14:00

14:00

As outlined above, an article was published in the Irish Daily Star newspaper on the 20th November 2008 entitled "cop never looked at tragic Bai ba's warning". This article was written by the crime correspondent for the paper Mr. Michael O'Toole. Sergeant Hughes sent this article to the Confidential Recipient on 28th November 2008.

14:00

14:00

Legal representatives for Sergeant Hughes contacted the Garda Commissioner by letter dated 12th December 2008 stating that the article was "hugely defamatory" and alleged "gross negligence on the part of our client which ultimately led to the murder of Bai ba Sauli te". It was also stated that Sergeant Hughes was "alarmed not only at the content of the interview but that Garda sources were responsible for the source of

14:00

1 information".

2
3 The Commissioner initiated an investigation into the
4 complaint in correspondence to the Deputy Commissioner
5 Operations dated 18th December 2008. This subsequently 14:01
6 led to Assistant Commissioner McHugh appointing
7 Assistant Commissioner Feehan on 22nd December 2008 to
8 carry out the investigation.

9
10 By letter dated 24th March 2009, legal representatives 14:01
11 for Sergeant Hughes complained about the appointment of
12 Assistant Commissioner Feehan. These complaints were
13 rejected by the appointing officer on 7th April 2009.
14 In the interim, Mr. Michael O'Toole was interviewed by
15 the investigation team on 28th January 2009 and his 14:01
16 statement recorded as follows:

17
18 "Inspector Dwyer has sought the identify of the 'Garda
19 sources' referred to in the said article. I do not
20 wish to comment on any aspect of the article." 14:01
21

22 At a subsequent meeting between the investigation team
23 and Sergeant Hughes on the 11th May 2009, it is
24 recorded in the notes that Michael O'Toole had told
25 John Hennessy that he got the information from a higher 14:02
26 level member of An Garda Síochána. It is also recorded
27 that the investigation was seeking a statement from
28 Sergeant Hughes. Two requests for a meeting were later
29 issued to Sergeant Hughes's solicitor.

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As earlier outlined, Assistant Commissioner Feehan reported to the Deputy Commissioner Operations on 17th May 2010 and advised that "with the exception of the reference to the instigation of formal disciplinary proceedings against a 'Garda based in North Dublin' Mr. O'Toole's article contains nothing that appears to have not already been in the public domain". He could find no basis for Sergeant Hughes's contention that the article was hugely defamatory or alleged gross negligence on his part. He also recorded that Sergeant Hughes had failed to assist with the enquiries.

By letter dated 25th May 2010 to Deputy Commissioner Operations, the Garda Commissioner queried whether Sergeant Hughes had been contacted directly with a view to making a statement and further queried whether, from the investigations to date, there was any evidence to indicate that the information contained in the article in question was provided by a garda source.

Following a number of deferred meetings, Sergeant Hughes made a pre-prepared statement to the investigation on 12th October 2010. He stated inter alia that:

"On the 19th November 2008, John Hennessy informed me that there would be an article appearing in the 'Star' newspaper the following day relating to the Bai ba

1 Saulite murder. Mr. Hennessy stated that a journalist
2 for the 'Star' newspaper, Michael O'Toole, had informed
3 him that the source of his information for the article
4 was a member of An Garda Síochána who was 'high up' in
5 the force. Mr. Hennessy further stated that the 14:03
6 content of the article did not reflect well on me. I
7 read the article on the 20th November 2009 and
8 immediately contacted my solicitor. Although I was not
9 named, I could see that the article clearly referred to
10 me and my dealings with Baiba Saulite in the week prior 14:04
11 to her murder."

12
13 Mr. Hennessy later made a statement to the
14 investigation on the 19th November 2010 stating that
15 "Michael O'Toole told me that a high ranking Garda had 14:04
16 informed him".

17
18 By report dated 27th January 2011, Assistant
19 Commissioner Feehan advised the Deputy Commissioner
20 Operations that Mr. Hennessy's statement was put to 14:04
21 Mr. O'Toole on the 21st January 2011 and he had
22 remained silent. Assistant Commissioner Feehan
23 concluded that it was not possible to progress the
24 investigation and stated that "at this juncture there
25 is no evidence to identify or even confirm that the 14:04
26 source was indeed a member of An Garda Síochána". This
27 was noted by the Garda Commissioner on the 2nd February
28 2011.

29

1 By letter dated 7th February 2011, Assistant
2 Commissioner Feehan informed Sergeant Hughes and his
3 solicitor that he could "find no evidence to
4 substantiate the assertion that the information
5 contained in the said article was provided by a member 14:04
6 of An Garda Síochána".

7
8 In his statement to Tribunal investors, Sergeant Hughes
9 referred to his complaint and stated that:

10 14:05
11 "I understand that understand that this report was sent
12 to the Garda Commissioner. I believe that I was
13 targeted as there was no immediate response by the
14 Garda authorities to this, I was first contacted on 16
15 January 2009. An investigation was undertaken by 14:05
16 Inspector Fergus Dwyer, there was no outcome to the
17 investigation, in that the source of the leak could not
18 be established. I believe I was targeted in this
19 regard due to a failure to interview me promptly and
20 the fact that a proper investigation was not conducted, 14:05
21 I believe this was an abuse of process at any expense
22 and a cover up."

23
24 Sergeant Hughes was requested by the Tribunal to
25 outline the basis of this allegation. In a letter to 14:05
26 the Tribunal dated 3rd December 2021, Sergeant Hughes
27 complained that he was not formally interviewed until
28 October 2010, that the investigation was
29 over-protracted, there was minimal feedback and that he

1 had requested the complaint be investigated under the
2 Garda Síochána (Confidential Reporting of Corruption or
3 Malpractice) Regulations 2007.

4
5 In their statements to the Tribunal, both Inspector 14:06
6 Dwyer and Assistant Commissioner Feehan outlined a
7 number of attempts made to contact Sergeant Hughes
8 and/or his legal representative with a view to
9 obtaining a statement for the investigation. Assistant
10 Commissioner Feehan further stated that: 14:06

11
12 "In my report on the investigation, I stated that with
13 the exception of a reference to the disciplinary
14 proceedings against a Garda based in north Dublin,
15 Mr. O'Toole's article did not contain anything that did 14:06
16 not appear to have been in the public domain
17 previously. The investigation did not ascertain the
18 source of the information contained in the article
19 which appeared in the Star newspaper and which had been
20 the subject of this complaint." 14:06

21
22 In his interview with the Tribunal investor,
23 Mr. O'Toole stated that "to the best of my recollection
24 I was aware that Sergeant Hughes was the member subject
25 of the disciplinary proceedings and therefore the 14:06
26 subject of the article." He was referred to the
27 statement of Mr. Hennessy outlined above and said that:

28
29 "My recollection is that Mr. Hennessy did become

1 slightly agitated or upset, to the best of my
2 recollection he did ask me, who told me? I did not
3 disclose my source or sources to him. What I recall
4 saying to him, and I suspect he did ask me about the
5 rank although I don't remember that, but my answer 14:07
6 betrays the fact that he must have asked me, because my
7 recollection is that I said to Mr. Hennessy is "senior
8 enough". I don't recall using the phrase high ranking.
9 I can confirm that none of the sources for my story
10 ... were Gardaí at the rank of Assistant Commissioner 14:07
11 or above."

12
13 The Tribunal will now proceed to consider whether this
14 investigation constituted targeting or discrediting of
15 Sergeant Hughes because he made a protected disclosure. 14:07
16

17 Issue 6:

18 Did the Garda Commissioner target or discredit Sergeant
19 Hughes because he made a protected disclosure by
20 failing to refer his complaint to An Garda Síochána 14:07
21 Ombudsman Commission (GSOC)?
22

23 As outlined earlier in this opening statement, Sergeant
24 Hughes met with Superintendent Curran in April 2007.
25 In his interview with Tribunal investigators he stated that 14:08
26 he told Superintendent Curran of a systems failure and
27 that:
28

29 "... I warned him that if the matters were not fully

1 investigated it would have serious implications for the
2 murder investigation and upcoming coroner's inquest. I
3 told him that these were serious allegations I was
4 making and one would expect that senior management
5 would act on this." 14:08

6
7 He continued in his interview that:

8
9 "It is my belief that in May 2007 the Garda
10 Commissioner should have referred the entire matter of 14:08
11 contact by Garda members with Bai ba Saulite prior to
12 her further to GSOC for an independent investigation.
13 By not doing so I believe that this meant that this was
14 a scapegoating of me, it was an abuse of process and
15 investigations were suppressed. The fact is that these 14:08
16 matters were not properly investigated independently by
17 an agency like GSOC meant the truth could not come out
18 about the systems failure and therefore I could not be
19 vindicated. The person I believe responsible for the
20 non-referral was the Garda Commissioner, who was Noel 14:09
21 Conroy at the time."

22
23 Sergeant Hughes was asked to detail the basis of his
24 complaint under this issue and by letter to the
25 Tribunal dated 3rd December 2021, he stated that there 14:09
26 was an onus placed on the Garda Commissioner to report
27 certain matters to GSOC under section 10 of the Garda
28 Síochána (Confidential Reporting of Corruption or
29 Malpractice) Regulations 2007. Section 10(1) states

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that:

"The Commissioner shall, as soon as practicable and in accordance with arrangements agreed with the Ombudsman Commission

14:09

(a) notify the chairperson of the Commission of each confidential report received by him or her and of the action that he or she proposes to take or is taking in relation to it, and

(b) give the chairperson any further information (except the identity of the confidential reporter) that he or she may request in relation to the matter."

14:09

He also stated that his case satisfied the requirements of section 102(1) of the Garda Síochána Act 2005 which states that the Commissioner shall refer to GSOC any matter that appears to the Commissioner to indicate that the conduct of a member of An Garda Síochána may have resulted in the death of, or serious harm to, a person.

14:10

14:10

It will be recalled that Superintendent Curran made a statement to the Tribunal about his recollection of his conversation with Sergeant Hughes. Superintendent Curran provided a report dated 24th April 2007 to his Divisional Officer, Chief Superintendent Gerard Phillips and in his statement to the Tribunal he said that:

14:10

1 "I reported his concerns to the Divisional Officer on
2 the 24th April 2007 ... I spoke to Sergeant Hughes when
3 completing this report and informed him at the time
4 that I would be forwarding his concerns for the
5 attention of my authorities. I recorded the fact that 14:10
6 the report was read overt (sic) to him in the report
7 itself."

8
9 In respect of section 10 of the Garda Síochána
10 (Confidential Reporting of Corruption Or Malpractice) 14:10
11 Regulations 2007, sections 3 and 5 of that Regulation
12 define a 'confidential report' as one made to a
13 'confidential recipient'. The confidential report made
14 by Sergeant Hughes on 16th September 2008 was notified
15 to GSOC by the then Garda Commissioner Fachtina Murphy 14:11
16 on the 28th October 2008.

17
18 In respect of section 102(1) of the Garda Síochána Act
19 2005, the Commissioner has delegated his function under
20 that section to members of superintendent rank in 14:11
21 accordance with HQ Directive 201/2007 "Provisions of
22 Section 102(1) of the Garda Síochána Act 2005 - Duty to
23 Refer." The Directive outlines the factors to be taken
24 into account including guidelines on the application of
25 the statutory provision. These guidelines are also 14:11
26 addressed in the Memorandum of Understanding, Protocols
27 and Agreement on Operational Matters between the Garda
28 Síochána Ombudsman Commission and The Garda Síochána.
29

1 The Tribunal will now proceed to consider whether, if a
2 duty to refer arose, Sergeant Hughes was targeted or
3 discredited under term of reference [p].
4

5 Issue 7:

14:12

6 Did the Garda Commissioner or Assistant Commissioner
7 Al McHugh or Chief Superintendent Feehan target or
8 discredit Sergeant Hughes because he made a protected
9 disclosure by suppressing or disregarding information
10 or statements provided by Superintendent Noel
11 McLoughlin or Inspector Robert Melvin?
12

14:12

13 In his statement to the Tribunal investors, Sergeant
14 Hughes says that:

15
16 "On 02 February 2010 I am aware correspondence went
17 from Chief Superintendent Michael Feehan to retired
18 Superintendent Noel McLoughlin under the ambit of the
19 whistleblower investigation, I had received an
20 indication from retired Inspector Bob Melvin that he
21 had reported to that investigation that there had been
22 a systems failure as I had been alleging. Anecdotally
23 from conversations I had with retired Superintendent
24 Noel McLoughlin he was in agreement that there was a
25 systems failure and he was going to make a report to
26 that effect to the whistleblower investigation. I felt
27 that this information could have been discovered at
28 very early stage of the murder investigation by the
29 Garda authorities, and that such information crucially

14:12

14:12

14:12

1 would have cleared me of any wrongdoing from the
2 outset. That correspondence displayed for me the lack
3 of action by senior management in procuring relevant
4 information at my expense. The evidence that retired
5 Superintendent Noel McLoughlin and retired Inspector 14:13
6 Bob Melvin could offer in relation to the confidential
7 recipient investigation was not disclosed during the
8 fact find investigation; the disciplinary investigation
9 and to my knowledge the murder investigation inquiry.
10 I believe this to be another example of targeting of 14:13
11 me. . . "

12
13 Inspector Bob Melvin was the Inspector-in-charge in
14 Swords Garda station who retired on the 2nd November
15 2006. He made the following response to a question 14:13
16 posed of him during the confidential reporting
17 investigation:

18
19 "Q. Is it your opinion that was a failure to
20 coordinate the various investigations/enquiries 14:13
21 relating to Ms. Saulite and/or her husband?
22 A. In hindsight, yes. "

23
24 Former Superintendent Noel McLoughlin was the District
25 Officer in the 'R' District, who retired on the 11th 14:14
26 November 2006. In his statements to the confidential
27 reporting investigation, he disputed that there was a
28 systems failure. In an e-mail to this Tribunal dated
29 17th April 2021, he stated that:

1
2 "I have read the Witness Statements ... as documented
3 by Sergeant William Hughes ... I cannot recall ever
4 stating verbally or in writing that there was a systems
5 failure in respect of the Baiba Saulite matter ... I 14:14
6 was never aware during my tenure at Coolock that there
7 was a cover up underway in relation to events involving
8 Baiba Saulite prior to her murder ... I have no
9 recollection of conversations with William Hughes that
10 I agreed with his views that there was a systems 14:14
11 failure ... I do not recall reporting to the
12 investigating members that there was a systems failure.
13 .. I wish to state that all of my above statements are
14 qualified by being made insofar as I can recall in
15 consideration of the passage of time." 14:14

16
17 It is recorded by Assistant Commissioner Feehan in the
18 report of the confidential reporting investigation
19 that:

20 14:15
21 "Ex-Inspector Melvin stated to this investigation team
22 that now after the murder of Ms. Saulite, in hindsight
23 it was his opinion that there was a failure to
24 coordinate the various investigations/enquiries
25 relating to Ms. Saulite and/or her husband. He stated 14:15
26 that he was aware of the incidents as they occurred,
27 and that he would have obtained the information from
28 Pulse or from reading the occurrence book and the
29 members of the station party. No other Senior members

1 has expressed this opinion and it must be pointed out
2 that Ex-Inspector Melvin is commenting from hindsight
3 and not from judgements made at the time.

4
5 Ex-Superintendent McLoughlin was informed that 14:15
6 Ex-Inspector Melvin asserted that there was a failure
7 to coordinate the various investigations relating to
8 clue and [Mr. A]. Ex-Superintendent McLoughlin stated
9 that he was fully satisfied with the personnel and
10 coordinated systems for investigating the incidents 14:15
11 relating to the case of Ms. Saulite and [Mr. A] when he
12 was District Officer.

13
14 Ex-Superintendent McLoughlin stated that in his opinion
15 he was satisfied with all the investigations involving 14:16
16 Ms. Saulite and [Mr. A] during his tenure as District
17 Officer in the Coolock District."

18
19 In his statement to the Tribunal Assistant Commissioner
20 Feehan stated that: 14:16

21
22 "No other senior members expressed this opinion and it
23 must be pointed out that Ex-Inspector Melvin is
24 commenting in hindsight and not from judgments made at
25 the time. Responsibility for the management of the 14:16
26 various investigations in the district rested with the
27 Superintendent of the day, Mr. Noel McLoughlin. When
28 the assertions of Ex-Inspector Melvin, that there was a
29 failure to coordinate the various investigations

1 relating to Ms. Saulite and [Mr. A], were put to
2 Ex-Superintendent McLoughlin he asserted that he was
3 full satisfied with the personnel and coordinated
4 systems for investigating the incidents relating to the
5 case of Ms. Saulite and [Mr. A] when he was District 14:16
6 Officer."

7
8 In his statement to the Tribunal Assistant Commissioner
9 McHugh stated that:

10 14:17
11 "I was not involved in this Confidential Recipient
12 Investigation nor have I had sight of the report.
13 However I would find it difficult to accept that
14 proposition given local managements' obligations (role
15 and function) in the various investigations, if there 14:17
16 were such utterances as 'a systems failure' for the
17 following reason. Inspector Bob Melvin was Inspector
18 in Charge of Swords Station and the senior middle
19 ranking officer in Swords sub-district ultimately
20 carrying the responsibility of overseeing and 14:17
21 coordinating events and occurrences in the Swords
22 sub-district and liaising and reporting to his District
23 Officer Noel McLoughlin."

24
25 The Tribunal will consider if the statements of retired 14:17
26 Superintendent McLoughlin and/or retired Inspector
27 Melvin were suppressed or disregarded, whether Sergeant
28 Hughes was targeted or discredited under term of
29 reference [p].

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Issue 8:

Did the Assistant Commissioner HRM target or discredit Sergeant Hughes because he made a protected disclosure by writing the letter dated 19th September 2008 containing "numerous inaccuracies amounting to an abuse of process/harassment of Sergeant Hughes"?

By letter dated 23rd May 2008, Assistant Commissioner Catherine Clancy, HRM, wrote to the Chief Superintendent, Santry informing him that Sergeant Hughes was scheduled for a review by the Garda Medical Department on the 5th June 2008. She requested that Sergeant Hughes should be duly notified and stated that:

"Prior to the member's review, local management shall meet with the member and discuss the following:

- The reason this member is being referred to the Chief Medical Officer is to determine the member's medical fitness grade for policing duty;
- To advise the member to forward all relevant medical reports from treating/certifying doctors, including specialists to the Garda Medical Department on or prior to the review date. The member should be assured that these medical reports will be treated in the strictest medical confidence by the Chief Medical Officer in consultation with the member's treating/certifying

1 doctors.

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

4
5 Inspector William Hanrahan, Coolock Garda Station, 14:19
6 contacted Sergeant Hughes by telephone in respect of
7 his required attendance. He reported to his superior,
8 Superintendent Mark Curran, on the 27th May 2008 that
9 Sergeant Hughes would attend and said that "I have on
10 previous occasions offered to meet with Sergeant 14:19
11 Hughes, he indicated to me that as I have his mobile
12 number and he has mine that we have an open line of
13 communication. Sergeant Hughes has no issues
14 concerning my communications with him." This report
15 was forwarded to the Divisional Officer who in turn 14:19
16 sent it to the Assistant Commissioner HRM on the 30th
17 May 2008.

18
19 Sergeant Hughes attended at the Occupational Health
20 Department of An Garda Síochána on 5th June 2008 where 14:19
21 he was reviewed by Dr. Richard Quigley. It will be
22 recalled that he was the Assistant Chief Medical
23 Officer of An Garda Síochána. In a report to Assistant
24 Commissioner Clancy dated 9th June 2008, Dr. Quigley
25 stated as follows: 14:20

26
27 "Based on the reports of the independent mental health
28 adviser, I conclude that Sergeant Hughes no longer
29 possesses the necessary health to perform the demanding

1 role of a police officer. I have advised Sergeant
2 Hughes of this position."

3
4 Dr. Quigley also referred to his previous advices in
5 respect of whether Sergeant Hughes had suffered an 14:20
6 injury on duty and the benefit of progressing the
7 ongoing disciplinary investigation. Assistant
8 Commissioner Clancy informed Chief Superintendent
9 Phillips of this recommendation on 13th June 2008 and
10 requested that he would contact Sergeant Hughes and 14:20
11 confirm whether Sergeant Hughes intended to oppose the
12 recommendation.

13
14 On 4th July 2008, Sergeant Hughes's solicitor wrote to
15 Assistant Commissioner Clancy expressing surprise at 14:20
16 the content of the letter of the 13th June and stating
17 that the meeting referred to in her correspondence
18 dated 23rd May 2008 did not take place. It was
19 confirmed that Sergeant Hughes proposed to oppose
20 Dr. Quigley's recommendation. 14:20

21
22 The letter dated 4th July 2008 was forwarded by
23 Assistant Commissioner Clancy to the Divisional Office
24 and in turn to Superintendent Curran. Superintendent
25 Curran provided a report dated 17th July 2008, 14:21
26 referring to Inspector Hanrahan's report and stating
27 that "Inspector Hanrahan states that he offered to have
28 a meeting with Sergeant Hughes in person but Sergeant
29 Hughes stated his preference to communicate by

1 telephone." He continued that:

2
3 "On the 18th June 2008 I spoke to Sergeant Hughes by
4 telephone. This conversation took place due to the
5 receipt of the HRM communication with the Chief Medical 14:21
6 Officer's decision to allow Sergeant Hughes to retire
7 on medical grounds ... I requested to meet Sergeant
8 Hughes regarding this matter due to the significance of
9 the Chief Medical Officer's report and the impact on
10 his personal circumstances. On 19th June 2008 Sergeant 14:21
11 Hughes contacted me by telephone."

12
13 When forwarding this report to Assistant Commissioner
14 HRM on 24th July 2008, chief superintendent Michael
15 O'Sullivan stated that: 14:22

16
17 "All contact with Sergeant Hughes has been conducted
18 through telephone, specifically at his request. He has
19 declined all offers to meet local management to date.
20 This places local management at a disadvantage in that 14:22
21 no face-to-face contact is possible. I stress again
22 this is at the specific request of Sergeant Hughes."

23
24 The foregoing culminated in a response to Sergeant
25 Hughes's solicitor on 19th September 2008 and it is 14:22
26 this letter that Sergeant Hughes challenges as being
27 inaccurate. Assistant Commissioner Clancy informed
28 Sergeant Hughes inter alia that:

29

1 "In your letter you also referred to the fact that
2 prior to being reviewed at the Garda medical department
3 on the 5th June 2008, local management were to meet
4 Sergeant Hughes and discuss the issues set out in my
5 letter of the 23rd May. You pointed out that this 14:22
6 meeting did not take place. I sought a report from
7 Divisional Officer, DMR North, in relation to this
8 issue. The Divisional Officer advises me that all
9 contact with Sergeant Hughes had been conducted through
10 telephone specifically at his request. Sergeant Hughes 14:23
11 has declined all officers to meet local management to
12 date."

13
14 Assistant Commissioner Clancy concluded her letter
15 stating that, should Sergeant Hughes or his doctors be 14:23
16 opposed to the recommendation, that they should present
17 further reports to the Chief Medical Officer within
18 four weeks.

19
20 By report to his superintendent dated 13th October 14:23
21 2008, Inspector Hanrahan said that he had spoken with
22 Sergeant Hughes and that "Garda management in the 'R'
23 district would like to clarify that Sergeant Hughes has
24 not refused to meet with us on any occasion since both
25 Superintendent Curran and I arrived in the district". 14:23
26 This was confirmed by Superintendent Curran in his
27 report to his Divisional Office dated 7th September
28 2008.
29

1 In his statement to the Tribunal investors, Sergeant
2 Hughes said that:

3
4 "On the 19th September 2008 a report ... issued from
5 Assistant Commissioner HRM to my solicitor which 14:23
6 contained many inaccuracies, again arising from this
7 report I felt that this was an abuse of process and
8 harassment, as it made me out to be non-cooperative
9 with the Garda authorities. This report set out
10 allegations which stated that I had failed to meet with 14:24
11 local management from 2006 to that time and that all
12 contact was to be by telephone at my request. This I
13 believe was what local management had conveyed to HRM.
14 I felt that the issuing of this report was part of the
15 ongoing scapegoating of me, as it painted me as being 14:24
16 an uncooperative member which was simply not true. It
17 was very worrying that such a reporting of me by local
18 management was being made to HRM."

19
20 Sergeant Hughes was requested by the Tribunal to 14:24
21 outline the alleged 'inaccuracies' and while his
22 response to the Tribunal dated 19th January 2022
23 focused on the shortcomings of Dr. Quigley's
24 recommendation, Sergeant Hughes went on to state that
25 Dr. Quigley enumerated several matters for HRM's 14:24
26 attention and that:

27
28 "Our client states that when addressing the
29 correspondence to Séan Costello ACHRM knew, or should

1 have known, that there was no report as to our client's
2 workplace absences from local management. Our client
3 therefore believes that ACHRM's report does not
4 accurately reflect the ACMO's advices.

14:25

6 In addition, ACHRM states that, according to a report
7 he received from the Divisional Officer our client had
8 declined all offers to meet with local management and
9 that our client had insisted that any contact in that
10 regard should be by telephone. Our client asserts that 14:25
11 this statement is not true..."

13 In her statement to the Tribunal Assistant Commissioner
14 Clancy stated that Sergeant Hughes acknowledged that
15 the report to his solicitor was based on information 14:25
16 obtained from local management and she said she could
17 not put the matter any further.

19 In his statement to the Tribunal, Chief Superintendent
20 Phillips stated that he accepted that the message to 14:25
21 HRM was not correct but that it was the result of a
22 misunderstanding.

24 In his statement to the Tribunal, Superintendent Curran
25 stated that will Sergeant Hughes had never refused to 14:25
26 meet him or to his knowledge any inspectors. He said
27 that no such reporting emanated from the Coolock
28 District to the best of his knowledge.

1 The Tribunal will now proceed to consider whether the
2 contents of the letter dated 19th September 2008
3 targeted or discredited Sergeant Hughes because he made
4 a protected disclosure.

14:26

5
6 Issue 9:

7 Did superintendent Mark Curran target or discredit
8 Sergeant Hughes because he made a protected disclosure
9 by being unwilling to deal with the systems failure
10 issues the sergeant wanted to discuss and/or by the
11 nature and content of his meeting with the sergeant
12 dated 17th December 2008?

14:26

13
14 As outlined in his opening statement, Sergeant Hughes
15 was on extended sick leave during the course of 2008
16 which was certified by his General Practitioner as
17 resulting from work related stress.

14:26

18
19 It is also outlined that Dr. Richard Quigley
20 recommended, on the 9th June 2008, that Sergeant Hughes
21 should be medically retired from An Garda Síochána on
22 the grounds of ill-health. This recommendation was
23 opposed by Sergeant Hughes on the 4th July 2008 and he
24 said that he had not met with local management prior to
25 his review. In a letter of response to Sergeant Hughes
26 dated 19th September 2008, it was stated by the
27 Assistant Commissioner HRM that Sergeant Hughes had
28 "declined all offers to meet local management to date".
29 This was refuted by Sergeant Hughes and it was later

14:27

1 corrected by Superintendent Curran in a report dated
2 7th November 2008.

3
4 During the course of 2008, the issue of whether
5 Sergeant Hughes was suffering from an injury on duty 14:27
6 was also considered by Dr. Quigley. He had advised in
7 March 2008 that the events described by Sergeant Hughes
8 constituted normal policing work and he did not see
9 evidence of an injury on duty being perpetrated upon
10 Sergeant Hughes. 14:27

11
12 Furthermore, the disciplinary investigation commenced
13 by then Chief Superintendent Feehan in 2007 was ongoing
14 and enquiries were outstanding as to whether Sergeant
15 Hughes could be interviewed in the light of his sick 14:27
16 leave.

17
18 Finally, Sergeant Hughes had made his complaint to the
19 Confidential Recipient for An Garda Síochána on 16th
20 September 2008 and an investigation had commenced. 14:27

21
22 It is against this background that Sergeant Hughes was
23 contacted by his District Officer, Superintendent
24 Curran, and requested to attend a meeting in respect
25 of his welfare on the 17th December 2008. 14:28

26
27 Sergeant Hughes prepared a report for Superintendent
28 Curran which he provided to him at the meeting. This
29 report stated that he had never refused to meet with

1 local management and that "in fact, I have not been
2 requested to attend at meetings with local management
3 concerning my absence since reporting sick". He
4 referred to the statement that he had declined to meet
5 local management saying that this had added to his 14:28
6 stress and that it had not been formally retracted. He
7 also stated that Garda management had failed to address
8 the serious issues he had raised in 2006 and 2007 and
9 that this had led to a deterioration of his general
10 welfare over the last two years. He then stated that: 14:28

11
12 "From a welfare point of view, I believe that Garda
13 management has failed to properly conduct a proper
14 investigation into the reason for any absence from
15 work. I have not been formally interviewed to date in 14:28
16 that regard by Garda management ... I believe that
17 Garda management have failed to properly and
18 professionally tackle issues of workplace bullying,
19 harassment and intimidation which I have been subjected
20 to and which were reported and I believe that this 14:29
21 failure is a continuance of such bullying and
22 harassment of me."

23
24 Sergeant Hughes also referred to what he said was the
25 decision by Garda management in September 2007 to cut 14:29
26 his salary when the medical authorities had not yet
27 decided whether his illness was as a result of work
28 related stress. He requested a recommendation that he
29 would be restored to full pay pending the completion of

1 the process and a full investigation into his report.

2
3 Superintendent Curran reported to the Divisional
4 officer on the 23rd January 2009 that the meeting was
5 convened for the purpose of discussing welfare issues. 14:29
6 He enclosed Sergeant Hughes' report and stated that:

7
8 "A number of issues are raised by Sergeant Hughes in
9 the attached communication. Regular contact has been
10 made with Sergeant Hughes who continues to assert that 14:29
11 he is suffering from work related stress. To this end
12 he outlines a number of points where he believes that
13 Garda management has not respond to his satisfaction.
14 He refers to his injury on duty which he states was
15 never investigated along with previous allegations 14:30
16 relating to bullying and harassment. He further states
17 he intends to return to work at the earliest
18 opportunity should some of the issues in this letter be
19 addressed.

20
21 Forwarded for your information and attention."
22

23 In his statement to Tribunal investors, Sergeant Hughes
24 said that he "found the interview very narrow in
25 context, and he did not want to deal with the systems 14:30
26 issues. I felt this was an abuse of process and that I
27 was being isolated. In that regard and in respect to
28 this instance I believe superintendent Mark Curran was
29 targeting me." He also stated that "I am unaware to

1 this date what action if any Superintendent Curran took
2 in relation to this report." Sergeant Hughes told the
3 Tribunal investors that:

4
5 "I informed him that although I wished to return to 14:30
6 work at the earliest opportunity I felt that the
7 non-resolution of the matters that had gone before
8 prevented my return off sick leave. I believe this
9 welfare meeting was as a result of me engaging with the
10 confidential recipient." 14:31

11
12 In his statement to the Tribunal, Superintendent Curran
13 stated that "the purpose of the meeting was to make a
14 genuine enquiry of a colleague whom I had worked with
15 intermittently throughout my career as we approached 14:31
16 the Christmas period 2008". In respect of Sergeant
17 Hughes's report and his 'serious concerns'
18 Superintendent Curran stated that:

19
20 "I believe that I may have mentioned that an 14:31
21 investigation was underway into matters surrounding the
22 Bai ba Saulite murder investigation. I believe that it
23 would have been appropriate for me to inform him of
24 this development seeing as he mentioned it. In
25 hindsight I don't understand why Sergeant Hughes raised 14:31
26 this matter as he had already availed of the
27 Confidential Recipient mechanism and that should have
28 satisfied him that progress was being made into his
29 concerns."

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The Tribunal will consider whether the nature or content of the meeting between Sergeant Hughes and Superintendent Curran on 17th September 2008 constituted targeting or discrediting of Sergeant Hughes because he made a protected disclosure.

14:32

Chairman, the final issue:

Issue 10:

14:32

Did the Garda Commissioner or Assistant Commissioner HRM target or discredit Sergeant Hughes as he alleges by reason of the recommendation dated 11th July 2008 by An Garda Síochána that Sergeant Hughes be medically discharged?

14:32

Sergeant Hughes first met with Dr. Richard Quigley on 19th September 2007 to review his absence from May 2007. Following a consultation, Dr. Quigley reported that Sergeant Hughes was considered unfit for work in the interim and he advised that Sergeant Hughes should be referred to an independent specialist, a Consultant Psychiatrist, to assist the service in assessing his fitness for work and requisite workplace accommodations.

14:32

14:32

Sergeant Hughes met with an independent specialist physician, Dr. John Griffin, on the 4th January 2008. Dr. Griffin provided a report where he concluded that:

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"When I pressed Sergeant Hughes on continuing in the police force, even on light duties, he feels that he can't foresee any way of returning as an effective police officer. Certainly, having read his detailed file which I don't have a copy of but have had full sight of, I don't think this man is in a position now or will be in a position in the future to give full and effective service as a police officer. I don't think he now has the mental robustness or will in future have the mental robustness to continue in the Garda Force. Thus my recommendation would be that he be considered for retirement on medical grounds."

14:33

14:33

On the 12th February 2008 Dr. Griffin further reported that:

14:33

"I note Dr. Reilly's comment that Garda Hughes would be unable to return to work until the matters he referred to in his letter are addressed by the Authorities, and settled one way or another. However, it was my opinion on the 7th January last that even when and if this is achieved, I don't think Sergeant Hughes, due to the nature of his condition and diagnosis, would be in a position in the future to continue as an efficient preliminary."

14:33

14:33

With regard to a diagnosis of Post Traumatic Stress Disorder, Dr. Griffin stated 26th February 2008 that:

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"... I think there is a dual effect here, that is, the trauma of Ms. Saulite's death affected him greatly, and also the reported threats to his own life played a major part. Thus, I think these two factors would provide the genesis for his Post Traumatic Stress Disorder."

14:34

On the 6th March 2008, Dr. Quigley wrote to Assistant Commissioner Clancy in respect of the 'injury on duty' issue and stated that "my best sense of what happened is that the events described constitute in effect normal policing work. I do not see evidence of injury on duty being perpetrated upon Sergeant Hughes. Therefore, though the independent psychiatric adviser Dr. John Griffin has associated Sergeant Hughes' s current illness with work related events, I cannot conclude that these work related events constitute formal injury on duty."

14:34

14:34

Sergeant Hughes subsequently attended for his review at the Occupational Health Department of An Garda Síochána on 5th June 2008. In a report to Assistant Commissioner Clancy dated 9th June 2008, Dr. Quigley stated as follows:

14:34

14:35

"Sergeant William Hughes attended the Occupational Health Service on 5th June 2008 to review sickness absence of just over twelve months duration. Based on

1 the reports of the independent mental health adviser, I
2 conclude that Sergeant Hughes no longer possesses the
3 necessary health to perform the demanding role of a
4 police officer. I have advised Sergeant Hughes of this
5 position. I informed him accordingly that he now has 14:35
6 twenty eight days in which to consider matters and to
7 lodge an appeal should he so wish. I note that on 6th
8 March 2008 I had given earlier advices that my best
9 sense of what has happened is that the work events
10 described contributing to his ill health did not 14:35
11 constitute an injury on duty. I note that this case is
12 a particularly complex one ... accordingly I consider
13 that you must decide upon the issue of injury on duty
14 based on the medical advice as given but also on the
15 outcome of all these other issues which must be 14:35
16 reported upon to you by relevant parts of the
17 organisation of An Garda Síochána."

18
19 As noted in issue 9, Assistant Commissioner Clancy
20 informed Chief Superintendent Phillips of this 14:36
21 recommendation on the 13th June 2008 and that Sergeant
22 Hughes's solicitor confirmed he would be opposing
23 Dr. Quigley's recommendation. His solicitor referred
24 to a number of matters including the fact that the
25 meeting she had directed take place with Sergeant 14:36
26 Hughes and local management prior to the review had not
27 occurred. It was also stated that:

28
29 "Notwithstanding and given the very mandatory nature of

1 your letter, our client attended for what he believed
2 to be a review at the Garda Medical Department where he
3 met with Dr. Richard Quigley. Our client presented
4 himself to Dr. Quigley. He did not examine him but
5 proceeded to state that he would have to recommend that 14:36
6 the client should be 'let go'."

7
8 By report dated 18th July 2008, Dr. Quigley informed
9 Assistant Commissioner Clancy that this response
10 constituted notice of intention to appeal and therefore 14:36
11 no D33 form (Member of the Force Certified Medically
12 Unfit for Further Service) was completed. He further
13 stated as follows:

14
15 "The reports of Dr. John Griffin of 7 Jan and 12 14:37
16 February constitute the medical reports which I based
17 my recommendation of 5 June 2008. I am prepared to
18 release the reports of Dr. John Griffin through your
19 office to Sergeant Hughes's solicitor or a nominated
20 medical practitioner nominated by Sergeant Hughes..." 14:37
21

22 In a further report to Assistant Commissioner Clancy of
23 the same date, Dr. Quigley referred to his report of
24 9th June 2008 and stated that:

25 14:37
26 "I referred to the particular complexity of the present
27 case which appeared to have grievance/welfare issues,
28 disciplinary issues, legal issues and industrial
29 relations issues. I advised that I considered that in

1 relation to his ill health retirement the issue of
2 injury on duty based on medical advices given but also
3 based on the outcome of all these other issues which
4 must be reported upon to you by the relevant parts of
5 the organisation. "

14:37

6
7 On the 29th July 2008, Dr. Quigley reported to
8 Assistant Commissioner Clancy that the use of the words
9 'let go' was not his normal language during an ill
10 health retirement consultation and that:

14:38

11
12 "... I had indicated to the member that he no longer
13 possessed the necessary health to pursue the demanding
14 role of a policing officer, that the position appeared
15 to be permanent and that I was therefore recommending
16 ill health retirement. I would further have indicated
17 to Sergeant Hughes that my capacity in this regard was
18 advisory and that it was Garda management's role to
19 retire a member. "

14:38

20
21 Following further medical assessment and a review by
22 Dr. Griffin on the 8th January 2008, Dr. Griffin
23 considered that it would not be appropriate to retire
24 Sergeant Hughes on medical grounds. Sergeant Hughes
25 did not so retire until 13th February 2013.

14:38

26
27 In his statement to Tribunal investigators, Sergeant
28 Hughes said that:

1 "On 18 September 2007 I had no my first consultation
2 with the Assistant CMO, (Richard Quigley) he referred
3 me for psychiatric evaluation whilst having no reports
4 from Garda management setting out the reasons for my
5 absence from duty. This I considered to be an abuse of 14:38
6 process and harassment, this became the norm, I was
7 continually being referred to psychiatric assessment
8 when it was known or should have been known that Garda
9 management were failing to deal with the serious issues
10 involving me in the workplace. On 11 July 2008 An 14:39
11 Garda Síochána recommended that I be medically
12 discharged, again I believe this to be targeting
13 because once again the workplace matters had not been
14 investigated by local management."

15
16 In her statement to the Tribunal, Assistant
17 Commissioner Clancy stated that:

18
19 "I must state that this was a recommendation by the
20 assistant CMO only, one which Sergeant Hughes could 14:39
21 reject. Mr. Séan Costello, in his letter to A/C HRM of
22 the 4th July 2008 did indicate that his client intended
23 to oppose the recommendations of the Assistant Chief
24 Medical Officer."

25
26 In his statement to the Tribunal, Dr. Quigley stated
27 that:

28
29 "The decision to advise ill-health retirement was based

1 on my own assessment of the member and on the
2 independent assessment reports of Dr. John Griffin in
3 2008 and Dr. Patrick Devitt in 2012. Independent
4 Specialist assessments are sought to support the
5 occupational health assessment process, clarifying the 14:40
6 medical condition, and to be in a position to advise
7 Garda management on fitness for duties and on workplace
8 accommodations that are appropriate to the member's
9 medical status. I do not accept that the seeking of an
10 independent specialist opinion by an occupational 14:40
11 health physician is discrediting or it is seeking to
12 discredit the person being referred for such opinion. "
13

14 The Tribunal will now consider whether the
15 recommendation that Sergeant Hughes should be retired 14:40
16 from An Garda Síochána constituted the targeting or
17 discrediting of Sergeant Hughes because he made a
18 protected disclosure.
19

20 Chairman, on the 16th November 2021 we wrote to all the 14:40
21 parties with a schedule of the above issues.
22

23 The parties were requested to confirm that the schedule
24 was a comprehensive list of topics arising for
25 consideration in this module. They were also invited 14:40
26 to suggest any additional matter not included in the
27 schedule or propose the deletion of issues as
28 irrelevant or inadmissible.
29

1 Sergeant Hughes was requested to clarify complaints
2 outlined in the schedule of issues and did so by
3 letters 3rd December 2021 and 19th January 2022 as
4 referenced above.

5
6 Additionally, I should of course mention that in
7 accordance with your ruling following the case
8 management hearing, an issue arises as to whether the
9 conversation between Sergeant Hughes and then
10 Superintendent Curran in April 2007 was actually a
11 protected disclosure as opposed to a potential one.
12 You will now be hearing the evidence necessary for you
13 to determine that question.

14
15 The parties have been served with 29 volumes of
16 material extending to over 8,000 pages. We are
17 confident that all relevant documentation has been
18 disclosed to the parties. We would ask any party who
19 wishes to produce a document during the hearings which
20 is not included in these volumes to advise us in
21 advance and make the document available to us so that
22 it might be redacted if necessary to protect third
23 party rights and be included in our system.

24
25 Also, if any of the parties have any concern on any
26 issue they should feel free to raise the issue with us
27 and we will endeavour to resolve it.

28
29 The Tribunal now intends to call Sergeant Hughes as the

1 first witness in this module today.

2

3 I understand, Chairman, that you wish to address a
4 preliminary issues at this juncture. Thank you,
5 Chairman.

14:42

6 CHAIRMAN: I am not awfully sure, Ms. McGrath, of the
7 preliminary issues.

8 MR. MCGUINNESS: Chairman, there was one matter I
9 wished to raise with the Tribunal.

10 CHAIRMAN: Certainly.

14:42

11 MR. MCGUINNESS: As Ms. McGrath has clearly set out in
12 the opening statement delivered on behalf of the
13 Tribunal, the Tribunal has circulated a large volume of
14 documents, and in those documents there are a very
15 large number of redactions of names --

14:42

16 CHAIRMAN: Right.

17 MR. MCGUINNESS: -- principally, and privileged
18 material. And, as has been made clear, those
19 redactions have been made, where necessary, to protect
20 rights of privacy, privileged material and the
21 confidentiality relating to certain parties. It also
22 obviously necessarily includes documents which relate
23 to the unfortunate and tragic murder of Ms. Saulite and
24 the investigation into that. In particular it includes
25 names which have been redacted, including the person
26 who is going to be referred to as 'Mr. A'. It also
27 includes other persons who were assisted on foot of a
28 variety of suspicions of involvement or in possession
29 of information in relation to that offence and other

14:43

14:43

1 related offences.

2
3 It is, of course, not the function of the Tribunal to
4 be investigating the murder or any other related
5 offences, and the names have been redacted in that 14:44
6 context, where necessary, to protect the integrity of
7 the criminal investigation and to avoid any possible
8 risk of prejudice to any possible criminal proceeding.
9 And I am going to ask the Tribunal to make an order
10 prohibiting the identification by name of Mr. A, 14:44
11 whether directly or indirectly, or of any other suspect
12 in connection with the investigations undertaken by An
13 Garda Síochána.

14
15 In my submission, it is necessary for the purpose of 14:44
16 the protection of the functions of the Tribunal, and
17 the statutory power, Chairman, that I wish to refer to
18 is section 4 of the Tribunals of Inquiry (Evidence)
19 Amendment Act of 1979 which enables a tribunal to make
20 such orders as it considers necessary for the purposes 14:44
21 of its functions and invests it with the power of
22 equivalence of the High Court in respect of the making
23 of those orders.

24 CHAIRMAN: Very good, thanks very much.

25 MR. McGUI NNESS: I should just note, perhaps, that a 14:45
26 similar order was sought and applied for in respect of
27 the identification of a person in the previous module
28 relating to Garda Keogh.

29 CHAIRMAN: Anybody any objection to making that order

1 which strikes me as being a very appropriate one in the
2 circumstances, bearing in mind the nature of our
3 investigation and the functions that other agents and
4 authorities exercise? So yes, I propose to make that
5 order, Mr. McGuinness. And everybody will note that 14:45
6 situation. Very good, thank you very much. That's the
7 only matter? I am sorry, I overlooked -- Ms. McGrath
8 alerted me to the things and I had overlooked that, is
9 that the only issue, Mr. McGuinness?

10 MR. MCGUINNESS: Yes, Chairman, thank you. 14:45

11 MS. O'DONNELL: Member of the media: A member of the
12 media from RTÉ. I am concerned about the order of
13 Mr. A because --

14 CHAIRMAN: Thanks, I'm sorry, I am just finding it a
15 bit difficult -- if you'd like to -- have you got a 14:46
16 microphone in front of you?

17 MS. O'DONNELL: I am just concerned --

18 CHAIRMAN: would it be comfortable if you came forward
19 a little bit?

20 MS. O'DONNELL: I am concerned about the order in 14:46
21 relation to Mr. A and just how it might impact our
22 reporting because Mr. A, as people may know, has
23 been extensively --

24 CHAIRMAN: Sit down if you are for comfortable that
25 way. 14:46

26 MS. O'DONNELL: -- has been extensively identified and
27 convicted of certain matters which have been
28 extensively reported publicly, and have been reported
29 by us and by all the media publicly and it is just --

1 CHAIRMAN: May I make this suggestion? I appreciate --
2 nobody else has any objection to this, but essentially
3 it is a matter for the media, I quite understand that.
4 I equally don't want to put you or anybody else in the
5 position of having to deal with it on your feet this 14:47
6 second.

7 MS. O' DONNELL: Okay.

8 CHAIRMAN: And since we're just starting the inquiry,
9 what I propose to do is to give you an opportunity to
10 address that, either by yourself or through lawyers, as 14:47
11 you see fit, or to make an argument or to come to the
12 Tribunal and say look here, and the way to do that I
13 think is to contact the solicitor or counsel and simply
14 we will arrange for an appropriate opportunity to
15 consider the matter. 14:47

16 MS. O' DONNELL: Yes. It is really just in relation to
17 clarity and confusion that might be created by some of
18 the reporting and some of the -- and then introducing
19 Mr. A. But I will take your advice and I will talk
20 to -- 14:47

21 CHAIRMAN: I can see -- I mean, let's face it, we all
22 can understand that -- well, first of all, I want to be
23 as clear as possible so that there is no confusion
24 about the matter. But if there is any objection, and
25 please feel to discuss the matter with counsel or with 14:48
26 Ms. Walsh, solicitor, or if you want to get in touch, I
27 am perfectly happy to entertain -- to provide an
28 opportunity for a discussion about it.

29 MS. O' DONNELL: Okay, thank you, Judge,

1 CHAIRMAN: Thanks very much. Mr. McGuinness, perhaps
2 you would look into that and see what we can do, as to
3 whether there's going to be some -- a hearing of that
4 kind.

5 MR. MCGUINNESS: Yes, Chairman. Obviously we will take 14:48
6 all steps to facilitate whatever might be required.

7 CHAIRMAN: Thanks very much indeed. Thanks,
8 Ms. O'Donnell.

9 MR. MARRINAN: Chairman, the first witness in this
10 module is Sergeant William Hughes, please. 14:48

11 CHAIRMAN: Thanks very much.

12

13 SERGEANT WILLIAM HUGHES, HAVING BEEN SWORN, WAS
14 DIRECTLY EXAMINED BY MR. MARRINAN AS FOLLOWS:

15

14:49

16 THE WITNESS: William Hughes.

17 CHAIRMAN: Thanks very much. Sit down there
18 Mr. Hughes. Are you comfortable as being addressed by
19 Sergeant Hughes or Mr. Hughes, or what would you refer
20 to be called? 14:49

21 THE WITNESS: I think I discussed this earlier with
22 counsel, and Sergeant Hughes.

23 CHAIRMAN: You're referred to throughout the papers as
24 Sergeant Hughes, so if that is comfortable then I think
25 that is a convenient way of doing it. 14:49

26 1 Q. MR. MARRINAN: I think you're aware of the fact that
27 the Tribunal's practice is to refer to all the
28 witnesses by the rank that they held at the time of the
29 matters under investigation?

1 A. I am so aware.

2 2 Q. So in those circumstances you're happy to be called
3 Sergeant Hughes, even though clearly you retired in
4 2013?

5 A. Correct. 14:49

6 3 Q. Yes. I think shortly after the establishment of the
7 Tribunal in February of 2017, you wrote to the Tribunal
8 on the 9th March of 2017 outlining a complaint that you
9 wished to make in relation to the manner in which you
10 had been treated that you felt fell within the term or 14:50
11 reference [p] of the Tribunal, is that right?

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

13 4 Q. That material is to be found, Chairman in Volume 1,
14 page 62-95. It's obviously available to all the
15 parties. I think that again you wrote, on the 9th 14:50
16 January of 2018, and outline your concerns about the
17 manner in which you were treated -- this is at Volume 1
18 at page 99 of the material -- and you likened your case
19 at that time to the case of Sergeant Maurice McCabe
20 that was then under investigation by the Tribunal, 14:51
21 isn't that right?

22 A. That's correct.

23 5 Q. Now I think that the Tribunal wrote to you and
24 corresponded with you, and in a response to the
25 Tribunal by way of letter -- it's at page 103-116 of 14:51
26 Volume 1 -- on the 9th July 2018, you included various
27 appendices in support of your contention that you had
28 been targeted and discredited -- they appear in Volume
29 1 from page 117-267 of the material -- isn't that

1 right?

2 A. That's correct.

3 6 Q. I think that again on the 11th February of 2019 -- this
4 is in volume 2 at page 268 of the material -- you
5 included a number, a large number of appendices which 14:51
6 can be found at page 268 to 534 of the material?

7 A. That's correct.

8 7 Q. Now subsequently then, you were interviewed by the
9 Tribunal investigators in 2019, from the 20th March to
10 the 27th March, over a period of four days, and that 14:52
11 interview that you had with the Tribunal investigators
12 can be found in volume 1 from page 1-62 of the
13 material?

14 A. That's correct.

15 8 Q. And that interview covered substantially the arguments 14:52
16 that you were advancing; that you had been targeted and
17 discredited by members of senior rank within An Garda
18 Síochána because you had made a protected disclosure,
19 is that right?

20 A. That's correct. 14:52

21 9 Q. And a great deal of that interview focused on what it
22 was that you said amounted to a protected disclosure
23 and what occasions you could identify, and that has all
24 been already gone through by the Tribunal, isn't that
25 right? 14:53

26 A. That's correct.

27 10 Q. Now, I think you have been advised, and just to go over
28 it again, I am going to bring you through your evidence
29 and the key events, as the Tribunal see it, in terms of

1 the complaint that you have made to the Tribunal so
2 that you have an opportunity to give your version of
3 events as they unfolded between effectively 2005, 2006,
4 up until your retirement in 2013. If there's any
5 material that I don't cover that you feel is important 14:53
6 and you feel is being left out, your own counsel is in
7 a position to introduce that evidence, or,
8 alternatively, you can draw it to my attention if you
9 feel that some matter has been either overlooked or
10 perhaps just simply glossed over. 14:54

11
12 So with that, I intend to start with you in your
13 evidence on the 11th December 2004, and that was the
14 occasion when Mr. A, who, to be clear about this, is
15 the husband of the late Baiba Saulite, isn't that 14:54
16 right?

17 A. That's correct.

18 11 Q. And I think on the 11th December, he arrived in Swords
19 Garda Station, and you dealt with him in the station,
20 isn't that right? 14:54

21 A. That's correct.

22 12 Q. I think that he wanted to sign the prisoners' Bail Book
23 and there was an envelope that was attached to the Bail
24 Book with an order under the Guardianship of Infants
25 Act 1964 from Swords District Court indicating that 14:54
26 Mr. A was to appear at Swords District Court three days
27 later on the 14th December 2004 and produce his
28 children, isn't that right?

29 A. That's correct.

1 13 Q. I think that you had a conversation with him and you
2 asked him where his children were and he wouldn't
3 indicate where they were, isn't that right?
4 A. That's correct, Mr. Chairman.
5 14 Q. Now, on the 24th December, Garda Colm McNally had 14:55
6 arrested Mr. A under an arrest warrant which had been
7 issued in Swords District Court on the 14th December
8 because the accused hadn't turned up on that date,
9 isn't that right?
10 A. That's correct. 14:55
11 15 Q. And I think that subsequently the following day, the
12 24th December, Mr. A was brought before Judge O'Donnell
13 in Dolphin House, where you gave evidence of arrest,
14 and he was remanded in custody at that time for
15 contempt of court, isn't that right? 14:56
16 A. That's correct, Mr. Chairman.
17 16 Q. Now I think that that's when you first really became
18 familiar with the background circumstances of the case
19 and perhaps just how serious it was, and you asked the
20 judge in the District Court to lift the in camera rule 14:56
21 for the family law proceedings in the hope of getting
22 media attention, isn't that right?
23 A. That's correct.
24 17 Q. I think Mr. A was remanded in custody to Swords
25 District Court on the 4th January, and you then met 14:56
26 with Baiba Saulite on the 4th January, along with her
27 solicitor, Mr. John Hennessy, is that right?
28 A. Just a small correction there: I actually met Baiba
29 and John Hennessy at the 24th December court hearing.

1 18 Q. Oh yes. But you next met them on the 4th January 2005,
2 and on that occasion Mr. A was remanded back in custody
3 to Cloverhill Prison and you took a statement from
4 Baiba Saulite, is that right?

5 A. Yes. I was instructed to investigate the abduction of 14:57
6 the children.

7 19 Q. Yes. And that was by your superintendent,
8 Superintendent Noel McLoughlin, who was the
9 Superintendent --

10 A. That's correct. 14:57

11 20 Q. -- of the District at that time?

12 CHAIRMAN: Sorry to interrupt, do you have a date for
13 that, Sergeant Hughes?

14 A. The date of the taking of the statement, is it?

15 CHAIRMAN: No, the date when you were -- I have it as 14:57
16 December, but I was wondering -- it's not vital -- is
17 there a specific date when you were directed by the
18 superintendent to investigate? It doesn't matter if
19 you can't remember.

20 A. It was early January 2005. 14:58

21 CHAIRMAN: Okay.

22 A. Either on the 4th or the 5th.

23 21 Q. MR. MARRINAN: I think in a report that you submitted
24 with the chronology, you suggest that it was the 4th
25 January 2005? 14:58

26 A. 2005, yes.

27 22 Q. This was a chronology that you supplied to Detective
28 Inspector Christie Mangan later on that we will come to
29 deal with. But in any event, you also became aware

1 the Tribunal that you weren't aware of the fact that he
2 was a serious criminal, is that right?

3 A. Well we had an earlier report, but overall I wasn't too
4 concerned at that point of the seriousness of his
5 criminality. 15:00

6 28 Q. I think the next event that happened was the following
7 day Garda Alan Campbell, on your instructions, attended
8 Cloverhill Prison, along with an interpreter, and
9 listened to calls that were being made by Mr. A to his
10 mother, isn't that right? 15:00

11 A. That's correct.

12 29 Q. I think that she was in the Lebanon, is that right?

13 A. I think Syria.

14 30 Q. Was in Syria.

15 A. Syria, yes. 15:00

16 31 Q. And then on the following day you attended Swords
17 District Court along with Superintendent McLoughlin,
18 and you outlined your concerns arising from listening
19 into the telephone conversations, to Judge Brian Smith,
20 and Superintendent McLoughlin applied for a warrant 15:01
21 under section 42 of the Criminal Justice Act 1999 for
22 an offence under section 16 of the Non-Fatal Offences
23 Act 1997, that's an offence of abducting children,
24 isn't that right?

25 A. That's correct. 15:01

26 32 Q. I think the following day Garda Nyhan arrested Mr. A in
27 Cloverhill Prison and he was brought to Swords Garda
28 Station and he was later returned to Cloverhill Prison,
29 isn't that right?

1 A. That's correct.

2 33 Q. And I don't think anything of any evidential
3 significance arose from his arrest, isn't that right?

4 A. No, it did not.

5 34 Q. Now, on the 11th January Mr. A appeared before Judge 15:01
6 Smyth, and he refused to purge his contempt of court,
7 and counsel acting on his behalf asked the judge
8 nevertheless to deal with the issue of contempt, and
9 the judge dealt with it and Mr. A was in fact released
10 from custody on that day, is that right? 15:02

11 A. That's correct.

12 35 Q. I think that you filed -- submitted a file to the
13 Director of Public Prosecutions. Was that on the 1st
14 or the 5th February?

15 A. I think it was the 4th February. 15:02

16 36 Q. Or the 4th February 2005.

17 A. 2005.

18 37 Q. And at that time you returned to your duties in the
19 community policing section, isn't that right?

20 A. That's correct. 15:02

21 38 Q. Now, over the following months you were in fairly
22 regular contact with Ms. Saulite, is that right?

23 A. Yes, indeed, in relation to Mr. A's position.

24 39 Q. And I think on the 22nd August of 2005, you received
25 directions to charge Mr. A with abduction. You got 15:03
26 those directions from the Director of Public
27 Prosecutions, isn't that right?

28 A. That's correct.

29 40 Q. And on the same day you arrested and charged Mr. A and

1 he was brought before Judge Scally in the District
2 Court, and you objected to bail on the basis that you
3 submitted that Mr. A was a flight risk and you were
4 concerned that he would interfere with witnesses, is
5 that right? 15:03

6 A. That's correct.

7 41 Q. And arising from your objection Judge Scally decided to
8 remand Mr. A in custody, and he appealed against that
9 to the High Court and on the 6th December 2005, there
10 was a High Court bail application, isn't that right? 15:04

11 A. That's correct.

12 42 Q. I think that on that occasion you gave evidence and you
13 reiterated your concerns, and Ms. Saulite also gave
14 evidence, isn't that right?

15 A. That's correct. 15:04

16 43 Q. And did that concern the issue of her children and also
17 the issue of intimidation?

18 A. Yes, it did.

19 44 Q. I think that the judge of the High Court decided that
20 Mr. A would be admitted to bail but subsequent to the 15:04
21 children being returned to this jurisdiction, isn't
22 that right?

23 A. That's correct.

24 45 Q. I think that seemed to have worked and I think
25 arrangements were put in place for Ms. Saulite to 15:04
26 travel to the Lebanon at that time where she collected
27 her two children, isn't that right?

28 A. That's correct.

29 46 Q. And she returned to Ireland, and at that point in time

1 Mr. A was released on bail?

2 A. That's correct.

3 47 Q. Now, moving in then to the following year, I think in
4 February Mr. A was jailed for a period of four years in
5 the theft case? 15:05

6 A. That's correct.

7 48 Q. And on that occasion the accused himself gave evidence
8 that a custodial sentence would have an impact on him
9 because he wouldn't be able to have access to his
10 children, isn't that right? 15:05

11 A. That's correct.

12 49 Q. And the State called Mr. John Hennessy, who is Baiba
13 Saulite's solicitor in the family matters, to give
14 evidence that contradicted Mr. A's assertion that he in
15 some way had custody rights at that time, isn't that 15:06
16 right?

17 A. That's correct.

18 50 Q. Now I think that on the 8th February, Ms. Saulite
19 applied for a protection order in the District Court,
20 isn't that right? 15:06

21 A. Correct.

22 51 Q. And at the end of February, on the 27th February, there
23 was an arson attack on Mr. Hennessy's home when petrol
24 was poured into the letter box of his house at 1:00am
25 in the morning when he was -- he and his partner, I 15:06
26 think, were asleep upstairs, is that correct?

27 A. That's right.

28 52 Q. And that was investigated by Swords District Court -- I
29 am sorry, Detective Unit. I think you were aware of

1 that development?

2 A. I was aware of that development.

3 53 Q. Were you given any formal briefing in relation to it?

4 A. No, no briefing.

5 54 Q. And how did you become aware of it? 15:07

6 A. Through a report on Pulse, and just general knowledge
7 within Swords Garda Station.

8 55 Q. Now I think that on the 10th March of 2006 Mr. A was
9 arrested and questioned by the Detective Unit in
10 Swords, isn't that right? 15:07

11 A. That's correct.

12 56 Q. I don't think you were involved in that arrest --

13 A. No.

14 57 Q. -- or any interviews?

15 A. No, I was not. 15:07

16 58 Q. There was obviously a connection made at that time to
17 the arson at Mr. Hennessy's home and the Baiba Saulite
18 case and Mr. A's possible involvement in the arson
19 attack, isn't that right?

20 A. I am sure there was, yeah. 15:08

21 59 Q. Now, over the following months I think that some
22 confidential information was received by An Garda
23 Síochána that a person had been approached to shoot a
24 solicitor, isn't that right?

25 A. That's correct. 15:08

26 60 Q. And a bulletin issued to that effect. And I think your
27 conclusion at the time was that it was Mr. Hennessy
28 that this related to?

29 A. That's correct. If I can just interject there; just

1 prior to that there was an arson attack on Baiba's car
2 at Kinsealy.

3 61 Q. This was the --
4 A. In August 2007.

5 62 Q. This was the 24th August, there was an arson attack on 15:08
6 Ms. Saulite's car which was parked outside her house,
7 is that right?
8 A. That's correct; that was in August 2006.

9 63 Q. Yes. And that was investigated by gardaí from Malahide
10 Garda Station? 15:09
11 A. That's correct.

12 64 Q. Sergeant Ambrose being the lead investor, is that
13 right?
14 A. That's correct.

15 65 Q. Again, is that something you were briefed on at the 15:09
16 time or did you become aware of it because of Pulse?
17 A. I became aware of it but not briefed on it by the
18 authorities.

19 66 Q. Now I think on the 11th October of 2006, you visited
20 Baiba Saulite in relation to the forthcoming trial that 15:09
21 had been set down for the 7th November of 2006 in the
22 Dublin Circuit Court, isn't that right?
23 A. That's correct.

24 67 Q. I think that you found her -- that she was distressed;
25 that there was attempted intimidation of her, she 15:09
26 claimed, by her husband, through calls and texts that
27 had been sent by him to her, is that right?
28 A. That's correct.

29 68 Q. I think you asked her at that time did she wish to make

1 a formal complaint, and she indicated that she didn't
2 want to make a formal complaint?

3 A. That's correct.

4 69 Q. I think that you, at that time, collated that
5 information, is that right? 15:10

6 A. I put it on Pulse, yes.

7 70 Q. Yes. Now, I think on the same day more reliable
8 information came in in relation to the threat to
9 Mr. Hennessy, isn't that right?

10 A. That's correct. 15:10

11 71 Q. And I think that a bulletin was issued and it related
12 to a weapon that had been identified, and also an
13 assassin had been identified and nominated as the
14 person who was going to carry out the murder,
15 effectively, of Mr. Hennessy, is that right? 15:11

16 A. That's correct.

17 72 Q. Now, at that time was there any discussion with you
18 about your abduction case in any way to link it in with
19 any of these other developments?

20 A. I, in fact, wasn't aware of that bulletin you mentioned 15:11
21 earlier on until the 20th October.

22 73 Q. Until the 20th October?

23 A. Yeah, the 20th October. And no, there was certainly no
24 discussion; I wasn't aware at all of the genesis of the
25 information or how the bulletin came to be in effect. 15:11

26 74 Q. Now, again on another day in October you visited
27 Ms. Saulite in her home and you learned that she had
28 been visited by plain clothes gardaí, is that right?

29 A. Sorry, just what date was that again?

1 75 Q. I don't have a date for that other than it's in October
2 of 2006.

3 A. Em, she had been visited I think on -- yeah, the next
4 visit after the bulletin issued, we visited her and she
5 said that she had been visited by plain clothes gardaí. 15:12
6 I will have to consult my notes on that.

7 CHAIRMAN: That's all right. If you are in doubt about
8 something --

9 A. Yes.

10 CHAIRMAN: -- or if you want to correct something a 15:12
11 little later after you've looked at your notes, just
12 please come back and tell us.

13 A. Yes.

14 CHAIRMAN: But we will carry on with the narrative with
15 Mr. Marrinan, and if you want to correct something that 15:12
16 is no problem.

17 A. Thank you.

18 76 Q. MR. MARRINAN: Feel free to do it because we're not
19 dealing with these, as will you see --

20 A. Yes. 15:12

21 77 Q. -- in any great depth in relation to this, but it is
22 just putting events that later happened into historical
23 context.

24

25 But in any event, I think that you had cause, on the 15:12
26 20th October, to contact the office of the DPP, isn't
27 that right?

28 A. Oh, I can tell you, I can recollect now, it's when I
29 read the bulletin on the 20th October in relation to

1 the attack, the conspiracy to assassinate John
2 Hennessy, that's when I decided then to ring the State
3 Solicitors Office, Ms. Dara Byrne, and to speak with
4 her in relation to these developments from the point of
5 view of notifying the counsel that we had these 15:13
6 difficulties with the two State witnesses for the child
7 abduction case.

8 78 Q. On the 7th November, Mr. A pleaded guilty and was
9 remanded in custody until the 15th December 2006 for
10 sentence, isn't that right? 15:14

11 A. That's correct.

12 79 Q. And the court ordered a Victim Impact Report for the
13 sentencing date?

14 A. That's correct.

15 80 Q. Now I think that Baiba Saulite called to Swords Garda 15:14
16 Station on the 14th November of 2006, isn't that right?

17 A. That's correct.

18 81 Q. Were you there on your own at the time or was Garda
19 Nyhan there with you?

20 A. Guard Nyhan and myself met her at Swords Garda Station. 15:14

21 82 Q. And would you just tell us what you recall she said to
22 you on that occasion?

23 A. We took her to an interview room and the purpose she
24 was there for was to -- we were to compile a Victim
25 Impact Report, and she produced a handwritten document, 15:14
26 which was 12 pages, and I perused it briefly, I could
27 see that the content of it wasn't suitable at all for
28 inclusion in a Victim Impact Report, so I told her from
29 my experience in relation to it, that she should really

1 including matters that didn't incriminate the other
2 party and didn't speak badly of him, et cetera, and we
3 discussed matters such as health and the fact that she
4 may have lost weight, or these types of things, and get
5 a doctor's report, and she agreed that she would come 15:15
6 back to the station -- or come back and make a further
7 appointment with those reports and we would compile the
8 draft Victim Impact Statement then.

9 83 Q. Now I think that during the course of the conversation
10 she also stated that her husband had blamed 15:15
11 Mr. Hennessy, yourself and Garda Nyhan for his
12 predicament of being in custody, is that right?

13 A. Yes. When we finished discussing the -- I had
14 photocopied the document she handed in and handed her
15 back the original, and we just had a general 15:15
16 conversation and we asked her how he was getting on
17 since he was jailed for the abduction, and just a
18 general conversation, and she said that he was blaming
19 me and John Hennessy for his predicament. But it was a
20 light conversation, it wasn't -- she wasn't making any 15:16
21 formal complaint or anything like that in that regard.

22 84 Q. I think that you noted that she appeared to be in good
23 form, appeared confident and happy is the way you
24 describe it, is that right?

25 A. I did, absolutely. 15:16

26 85 Q. And she left stating that you would be in contact with
27 her again the following week to make an appointment to
28 see her again?

29 A. Yes, indeed.

1 86 Q. Now the Victim Impact Statement, the handwritten
2 statement is in volume 9 at page 2006-2017. We don't
3 need it, Mr. Kavanagh, but that's it, I'm not going to
4 go through it, we have a typed version of that at page
5 6176 going to 6180 of the material. But the last lines 15:17
6 of this Victim Impact Report are going to feature later
7 on in your story, isn't that right?

8 A. That's correct.

9 87 Q. Now, two days later was Baiba Saulite in contact with
10 Swords Garda Station? 15:17

11 A. Sorry, I beg your pardon?

12 88 Q. Was she in contact with Swords Garda Station two days
13 later?

14 A. Yes, I understand she contacted Garda Thomas Murphy.

15 89 Q. Yes. 15:17

16 A. And she was making some complaint or other, and he rang
17 me at home and I told him to take a report from her and
18 submit it to his sergeant.

19 90 Q. Now I think then, on the 19th November 2006, we know
20 that Ms. Saulite was tragically murdered, isn't that 15:18
21 right?

22 A. Yes, she was, yes.

23 91 Q. Outside her own home?

24 A. That's correct.

25 92 Q. I think she was a young woman, in her late twenties, is 15:18
26 that right?

27 A. That's correct.

28 93 Q. And had two young children, is that right?

29 A. Who were in the house at the time, yes.

1 94 Q. How did you first become aware of it?
2 A. I received a telephone call at home from sergeant
3 Patrick Ambrose, Malahide, and he informed me there was
4 a shooting in the Holywell area and he suspected it
5 might be at Baiba's house, and then he rang me back a 15:18
6 short time later to tell me that yes, it was Baiba,
7 that she had been murdered.

8 95 Q. I am not sure that anything important turns on it, but
9 you will have seen a statement from Detective Inspector
10 Michael Cryan, where in actual fact he says that he 15:19
11 phoned you that evening at 10:22pm and had a
12 conversation with you. Can we just perhaps have page
13 738 up on the screen, Mr. Kavanagh? These are the
14 notes of Detective Inspector Cryan, and if we go down
15 to 10:22, if you scroll down, Mr. Kavanagh, will you 15:19
16 see:
17
18 "19th November 2006. Rang Sergeant Hughes as aware of
19 his involvement. He was shocked. Expressed some
20 concern for his own safety and that of Garda Nyhan as 15:19
21 Mr. A had also made threats against them. I told him
22 to ring Swords and get the Station House Officer to
23 contact his local station and that of Garda Nyhan and
24 seek attention. He made no mention of any specific
25 threats." 15:20
26
27 Do you recall that conversation with Inspector Cryan?
28 A. I don't recall that conversation with Inspector Cryan.
29 96 Q. Right. If he says that that conversation took place,

1 do you disagree with him?

2 A. Yes. I think the first mention of that conversation
3 was in -- six years later at the High Court, and he --
4 this came up. But certainly around the time he never
5 mentioned to me about ringing me or any -- 15:20

6 97 Q. Anyway, he has made a statement to the Tribunal and
7 those are his notes --

8 A. Yes.

9 98 Q. -- he took at the time.

10 A. Well I don't recollect him ringing me on that night. 15:20

11 99 Q. Well, is it something that could have happened?

12 A. I don't recollect it, so...

13 100 Q. All right. Now the following morning I think that you
14 went into Swords Garda Station, is that right?

15 A. That's correct. 15:21

16 101 Q. And there was a conference to take place --

17 A. That's correct.

18 102 Q. -- in relation to the murder investigation. Now you've
19 recorded that you were in the kitchen adjacent to the
20 conference room and that there were comings and goings 15:21
21 by persons involved in the murder investigation,
22 including Detective Superintendent Michael Byrne and
23 Detective Sergeant McNeaney?

24 A. That's correct.

25 103 Q. Is that right? Yes. And you say that you sat in the 15:21
26 body of the conference room and it hadn't started so
27 that you then went into the kitchen?

28 A. That's correct.

29 104 Q. Do you recall that?

1 A. I do.

2 105 Q. Yes. The reason I'm asking you this is because it's a
3 point that you have made, again I don't know how much
4 turns on it, but it is a point you made that you felt
5 at that time that you had been excluded from the 15:22
6 investigation because you hadn't been invited to the
7 conference.

8 A. I hadn't been invited to -- and nobody had contacted me
9 by telephone to actually attend the conference on that
10 morning. But, in my experience, there's nothing much 15:22
11 on that because we don't distinguish between a murder
12 conference and a murder investigation, and I think that
13 the murder investigation I was always available to, but
14 the first conference that morning consists of, and I
15 think one of the witnesses said that the place was 15:22
16 packed to the rafters, it consists of people attending
17 for boots-on-the-ground work in relation to jobs and to
18 be issued with jobs to go out in relation to the murder
19 investigation. But the murder -- sorry, the murder
20 conference, and the purpose of the conference is to 15:23
21 issue out jobs to people. I wasn't involved in that
22 end of it, but I certainly was very much involved in
23 the murder investigation end of it.

24 106 Q. Yes, but I mean you'll appreciate we have a statement
25 here from Sergeant McNeaney, Detective Sergeant 15:23
26 McNeaney -- it's at page 655 of the material -- and
27 can we just have it up there on the screen? If we just
28 scroll down there. I don't want to dwell on this, if
29 we scroll down, we'll see there:

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"Sergeant Liam Hughes also makes reference to the morning of the 20th November 2006, the morning after the murder of Baiba Saulite where he asserts that he was not invited to attend the murder conference at Swords station. He mentioned that there were goings and comings and Detective Sergeant Michael Byrne and I were present. If Liam Hughes is suggesting that I didn't offer him an invitation, my response to this is as follows: In my 30 years' of service in An Garda Síochána and my participation and involvement in numerous murders and serious criminal investigations, I don't think I have ever experienced invitations issued to members to attend murder crime conferences. I would have thought that there would be a perceived expectation for all Garda members, especially those with information to offer to support and attend at conferences, especially at the commencement of a murder investigation."

15:24

15:24

15:25

15:25

I mean, that's echoed by what some of the other witnesses have said as well; effectively you don't need an invitation to attend a conversation. Do you agree with that proposition?

A. When I say "invitation", I am just making the point I wasn't contacted to attend the conference that morning. Nobody said there is a conference starting, we want you there. Now I understand --

15:25

107 Q. I am sorry, I can hear you, but some other people are

1 struggling.

2 A. Sorry, can you hear me now?

3 108 Q. Yes.

4 A. I wasn't actually -- the point I am trying to make is I
5 wasn't contacted by a member in authority to attend a 15:25
6 conference. I know we don't need an invitation, an
7 official invitation to attend a conference. On the
8 morning itself I felt I better serve the murder
9 investigation by going next door to my office and going
10 through the documents I had in relation to the 15:26
11 abduction, and especially my last meeting with Baiba.
12 But there was never any intention on my behalf to --
13 and I don't think it should have been portrayed that
14 way, and it certainly wasn't brought to my attention at
15 that time that my actions that morning were anything 15:26
16 but helpful.

17 109 Q. Anything but?

18 A. Helpful to the inquiry.

19 110 Q. Well, I mean I suppose you have made the point, and you
20 have made it on a number of occasions, that you felt as 15:26
21 though you were excluded from the investigation at this
22 very early stage, and the reason that you felt excluded
23 was because of the fact that you hadn't been invited to
24 this first conference, and I suppose the witnesses are
25 pointing out, well, first of all you don't need an 15:26
26 invitation, and, second of all, you actually did attend
27 but you left and went into the kitchen. So, you must
28 have been of the mind at that time that you were quite
29 entitled to sit in on the murder investigation

1 conference?

2 A. Yes. It was the morning after the murder and I -- when
3 I say kitchen, the kitchen adjoins the conference room,
4 there is an open door into it, but my office is again
5 next door to it and I just thought it would be better 15:27
6 served to go through my documents to assist the murder
7 investigation team in relation to the -- In hindsight,
8 I -- and there was no issue raised at the time -- the
9 only time I heard about this issue was six years later
10 at the High Court case, Declan Nyhan's case. But in 15:27
11 hindsight, possibly it would possibly have reflected --
12 looked bad. But nobody raised that issue with my line
13 managers or nobody raised the issues then with me until
14 six years later.

15 111 Q. You see, one of the things is that -- I mean it's not 15:27
16 so much how it reflects on you, it's more how you're
17 saying that you were being treated at this time, right?

18 A. Yes.

19 112 Q. Okay. I mean, you told the Tribunal investigators that
20 you went into the kitchen, having sat in the conference 15:28
21 and it hadn't started, and that when you left the
22 kitchen to go back into the conference, that the door
23 had been closed over?

24 A. Yes.

25 113 Q. Right? And the clear inference from that, and the 15:28
26 suggestion -- it's more than a suggestion, it's really
27 a statement saying I was excluded from this
28 investigation, they didn't want me there.

29 A. That's --

1 114 Q. And I am just wondering whether that is the point that
2 you wish to make to the investigators, or whether it's
3 not the situation?

4 A. Well the senior officers that were present that morning
5 would have known of my involvement with the abduction 15:28
6 case. Not one of them approached me at all in that
7 regard, even for an informal chat in that regard, and I
8 felt that I was being, not cold-shouldered, but I just
9 felt that my presence wasn't really required there at
10 the conference, so I decided to go through my own files 15:28
11 to assist the conference, the lead team at the
12 conference table.

13 115 Q. Yes. And I think you went in to your own office at
14 that time and Garda Nyhan was there and I think that
15 you left the station for a short while and you returned 15:29
16 and the conference had dispersed, is that correct?

17 A. That's correct.

18 116 Q. Now, I think that you then phoned Detective Inspector
19 Walter O'Sullivan, isn't that right?

20 A. That's correct. 15:29

21 117 Q. Would you just tell us why you phoned him and what you
22 said to him?

23 A. Well, I'd read the content of the draft impact --
24 Victim Impact Report that Baiba had presented, it was
25 on the 14th, the copy I had kept. And I decided to 15:29
26 ring Detective Inspector Walter O'Sullivan and he came
27 to the station. And he seemed puzzled when I rang him
28 at first as to why I would want to see him, I told him
29 I had this document here that I had from the last

1 meeting with Baiba and we -- he came to the office and
2 he sat down and read through it and he said that it
3 doesn't represent anything. He said that it wasn't
4 really of evidential value, you know, in relation to --
5 and I just expressed my concern in relation to what was 15:30
6 pointed out earlier on, in relation to the last few
7 lines of that victim impact. And he basically said
8 that he would actually arrange for a job to be created
9 on it and just to hold on to it for a while. I offered
10 it to him and he said no -- I offered for him to take 15:30
11 it and he said no, hold on to it for a while and we'll
12 arrange for a job to be done on that particular issue.

13 118 Q. What did you see there was significant in the Victim
14 Impact Statement?

15 A. Well, the fact that a few days before this lady was 15:30
16 murdered that she had written in a document that was
17 presented to me that she had fears of this individual,
18 fears for her safety.

19 119 Q. But is that not something that she had said
20 consistently in a very large number of statements going 15:31
21 back over the previous two years?

22 A. She repeatedly made complaints in relation to her
23 husband and she wouldn't make -- she wouldn't
24 follow-through with a formal complaint.

25 120 Q. But why were you focusing on this statement, this 15:31
26 Victim Impact Statement?

27 A. Well, I thought that Detective Inspector O'Sullivan
28 probably would want to know about our last interaction
29 with her and what it was about and I pointed out, I let

1 him read the Victim Impact Report, just in case there
2 was anything in it that was of concern to him in
3 relation to the murder investigation.

4 121 Q. At that time were you concerned that -- just to get
5 maybe a flavour of how you felt at the time. I mean, 15:31
6 were you shocked by the events as they unfolded?

7 A. Absolutely shocked when I heard that, yes. Upset.

8 122 Q. Would it be fair to say that you had become quite close
9 to the actual abduction case and shown a very keen
10 interest in it? 15:32

11 A. I did, yes. Indeed.

12 123 Q. And I think that you might have sympathised to a great
13 extent with Baiba Saulite's plight, is that right?

14 A. Absolutely.

15 124 Q. I mean, you're later praised by the Garda authorities, 15:32
16 even though we'll come to that and you weren't aware of
17 it at the time, but you were later praised for the
18 quality of your investigative work and the way that you
19 had dealt with the case?

20 A. Yes. And along with my colleagues of course, you know, 15:32
21 who actually, you know, worked on the case.

22 125 Q. And on a personal level, leave aside who was inviting
23 you to a conference or not inviting you to a conference
24 or the Victim Impact Statement, and the contents of it,
25 but leaving that aside, how were you feeling on the 15:33
26 20th personally?

27 A. Well, I was extremely shocked and I was upset that
28 things had got to this stage, you know that -- and I
29 felt like I -- I felt that things had gone terribly

1 wrong with, you know, the Garda response to the
2 universal, in other words the entire matter, and that's
3 the way I was feeling inside. It shouldn't have
4 happened, you know.

5 126 Q. Is that a feeling that you had at the very outset? 15:33

6 A. I had it on the -- when I heard about the murder and I
7 had it the following morning, yes. I continued to
8 believe that we could have -- was there ways that we
9 could have prevented this? You know, that was my
10 feeling. 15:33

11 127 Q. We'll come to that at a later stage, but it's well
12 documented by you in various reports that you submitted
13 not only to the, ultimately to the confidential
14 recipient, Mr. McCarthy, but also Superintendent O'Gara
15 and subsequently Inspector O'Boyle, in a very detailed 15:34
16 analysis that you conducted of the information that was
17 then in possession of An Garda Síochána. But you have
18 characterised it as a systems failure throughout and,
19 was this basically the failure of maybe a central
20 collator of information, to be able to collate all the 15:34
21 different strands and all different investigations into
22 one central unit where all this could be collated,
23 examined and threat assessments done, is that the case
24 that you're effectively making?

25 A. Yes. An established incident room, particularly 15:34
26 towards the latter end of 2006 when the situation was
27 deteriorating. I think if there was a central incident
28 room, conference room available, where all the
29 information could be pooled and a unified response

1 issued in relation to all aspects of the various
2 investigations. There wasn't one and I, you know,
3 maintain that the Garda response, on the morning of the
4 murder and the evening of the murder I just considered
5 that the Garda response probably wasn't appropriate to 15:35
6 the incidents that had occurred.

7 128 Q. Okay. Then if we just return to this conversation that
8 you had with Detective Inspector O'Sullivan.

9 A. Yes.

10 129 Q. You go on to say that he said something that was 15:35
11 ultimately to become very controversial as between you
12 and he, isn't that right?

13 A. That's correct.

14 130 Q. What was that?

15 A. Well, just before he left the office and I had been 15:36
16 expressing concerns about my dealings with Baiba, he
17 said that I need not worry about anything at all, that
18 the Commissioner's office were alerted to the situation
19 and asked to provide protection for Baiba and John
20 Hennessy and this application was refused. So he 15:36
21 basically was saying you've nothing to worry about in
22 your end of things there, that there was an application
23 to protect them refused.

24 131 Q. Okay. Well he refutes that, you're aware of that?

25 A. I see that, yes. 15:36

26 132 Q. And he does so at page 660 of the material,
27 Mr. Kavanagh, if we can just have that up on the
28 screen. We'll see that if we scroll down he said:
29

1 "In any conversation I held with Sergeant William
2 Hughes following the death of Baiba Saulite I did not
3 inform Sergeant William Hughes that An Garda Síochána
4 had information in its possession to suggest that there
5 was a specific threat to the life of Baiba Saulite and 15:37
6 that the Commissioner of An Garda Síochána refused to
7 provide protection to Baiba Saulite to keep her safe
8 from harm or injury."
9

10 He then goes on in the following pages to describe the 15:37
11 meeting and the details of it, which I am not going to
12 go through and we are going to pass over and his own
13 counsel may wish to ask you questions about that, but
14 obviously he's denying that this was actually said to
15 you at the time. 15:37
16

17 But that must have been shocking, to have heard that?

18 A. Em, it was. I was confused when he said it, you know,
19 because I was not au fait, I was not involved in the
20 operations that were going on in relation to John 15:38
21 Hennessy, I wasn't briefed in relation to the
22 informations that were available to other members of
23 the Garda Síochána. So to hear that, obviously there
24 was an operation going on in relation to John Hennessy,
25 we know that from documentation, so obviously whatever 15:38
26 conversations that were going on between the various
27 high ranking officers that would be making these
28 decisions, this was the first I heard that the question
29 of protection of the two of them had been refused.

1 133 Q. Detective Inspector O'Sullivan also says that he
2 specifically invited you to attend the next Garda
3 conference, do you recall that?

4 A. I recall having the conversation with him. I don't
5 specifically remember him, recollect him specifically 15:38
6 inviting him to the conference. And again, this should
7 not be taken as that I was actually saying or that I
8 was being invited as part of the murder investigation
9 itself. But on a personal level, to attend a
10 conference means actually going out and doing work in 15:39
11 connection with the murder investigation, doing actual
12 jobs, boots on the ground type of thing. But I don't
13 recollect him actually saying to me we need you to
14 attend the next conference. I think there's a bit of
15 confusion there in relation to, I didn't meet Detective 15:39
16 Inspector O'Sullivan until after the first inference
17 had been completed. I think he's intimating that he
18 asked me to go to the first conference, I think
19 that's --

20 CHAIRMAN: I was going to check that with you. 15:39

21 A. Yes.

22 CHAIRMAN: My understanding is that he said he had a
23 conversation with you in your office. And that's what
24 he says in his statement.

25 A. Yes. 15:39

26 CHAIRMAN: It doesn't mean that it is right, but that's
27 what he -- and that he asked you to go to the first
28 conference. I mean the conference that was happening
29 that morning. That's what he says.

1 A. Well, that is not correct.
2 CHAIRMAN: That's not correct?
3 A. Because I didn't meet him until after the first
4 conference had dispersed.
5 MR. MARRINAN: The conference had already dispersed, 15:40
6 according to you.
7 A. Yes.
8 CHAIRMAN: Just while I am interrupting you, let me ask
9 you some more. Was there a reference to you attending
10 a conference? 15:40
11 A. I don't recollect, Mr. Chairman.
12 CHAIRMAN: Okay. So I am sorry for cutting across you,
13 Mr. Marrinan.
14 MR. MARRINAN: No.
15 CHAIRMAN: I was confused as to whether he was to 15:40
16 attend the next conference and whether Sergeant Hughes
17 was agreeing that there was some such conversation.
18 You don't recall any such conversation about attending
19 any conference?
20 A. No, I do not. 15:40
21 CHAIRMAN: Okay.
22 134 Q. MR. MARRINAN: So, in anyway, insofar as you were
23 expressing any concerns about the contents of the
24 Victim Impact Statement, Detective Inspector Walter
25 O'Sullivan was indicating to you that he didn't regard 15:40
26 it as being significant?
27 A. Sorry, he regarded it as?
28 135 Q. Being significant.
29 A. No, he didn't say that. Sorry, can you repeat the

1 question again?

2 136 Q. Insofar as you had any concerns about the contents of
3 the Victim Impact Statement --

4 A. Yes.

5 137 Q. -- okay, and you drawing his attention to the last 15:41
6 lines of the Victim Impact Statement, he seemed to
7 dismiss it at the time of not being of any
8 significance?

9 A. Yes.

10 138 Q. Yes. And that clearly the Victim Impact Statement 15:41
11 wasn't admissible?

12 A. Was admissible?

13 139 Q. Wasn't.

14 A. That's the impression I got from him, yes.

15 140 Q. Yes. So he was more or less saying to you, look, 15:41
16 there's nothing to worry about here in this document,
17 isn't that right?

18 A. That's correct, yeah.

19 141 Q. So if you had concerns, he appears to have been putting
20 your mind at ease in relation to it? 15:41

21 A. Yes, indeed.

22 CHAIRMAN: Am I understanding correctly, Sergeant
23 Hughes, that you took comfort from the fact that he
24 says, don't worry about that statement that you were
25 having some concern about, don't worry about it, not 15:42
26 only that, but the Commissioner knew all about it,
27 because he knew there was a threat and he dismissed it.

28 A. It wasn't all in the same conversation, line of
29 conversation. He stood up at this stage and he was

1 leaving.

2 CHAIRMAN: Ah, okay.

3 A. And as he was leaving I must have said something to
4 prompt it and then he said, you've nothing to worry
5 about at all, the Commissioner's office were made aware 15:42
6 of the threat and they applied to have protection put
7 on Baiba Saulite and John Hennessy and that was
8 refused.

9 CHAIRMAN: Okay. So if anybody had suggested that this
10 document was significant he was -- on your account, he 15:42
11 was indicating that far clearer information was
12 available and had been considered?

13 A. Although he didn't say that.

14 CHAIRMAN: But that's the implication?

15 A. That's the impression I got. 15:43

16 CHAIRMAN: Okay.

17 A. That it was a much bigger operation that they knew of,
18 that I didn't know about, you know.

19 CHAIRMAN: Okay, I am not misunderstanding that? Am I
20 understanding that correctly. 15:43

21 A. Understanding that, you know, this document was the
22 last dealings I had with this murdered woman and I was
23 just concerned that after conducting the child
24 abduction case that there was nothing of concern I
25 should have with this document and he put my mind at 15:43
26 ease that there wasn't. And then the conversation that
27 followed then, he mentioned this thing about protection
28 and the Commissioner's office refusing it.

29 CHAIRMAN: Okay. Thank you.

1 142 Q. MR. MARRINAN: Okay. If we just go to the following
2 day then, the 21st November, you haven't referenced
3 this in your statement and I just want to ask you about
4 it. It's a phone call that Detective Inspector Michael
5 Cryan says that he had with you. If we just have page 15:43
6 739 up on the screen, please. These are the notes, if
7 we scroll down there, Mr. Kavanagh, please. The last,
8 yes down there, you see:
9
10 "1:15 Tuesday 21st November." 15:44
11
12 You see that?
13 A. Yes, indeed.
14 143 Q. You have read this as part of the disclosure material,
15 have you? 15:44
16 A. I have.
17 144 Q. Yes. I will just --
18
19 "I rang Sergeant Hughes on his mobile from his office."
20 15:44
21 That doesn't make any sense.
22
23 "I rang for two reasons. First of all, I rang him on
24 the Sunday night on route to the scene of the murder of
25 Baiba Saulite to tell him the news as I knew he had 15:44
26 investigated her complaint, abduction of children by
27 Mr. A, and he was really shocked by the news.
28 Detective Sergeant McNeaney had requested I ask him for
29 a copy of his file on the abduction. I was also aware

1 of the report submitted by Sergeant Bob Kavanagh
2 regarding threats to Sergeant Hughes and Garda Nyhan.
3 I had organised through their local stations on the
4 19th November that passing attention be paid to their
5 houses. "

15:45

6
7 Do you accept all that?

8 A. So he says, yes.

9 145 Q. But do you accept that?

10 A. Do I accept that he says that?

15:45

11 146 Q. Do you accept that he has carried out these --

12 A. Yes. He may have had, yes.

13 147 Q. Yes.

14

15 "I was aware that Sergeant Hughes had been advised of
16 services of peer support and a welfare officer by both
17 Sergeant Kavanagh and Sergeant Gormley. "

15:45

18

19 Is that correct?

20 A. I don't recollect that, no, I don't.

15:45

21 148 Q. "Sergeant Hughes told me he was still very shocked and
22 couldn't believe it had come to this (her murder). "

23

24 Were you still very shocked at that time?

25 A. I was, I was shocked for a considerable time
26 afterwards, yes.

15:46

27 149 Q. "He said he kept wracking his brain to see if there was
28 something else he could have done to prevent it. He
29 expressed anger that more had not been done to prevent

1 it. I expressed my belief that from what I knew he had
2 done all he could and I was not aware of any specific
3 threats --" that should be "-- that Mr. A had made --"
4 A. Yes.
5 150 Q. "-- and that inform --" 15:46
6
7 It's "REC", what would that stand for? It's
8 probably -- yes, probably would be information
9 received, is that right?
10 A. Yes. 15:46
11 151 Q. "-- had indicated threats were made against the
12 solicitor only. Sergeant Hughes said that he had made
13 threats against him and Garda Nyhan also and expressed
14 anger that no one in authority had rung to see how he
15 was. " 15:47
16
17 Do you recall that?
18 A. No, I don't recall that level of conversation with
19 Inspector Cryan on that occasion.
20 152 Q. Well, I presume he hasn't made this up? 15:47
21 A. Well I don't know, he made these notes obviously
22 arising from conversations with me, but I don't
23 recollect the -- I don't know -- I think the first time
24 I probably saw these was six years later, but I don't
25 recollect the actual train of conversation with him in 15:47
26 relation to specifics he's referring to here.
27 153 Q. "I said, that's why I am now ringing and that he had
28 not told me about the specific threats when I spoke to
29 him on Sunday night, the 19th November. He agreed he

1 hadn't told me and stated it was only after the murder
2 that the significance of the threat became obvious. He
3 stated that he was very angry and annoyed that someone
4 in DDU would now try to blame him for not doing his job
5 properly and he stated that he didn't want anyone in 15:48
6 DDU, especially the detective sergeant or detective
7 superintendent, ringing him about it or speaking to
8 him."

9
10 Do you recall that? 15:48

11 A. I don't recall that. And I wish he would have read
12 that back over to me when he's making his notes to say
13 this is what I am recording here, because I don't
14 recall that detail of conversation with him in relation
15 to those matters. 15:48

16 154 Q. Well, you'll appreciate from examining the material
17 that Detective Inspector Cryan has very detailed notes
18 about all his phone calls and conversations that he
19 had, not only with you but with other people?

20 A. Yes. 15:48

21 155 Q. I mean, he's quite meticulous in his note taking?

22 A. Yes, indeed.

23 156 Q. From your experience of him as a detective inspector
24 and a sergeant, detective sergeant before that, did you
25 find him to be someone who was meticulous? 15:49

26 A. I didn't know him all that well. He was an inspector
27 in Swords for a short time. I didn't know him as being
28 a meticulous person or otherwise. That's no slant on
29 him. But I didn't have any professional dealings with

1 him really from that sense. But if he had read those
2 notes back over to me at the time and said this is what
3 I am going to be recording, is this correct, you
4 know --

5 157 Q. Leave aside the precision of the words. 15:49
6 A. Yes.

7 158 Q. Leave that aside. The general thrust of the
8 conversation, he's saying that one of your concerns,
9 one of your concerns was that you were going to be
10 blamed for this -- 15:49
11 A. Yes.

12 159 Q. -- and that you didn't want the detective unit, and you
13 identify the detective sergeant and the detective
14 superintendent, ringing you or speaking to you about
15 it, because you were suspicious in some way that this 15:49
16 was going to be turned against you. Do you understand?
17 A. Yes. So he says in his notes there, but as --

18 160 Q. But is that the way you felt at the time?
19 A. I would have -- I felt shocked and, you know, I was
20 extremely shocked in relation to the murder, but in 15:50
21 relation to my conversation with him and those notes he
22 took, I had no recollection of saying those things to
23 him. I don't have a recollection of that.

24 161 Q. But I mean I am assuming that we can't or that you
25 can't attribute any motive to him for concocting this? 15:50
26 A. Well, no, I didn't say he's concocting it. But I don't
27 recollect those notes. I mean --

28 162 Q. But are you operating on the same assumption I am, that
29 these are in actual fact notes of a conversation that

1 he had with you?

2 A. well, they're his notes that he says of the
3 conversation. I don't recollect saying those things to
4 him in relation to the detective units or anything like
5 that, you know. 15:50

6 163 Q. But are you approaching it on the basis that you have
7 no recollection of this and because you have no
8 recollection of it that you are disputing that this
9 conversation took place or are you approaching it on
10 the basis you don't have a recollection but those may 15:51
11 well be notes of a conversation, they may not be
12 verbatim but they reflect what you actually said or the
13 thrust of what you were saying?

14 A. No. The thrust wouldn't be that I would be saying I
15 don't want detective superintendents approaching me. I 15:51
16 wouldn't say that about any member of authority; that I
17 didn't want a detective superintendent approaching me
18 in relation to any matter.

19 164 Q. All right. we will just go on and read down.
20 15:51

21 "He asked that someone in uniform be appointed to deal
22 with him and I said he could talk to me any time he
23 wanted to. He also stated that no one in DDU had
24 assisted in the investigation of the child abduction
25 and he felt that he and Garda Nyhan were left out to 15:51
26 dry. I pointed out that Garda Alan Campbell, who was
27 then in DDU, had assisted and done a covering report
28 and that DDU had investigated the criminal damage to
29 the solicitor's house which was directly connected to

1 this case. He explained that this was not investigated
2 properly and nor was the criminal damage to her car by
3 Gardaí Malahide. I pointed out to him that I was well
4 aware of what had been done and had only discussed it
5 with Sergeant Ambrose the previous Wednesday (15th 15:52
6 November 2006). He said that all three should have
7 been investigated as one by the same persons. He asked
8 that I ring Garda Nyhan and I said I would that
9 afternoon. I asked for a copy of his file on the
10 abduction and he said it was locked in his office and 15:52
11 he would come in and leave it for me with the station
12 house officer in Swords."

13
14 I mean, that ultimately is the case that you're making;
15 that all these matters should be investigated as one -- 15:52

16 A. Yes.

17 165 Q. -- and collated together? And here, we have a note
18 that Detective Inspector Cryan says that he made on the
19 21st November --

20 A. Yes. 15:53

21 166 Q. -- which reflects your position, is that right?

22 A. Reflected my position in relation to the
23 non-correlation of crimes.

24 167 Q. And then he goes on to say that he met you in Swords
25 that evening at about 5:00pm. 15:53

26
27 "He gave me a copy of the file which had been forwarded
28 to the DDU and copy of disclosure file. "
29

1 Then he says that he also spoke briefly with Garda
2 Nyhan. Do you recall that; that you handed over the
3 file to him on the 21st?

4 A. The timeline in relation to him retrieving documents
5 from me now, I can't recall. And I couldn't recall it 15:53
6 six years later in the High Court when this became the
7 subject-matter. He says there, according to his notes
8 that I handed him certain documents, I did give him the
9 disclosure file and I did give him a copy of the child
10 abduction investigation, but I couldn't tell you what 15:54
11 date that was, time.

12 CHAIRMAN: Do you remember coming into the station --
13 I'm sorry to speak to you from the side.

14 A. Sorry?

15 CHAIRMAN: Do you remember coming into the station to 15:54
16 give him a copy of the file?

17 A. I remember coming into the station to give him a copy
18 of the draft impact or the draft Victim Impact Report.

19 168 Q. MR. MARRINAN: That's the following day?

20 A. That was the following day, yes. 15:54

21 169 Q. You see you haven't recounted any of this on the 21st.
22 In all your versions that you have given of these
23 events, you haven't covered this, these on the 21st
24 November, that's why I am going into them in a little
25 bit more detail. 15:54

26 A. Yes, indeed.

27 170 Q. To see whether we have an account here and an accurate
28 account from Detective Inspector Cryan, do you
29 understand?

1 A. Yes, indeed.

2 171 Q. The following day is when you next deal with this in
3 your statement to the Tribunal and in all the other
4 statements that you have made and the chronologies, the
5 next you deal with this is the 22nd November -- 15:55

6 A. Yes.

7 172 Q. -- when you are at a parent-teacher meeting which is
8 the following morning?

9 A. That's correct.

10 173 Q. Okay? So here we have Detective Inspector Cryan saying 15:55
11 that he had a conversation with you at 1:15pm on the
12 21st. He says that he came in at 5:00pm to you and got
13 a copy of the file. And then he rang you again, we'll
14 see if we scroll down there, on the same page, he size:
15 15:55

16 "I rang him again at 6:30pm on request of the Detective
17 Inspector O'Sullivan and requested the Victim Impact
18 Report he had taken on the 14th November. He stated he
19 only had a copy as she had the original and was in the
20 process of completing it and keeping a log of all 15:55
21 dealings she had with Mr. A. Sergeant Hughes asked me
22 to ensure that all in authority were told that what was
23 in the report was not a complaint as such but rather
24 part of the Victim Impact Report. He wondered could
25 what was in it be used in evidence and I told him I 15:56
26 doubted this. He undertook to call to Swords on the
27 22nd November (following day) and leave his copy for
28 me. He asked me had the original been found in the
29 house. "

1

2 And you said that you didn't know. Do you recall that?

3 A. No, I remember on the 22nd meeting him in Swords Garda
4 Station and giving him the draft Victim Impact Report.

5 These notes that he's taking here only came to my
6 attention in 2012. There was never any issue raised
7 with me prior to that in relation to the chronology
8 there or anything, that should I recollect this or
9 recollect that but --

15:56

10 174 Q. There's no issue arising in relation to it.

15:56

11 A. Yes.

12 175 Q. I suppose, I mean it may be just as simple as this:
13 That you don't recall.

14 A. I don't recall, yes.

15 176 Q. That you were under an awful lot of stress and strain
16 at the time.

15:57

17 A. Yes.

18 177 Q. And that you may not think that these phone calls were
19 significant to the story that you ultimately have told
20 the Tribunal.

15:57

21 A. Yes, indeed.

22 178 Q. But Detective Inspector Cryan is coming in and saying,
23 it's not in an accusing which --

24 A. Yes.

25 179 Q. -- do you understand, he is just simply coming in and
26 saying, well, these are the interactions that I had
27 with Sergeant Hughes --

15:57

28 A. Yes.

29 180 Q. -- and on the 21st November, you know, I was on the

1 phone to him twice and I met him once --

2 A. Yes.

3 181 Q. -- and I collected the file and these are the things
4 that he told me.

5 A. Yes. 15:57

6 182 Q. And what he is saying, I'm sure you agree, really
7 reflects the position that you were in at the time and
8 your attitude towards the murder of Baiba Saulite?

9 A. Yes, indeed.

10 183 Q. And the feeling that you had that she had been let down 15:57
11 by An Garda Síochána, isn't that right?

12 A. I agree. I agree.

13 184 Q. So those notes were reflecting the position that you
14 had. But also, they also reflect perhaps an attitude
15 on your part at the time that you felt at that early 15:58
16 juncture that you were going to be blamed for any
17 shortcomings, if there were such shortcomings, because
18 you hadn't acted on the Victim Impact Statement. Do
19 you understand?

20 A. Yes, indeed, I accept that. 15:58

21 185 Q. Is that the --

22 A. No, I accept his notes in that regard.

23 186 Q. Right.

24 A. That he may have made those notes at the time and that
25 he's presented them here. 15:58

26 187 Q. Okay. So if we then move on to the next day, the 22nd
27 November. I think that you have told us in your
28 statement to the Tribunal that you were at a
29 parent-teacher meeting at around 10:00am and you got a

1 phone call from Detective Inspector Cryan saying that
2 he's looking for a copy of the Victim Impact Statement
3 and that there was an instruction that came from the
4 Garda Commissioner that your locker was to be burst
5 open, is that right? 15:59

6 A. If I couldn't make it in, yes.

7 188 Q. Okay. If we just go to page 741 of the material we
8 will see there the notes that have been made by
9 Detective Inspector Cryan in relation to this. I don't
10 think there's a huge amount between the two of you, is 16:00
11 that right? You have read these notes?

12 A. These notes here?

13 189 Q. Yes.

14 A. I will just have a look at them. I think I have, yes.

15 190 Q. Yes? 16:00

16 A. Yes.

17 191 Q. And there doesn't seem to be too much in this, in terms
18 that he says he did contact you. He says that the
19 instruction insofar as there was an instruction in
20 relation to opening the locker -- 16:01

21 A. Yes.

22 192 Q. -- didn't come from the Garda Commissioner but came
23 from the chief superintendent, isn't that right?

24 A. No, that's not correct. He told me it came from the
25 Commissioner. 16:01

26 193 Q. Yes. Right. Well, there was a reference to it one way
27 or another, so there appears to have been some
28 considerable urgency in relation to it. But in any
29 event, you came in immediately, isn't is that right?

1 A. That's correct.

2 194 Q. And you handed over the Victim Impact Statement to him,
3 is that right?

4 A. That's correct.

5 195 Q. Now is there anything else that you want to say about 16:01
6 your interaction with Detective Inspector Cryan on that
7 day?

8 A. Well, I was considerably shaken that morning and he
9 took a report from me in relation to the circumstances
10 whereby I had received that document from Baiba on the 16:01
11 14th November 2006.

12 CHAIRMAN: Anything else? Have you finished with that
13 particular topic, Mr. Marrinan?

14 MR. MARRINAN: No, we are moving on now to a press
15 release. 16:02

16 CHAIRMAN: Moving to the press release?

17 MR. MARRINAN: Yes.

18 CHAIRMAN: Well then we're finished so with the
19 conversation with Inspector Cryan.

20 MR. MARRINAN: Detective Inspector Cryan. 16:02

21 CHAIRMAN: Okay. Well, that is a convenient time to
22 take a break. 10:30 in the morning, very good, thank
23 you very much.

24 THE WITNESS: Thank you, Mr. Chairman.

25 16:02

26 THE HEARING THEN ADJOURNED UNTIL WEDNESDAY, 2ND
27 FEBRUARY 2022 AT 10:30AM

28

29

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