

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

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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 WEDNESDAY, 2ND FEBRUARY 2022 - DAY 159

159

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

GWEN MALONE STENOGRAPHY
SERVICES

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FORMER PRESIDENT OF THE COURT OF
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I N D E X

W I T N E S S

P A G E

SERGEANT WILLIAM HUGHES

DIRECTLY EXAMINED BY MR. MARRINAN 5

1 THE HEARING RESUMED ON WEDNESDAY, 2ND FEBRUARY 2022 AS
2 FOLLOWS

3
4 MR. MARRINAN: Sergeant Hughes back, please, thank you.

5 CHAIRMAN: Thanks, good morning, sergeant. 10:31

6
7 SERGEANT WILLIAM HUGHES CONTINUED TO BE DIRECTLY
8 EXAMINED BY MR. MARRINAN AS FOLLOWS

9 1 Q. MR. MARRINAN: Good morning, sergeant. If we could
10 just go back to the 22nd November 2006, and your 10:31
11 interaction with Detective Inspector Michael Cryan. I
12 think if we just have page 111 up please, Mr. Kavanagh.
13 This is your interview with Tribunal investigators
14 where you deal with this. And we'll just have a look
15 at it. Yes, if we just scroll down there, and if we 10:31
16 look at the second line, you say:

17
18 "I was at a parent-teacher meeting at around 10:00am
19 when I received a phone call from Inspector Michael
20 Cryan. He informed me that the Commissioner was 10:32
21 seeking the 12-page document (Victim Impact Statement).
22 I informed him that I was at a parent-teacher meeting
23 and would get there as soon as I could."

24
25 That's your recollection of it, is it? 10:32

26 A. That's my recollection, yes.

27 2 Q. "There were some text exchanges between us in respect
28 to seeing when I could return to the station. He then
29 rang me and said to get there as soon as possible as

1 the Commissioner had instructed me that if I didn't get
2 there my lockers were to be burst open in order to get
3 the document."

4

5 Do you see that?

10:32

6 A. I do.

7 3 Q. Just in relation to that, are you sure that he said the
8 Commissioner as opposed to the Assistant Commissioner?

9 A. No, he said Commissioner.

10 4 Q. Now, the Assistant Commissioner can sometimes be
11 referred to as the Commissioner within the region, his
12 own region, isn't that right?

10:33

13 A. I agree.

14 5 Q. Yes. So, could it have been that in fact he was
15 conveying to you that it was the Assistant Commissioner
16 in the circumstances in which he said it to you?

10:33

17 A. He used the term Commissioner, so if he meant Assistant
18 Commissioner, well, so be it.

19 6 Q. We'll come to what he says in relation to it, and it's
20 just we have a statement from former Commissioner Noel
21 Conroy where he denies that he gave such an
22 instruction. And there is no need to open that, but
23 for the parties, it's in volume 4 at page of 651, but
24 we don't need to open that. But if we just then
25 continue on:

10:33

26

27 "I made my way to Swords Garda Station and handed over
28 the 12-page document to Inspector Cryan."

29

1 was it in your locker?

2 A. Yes, it was in a double locker in my office in Swords,
3 at Swords station.

4 7 Q. And why was it in the locker and not in a -- along with
5 the file that had been handed over the day before to 10:34
6 Detective Inspector Cryan?

7 A. Sorry, that's where it was, with that file. All the
8 paraphernalia and documents got to do with the child
9 abduction case were in this particular double locker in
10 the community police office. 10:34

11 8 Q. Yes. But I understood from yesterday that you had
12 agreed that you had handed over the file to Inspector
13 Cryan the day before?

14 A. Yes, that's his recollection of that. I don't have a
15 clear recollection of when I handed them over. You are 10:34
16 talking about the child abduction investigation file?
17 Yes, did I hand him a copy from that particular locker
18 back in the community police office.

19 9 Q. All right, okay. But in any event, you go on to say
20 that: 10:34
21

22 "Inspector Cryan took a written report from me about
23 how I came into possession of the 12-page report."
24

25 And you go on to say: 10:35
26

27 "I was very anxious hearing about the instruction and
28 that there now appeared to be a huge focus on the
29 12-page document."

1 when you say "instruction" there, was that the
2 instruction to force open your locker?

3 A. Yes, that would be the instruction.

4 10 Q. You then go on to say:

5

10:35

6 "I did relay to Inspector Cryan my conversation I had
7 with Detective Inspector O'Sullivan in regard to this
8 matter."

9

10 That's your recollection of it. What did you relay to 10:35
11 Detective Inspector Cryan in relation to the
12 conversation you had?

13 A. It would have been, as far as I recollect, I would have
14 discussed the fact that Detective Inspector O'Sullivan
15 had seen the document himself, and had said that he 10:35
16 would have a job sheet on it and words to that effect,
17 but I can't exactly recollect the conversation that I
18 had with Michael Cryan in that regard.

19 11 Q. All right. Then if we could just have page 741 up on
20 the screen, please. These are notes taken by Detective 10:36
21 Inspector Michael Cryan on the 22nd November. You'll
22 see there at 12:15 he says he rang you, and the phone
23 rang and then cut off. He rang again, no answer. And
24 he sent you a text message. And then you received a
25 text -- he received a text from you at 12:36, and that 10:36
26 he'd ring -- you would ring him at two o'clock. And
27 then he says at 12:45:

28

29 "Received other call from chief --"

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That would be Chief Superintendent Phillips.

-- told him about the text. Was told 2:00pm was too late. Said that Assistant Commissioner McHugh had said that the report must be got now even if it means forcing open the locker. " 10:37

Do you see, he is in agreement with you that there was a reference to a commissioner giving that instructions but he says it was Assistant Commissioner McHugh. 10:37

"Told me to get the key from the staff sergeant, open it in front of witnesses, and if no key, then force it open. " 10:37

Those are instructions.

-- the A/C instructions, and that I was entitled to do this as this was thrashed out in 1992 with a human rights group in Finglas. " 10:37

I don't know, that might indicate that Detective Inspector Cryan was questioning whether or not he should force open your locker at the time, but anyway, those were the instructions that he received. And that seems to be largely in accord with the account that you have given of that, of your conversation with him on the phone. 10:38

1 A. Yes. And just because of the geographical nature of
2 where I was there was no need -- like, from my point of
3 view, there'd be no need to force open the locker, I
4 was going to get there as quickly as possible, you
5 know.

10:38

6 12 Q. Now. We see then at a quarter past one:

7
8 "Met Sergeant Hughes in Swords. He gave me a copy of
9 the report and a copy of his file (not sent to the
10 DPP). He told me what happened on the 14 November and 10:38
11 asked me to write down his account, which I did."

12
13 Was it your request that he write down the account?

14 A. It was.

15 13 Q. "He did not look well. He seemed worried, his hands 10:39
16 were shaking, he looked very stressed out, tired,
17 nervous."

18
19 Do you recall was that your condition at the time?

20 A. Well, I was shocked in relation to that development, 10:39
21 yes, in relation to the Commissioner seeking to,
22 seeking the 12-page document and having to force open
23 my locker for it, you know.

24 14 Q. He then goes on to say:

25
26 "I advised him to see a doctor as I had concerns for 10:39
27 his health. He told me that the following was how he
28 got the Victim Impact Report."

29

1 And you'll see there that there is an account there
2 that set out, and I think that that was the account
3 that you gave him, as to how you came into possession
4 of the Victim Impact Report, is that right?

5 A. Yes. But just to clarify an issue there. Just then, 10:40
6 he says that when I arrived at the station, at a
7 quarter past one, I gave him a copy of the report and a
8 copy of my file that I not sent to the DPP --

9 15 Q. Yes?

10 A. -- that was the same file that was referred to on the 10:40
11 previous day in the evening time.

12 16 Q. Right?

13 A. That's the investigation file. So I think that's when
14 I actually handed him the copy.

15 17 Q. And it wasn't the evening before? 10:40

16 A. Well, that's -- I don't have a recollection clearly of
17 the Tuesday evening. But on the Wednesday I did hand
18 him documents and he is actually confirming here that I
19 actually handed him a copy of the investigation file,
20 the child abduction investigation file, along with the 10:40
21 12-page document.

22 18 Q. And then if we go over the page to page 742, he notes
23 that:

24

25 "Sergeant Hughes told me that Mr. A was looking for 10:40
26 bail on Friday, 29th November. He told me that he had
27 spoken to somebody in the DPP's office about the Victim
28 Impact Report, and the plan was to sit down with her
29 and discuss what's admissible."

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Is that right?

A. That would be correct.

19 Q. "Sergeant Hughes read the" -- that would be "the account I had written down and he was happy with it."

10:41

Then he notes again:

"Sergeant Hughes looked very stressed out, tired. His hands are shaking. He is nervous, up/down out of his seat. He requested that I write all this down as he wanted to do a report but said he couldn't concentrate or write. I advised him to see a doctor as I had concerns about his mental and physical health. He asked me a couple of times to ensure I impressed upon the authorities that she did not make a complaint, that it was an unfinished Victim Impact Report he read."

10:41

10:41

Is that an accurate account of your interaction with --

A. I don't think -- I don't think I was as bad as he is making out here, but that was his interpretation, but I wasn't -- obviously I was nervous, but this, about couldn't concentrate or write, I was after driving from Skerries, I think it was 15 miles, and like, I was in good enough condition to drive and good enough condition to converse with him there, but I couldn't concentrate or write, I don't know about that, I just asked him to take down the account that morning -- that afternoon.

10:42

10:42

1 20 Q. We then just move onto the next paragraph, he says what
2 he did with the Victim Impact Report, but here we have
3 a note where he said:

4
5 "I brought the Victim Impact Report to the chief --" 10:42

6
7 That would be Chief Superintendent Phillips.

8
9 "-- and he faxed it to the Assistant Commissioner --"

10 10:42

11 That would be Assistant Commissioner McHugh.

12
13 "-- and also rang him. He also gave a copy of Garda
14 Kelly's report on the criminal damage. The chief asked
15 that we meet Sergeant Hughes and tell him that he was 10:43
16 satisfied there was nothing untoward in the Victim
17 Impact Report and that it was unfinished and needed
18 editing. We discussed bail application and need to
19 oppose it."

20 10:43

21 You'll note then at 3:15:

22
23 "I rang Sergeant Hughes and told him what the chief had
24 said. Sergeant Hughes said that he was now happy he
25 wasn't being blamed and felt better after speaking to 10:43
26 me and thanked me. I undertook to talk to him on
27 Thursday re bail application."

28
29 Do you recall that?

1 A. I recall receiving a call from him in that regard at
2 the time.

3 21 Q. Right. Now he says:
4
5 "The chief asked that we would meet Sergeant Hughes and 10:44
6 tell him that he was satisfied there was nothing
7 untoward."
8
9 I don't know whether that was in anticipation that the
10 chief would actually meet with you, but nevertheless, 10:44
11 Detective Inspector Cryan was conveying the views to
12 you at that time of Chief Superintendent Phillips and
13 also Assistant Commissioner McHugh, isn't that right?

14 A. Well, I wasn't -- I don't recall Assistant Commissioner
15 McHugh's name being named. Just the Commissioner. 10:44

16 22 Q. Right. But management were indicating that there was
17 nothing --

18 A. Correct.

19 23 Q. -- that you should worry about?

20 A. Correct. 10:44

21 24 Q. And did you take consolation from that at the time?

22 A. Well, I was relieved because I believed that the focus
23 of attention was on the 12-page document as having
24 failed in some way. So I was relieved to hear from --
25 indirectly from chief Phillips that this was not the 10:44
26 case.

27 25 Q. Yes. Now, if we could just then have page 117 up on
28 the screen, please. This is the Garda press release
29 issued by the Garda Press Office on the same day, and

1 it's signed by Superintendent Kevin Donoghue. We'll
2 just have a quick look at this:

3
4 "In the course of the media reporting on the above
5 murder a number of ancillary issues have been
6 highlighted, some of which are being reported
7 inaccurately. The purpose of this statement is to
8 clarify the factual position."
9

10:45

10 Do you recall at the time that the murder of Baiba
11 Saulite had attracted an enormous amount of media
12 attention, is that right?

10:45

13 A. Yes, indeed.

14 26 Q. Then it goes on:

15
16 "During the course investigations over the last number
17 of years, Gardaí became aware of threats to a
18 solicitor. This solicitor acted for Ms. Baiba Saulite.
19

10:46

20 Once Gardaí became aware of the existence of these
21 threats, the solicitor was immediately advised.
22 Extensive crime prevention advice was also given to the
23 solicitor including enhancements he could make to his
24 properties and personal safety. His properties were
25 subject to security surveys by trained Garda personnel
26 and these surveys were supplied to him.
27

10:46

10:46

28 As is normal procedure in such cases, the properties of
29 this subject would have received attention from Garda

1 patrols, both uniformed and armed. At no time prior to
2 Ms. Saulite's murder was full-time armed personal
3 protection supplied to this man.

4
5 Due to the links between Ms. Saulite and the solicitor 10:47
6 in question, Ms. Saulite was also given crime
7 prevention advice regarding her property and certainly
8 safety."

9
10 Just stopping there, did you read this press release at 10:47
11 the time?

12 A. I did.

13 27 Q. Were you aware that Ms. Saulite had been given such
14 advice?

15 A. No. 10:47

16 28 Q. And since, have you discovered in any of the papers
17 that in fact she was given that advice by anybody?

18 A. I have discovered that she wasn't actually given the
19 advice.

20 29 Q. Then you go on: 10:47

21
22 "At no time, prior to her tragic death were Gardaí
23 aware of any specific threat against the life of
24 Ms. Baiba Saulite and no complaints were received by
25 Gardaí from any person in this regard. 10:48

26
27 As part of the murder investigation, house to house
28 inquiries are ongoing in the area and the Gardaí have
29 now learned that Ms. Saulite expressed concern to

1 friends and neighbours regarding her safety.

2
3 We have also established that in the course of
4 preparing a document for court use in the sentencing of
5 her husband, Ms. Saulite expressed concerns for her 10:48
6 safety and appeared to be somewhat in fear of him.
7 The Garda Commissioner is now examining when and to
8 whom this information was known.

9
10 The investigation into the murder of Ms. Baiba Saulite 10:48
11 is continuing."

12
13 There, we see some focus at that time on the Victim
14 Impact Statement, isn't that right?

15 A. Yes, indeed. 10:48

16 30 Q. Now, you had already been advised that management
17 didn't think much of this. When you read this press
18 release, what was your view then?

19 A. Well, I was aware that the -- when they say that -- it
20 seemed to me that they were saying that Baiba had only 10:49
21 recently started expressing concerns for her safety and
22 that it was in the course of preparing this document
23 that she expressed concerns for her safety, when the
24 fact is that she'd expressed concerns for her safety on
25 numerous occasions over the previous two years, but 10:49
26 would not proceed with a formal complaint in that
27 regard. And the complaints were made in the child
28 abduction investigation file and also through with
29 other gardaí dealing with her on the Pulse basis. So,

1 the press release there doesn't seem to reflect the
2 fact that she was actually making consistent serious
3 complaints to the Gardaí in relation to her personal
4 safety over the two-year period prior to her death, and
5 before, probably, from 2002 onwards.

10:50

6 31 Q. Yes, but I suppose looking at it, I mean you initially
7 went to the murder conference and you left and after
8 the conference had dispersed you sought out Detective
9 Inspector Walter O'Sullivan?

10 A. Correct.

10:50

11 32 Q. And you did that because you had the Victim Impact
12 Statement that you wanted to draw his attention to,
13 isn't that right?

14 A. Yes.

15 33 Q. And you drew his attention to it, because you thought
16 that the last few lines of the Victim Impact Statement
17 might be relevant and could, I suppose, be troublesome
18 for yourself insofar as in that she said that she
19 feared for her safety, isn't that right?

10:50

20 A. Just to qualify that, if you don't mind.

10:50

21 34 Q. Yes.

22 A. I brought his attention to the entire document because
23 it was a document she presented to us at our last
24 interaction with her when -- we were the last Gardaí to
25 interact with her prior to her death. So I brought the
26 document in its entirety and I did highlight the area
27 at the end that I hadn't read.

10:51

28 35 Q. Yes. And you said you hadn't read that, but you
29 highlighted it, when you had read it, it sort of leapt

1 out at you, I suppose?

2 A. Yes. I highlighted it to Detective Inspector
3 O'Sullivan at the time.

4 36 Q. Yes. And to a large extent, we went over this
5 yesterday, we won't go back over it, but to a large 10:51
6 extent he put your mind at ease in that regard --

7 A. He did, yes.

8 37 Q. -- and said don't be worried about this, there is
9 nothing particularly significant in it, it's not an
10 admissible document, it's not admissible in evidence. 10:51
11 And then, we know you had this interaction with
12 Detective Inspector Cryan, who said to you, look, this
13 is the view of senior management, there is nothing to
14 this, don't be concerned about it. And then, there is
15 a Garda press release where there seems to be a refocus 10:52
16 on this Victim Impact Statement, isn't that right?

17 A. That's correct.

18 38 Q. Now, at that time, had you concerns that you might be
19 faulted for not acting on the information contained in
20 the Victim Impact Statement? well, you couldn't be 10:52
21 faulted for not acting on it, but you might be faulted
22 for not having read it, do you understand? were those
23 concerns that you had at the time?

24 A. well, reading the press release there, there seemed to
25 be, as you have said, there was a refocus back on the 10:52
26 Victim Impact Statement, so I would have had concerns,
27 okay. And I also had concerns in relation to the other
28 elements of the press release there, in relation to her
29 receiving crime prevention advice when we worked very

1 closely with her and we weren't informed that there was
2 crime prevention advice. And the matters of security
3 surveys, et cetera, for John Hennessy that wasn't
4 brought to our attention either. So I had concerns
5 with the content of the press release when it issued. 10:53

6 39 Q. Okay. If we move on then to the following day, and
7 there was an article in the Sun Newspaper. Yes, if
8 Mr. Kavanagh, if we could have page 1778 up on the
9 screen, please.

10
11 This is an article that appeared in the Sun Newspaper
12 on Thursday, 23rd November. It's penned by Damien Lane
13 and Neil Cotter. And you see there the opening
14 paragraph: 10:54

15
16 "The killer of Baiba Saulite has vowed to execute the
17 cop who helped reunite the mum with her children last
18 year, the Irish Sun can reveal." 10:54

19
20 Then it goes on to say: 10:54

21
22 "The drug lord has put out a hit on the senior north
23 Dublin sergeant.

24
25 The terrified long-serving garda is under 24-hour armed 10:54
26 guard and a source said he is petrified."

27
28 Then it goes on to say, I think it says:
29

1 "This scumbag is determined to kill him as part of the
2 vendetta..."

3
4 I won't read the whole article. It goes on then to say
5 that Ms. Saulite's lawyer, Mr. Hennessy, is holed up in 10:55
6 a northeast hotel under 24/7 cop protection. And it
7 says:

8
9 "Mr. Hennessy is said to have been the hit man's
10 original target and there was a petrol bomb attack on 10:55
11 his house six weeks ago."

12
13 That caused you some alarm at the time and concern,
14 isn't that right?

15 A. It did. 10:55

16 40 Q. And I am presuming that you weren't the source of the
17 information contained in that article?

18 A. No, I wasn't the source of that, no.

19 41 Q. And on the same day, you wrote to Superintendent in
20 Coolock, and if we could have page 7183 up on the 10:56
21 screen please. And if we just -- you attached a copy
22 of it, and you note:

23
24 "It is clear from the contents of this article the
25 staff in the Sun have in their possession information 10:56
26 with regard to a conspiracy to murder a garda. It is
27 safe to conclude that the article refers to me. It is
28 of great concern to me, particularly in the light of
29 recent developments in the case, that the contents of

1 the said article are in any way factual.

2
3 I have already addressed my concerns to my legal
4 representative and it is considered that the contents
5 are of a dangerously menacing nature. 10:56

6
7 It is necessary that the content of the article
8 published be made subject of an immediate
9 investigation. If there is any truth to the content, I
10 would consider my personal safety, and that of my 10:57
11 family, to be at serious risk. I would therefore
12 request an urgent review of the risk assessment
13 pertaining to my safety arising from these
14 developments."

15
16 So, that was your position at that time, isn't that
17 right?

18 A. That's correct.

19 42 Q. Now, before we just move forward then to deal with the
20 next event, which is a bail application that was made 10:57
21 on the 24th November 2006, arising out of that report
22 to the superintendent, and you expressing concerns in
23 relation to your personal safety, we're aware from the
24 papers that you were visited by gardaí in relation to
25 your personal safety, an assessment of your home was 10:58
26 carried out, and you were given advice in relation to
27 your personal protection, isn't that right?

28 A. Yes, I received considerable help from Superintendent
29 Kelly in Balbriggan - I live in that area - and he sent

1 detectives out to me and he also arranged for a crime
2 prevention officer to visit me.

3 43 Q. And I think that you also had a static patrol on your
4 house in the early stages, is that right?

5 A. Just on the morning after the murder, or probably into 10:58
6 the following day.

7 44 Q. And then you put in a request that somebody would be in
8 your housing estate, that Gardaí would have a presence
9 there for a period of time, is that right?

10 A. I don't think I put in a request to that extent. 10:58

11 45 Q. Right, okay.

12 A. I think Superintendent Kelly --

13 46 Q. Right, your home was paid passing attention in any
14 event?

15 A. I think there was a recommendation of the Gardaí in 10:59
16 Balbriggan where they decided that the threat was real.

17 47 Q. Can we take it that you have no complaint to make in
18 relation to how they responded? Leaving aside now the
19 management and their interaction with you and being
20 kept up to date with developments as we go into 2008, 10:59
21 leaving that aside, but in terms of the attention that
22 you received from your authorities in relation to your
23 personal safety and that of your family, I think it
24 appears that you were happy with the level of attention
25 that you received? 10:59

26 A. I was very happy with the attention from Superintendent
27 Kelly.

28 48 Q. So, then we will move on. There was a bail
29 application, a bail hearing on the 24th November, and

1 Detective Inspector Walter O'Sullivan attended with you
2 with at the bail hearing, and you had a consultation
3 with prosecution counsel prior to the bail hearing,
4 isn't that right?

5 A. That's correct. 11:00

6 49 Q. Will you just tell us then your recollection of what
7 transpired at that consultation and what information
8 was imparted by Detective Inspector O'Sullivan to
9 prosecution counsel?

10 A. I won't be able to rhyme off exactly verbatim what he 11:00
11 said --

12 50 Q. No, but just give us the thrust.

13 A. -- but to the extent that we're dealing with a very
14 serious criminal here, capable of murder and that he
15 had international, and I picked up on the time, 11:00
16 international terrorists links. I noticed that through
17 discovery there that he is saying it's international
18 criminal links but that's what I picked at the time,
19 that it was international terrorists links, and that we
20 were going to oppose the bail application obviously. 11:00

21 51 Q. Could we just have page 664 up on the screen. This is
22 the statement of Detective Inspector O'Sullivan. And
23 if we scroll down half-way, he said that:

24
25 "He informed the prosecution counsel that I had 11:01
26 confidential information in my possession in relation
27 to Mr. A and I believe that if he were to be released
28 on bail that he would commit further serious offences,
29 i.e. murder, intimidation, assault and interfere with

1 witnesses. He said that he'd be claiming privilege in
2 relation to it as being confidential information in his
3 possession."

4
5 And he says that:

11:01

6
7 "The information came into his possession between the
8 20th November and the day of the bail application on
9 the 24th November."

10
11 He then goes on to say in the last paragraph:

11:01

12
13 "I believe now and I believed then that Mr. A is a very
14 dangerous criminal and a felon of considerable note
15 with national and international criminal links."

11:02

16
17 And then the next page, if we scroll over:

18
19 "It was in a conversation with Sergeant Hughes on the
20 day of the hearing that I mentioned to him that I
21 believed that Mr. A had the resources to murder any
22 person who got in his way. I based this statement on
23 the information in my possession."

11:02

24
25 So, his account is similar, if not the same, as your
26 account of the conversation that was had with counsel,
27 and I think subsequently that evidence was given by you
28 in court objecting to bail and bail was refused, isn't
29 that right?

11:02

1 A. I didn't give that evidence about him being an
2 international terrorist.

3 52 Q. Yes, but you objected to bail?-

4 A. I objected to bail, yes.

5 53 Q. And I think that you have highlighted there the 11:03
6 difference between the two of you; namely, he says that
7 he is a criminal with international links and you
8 picked up on the word "terrorist". Could you be
9 mistaken in that regard?

10 A. I could've been mistaken. 11:03

11 54 Q. You could be mistaken?

12 A. Yes.

13 55 Q. All right, that's fine. We'll just move on from that.
14 Did anything else transpire at that time that caused
15 you concern or that you'd like to mention to the 11:03
16 Chairman? If not, we'll move on?

17 A. Em, just to be reminded, if I can, is there anything --

18 56 Q. At the bail application. Nothing else transpired that
19 caused you, or is a matter of concern for you, is that
20 right? 11:03

21 A. Not that I recollect at this juncture. Sorry, there
22 was one thing. I had met with Detective Inspector
23 O'Sullivan and Sergeant Garland in a local restaurant
24 or pub to have soup, and what he had said to me, I
25 asked him, you know, do you think I am in danger and 11:04
26 what should I do for my personal safety? Just a
27 general conversation, and he told me just to refer to
28 the local superintendent, the acting superintendent in
29 that regard.

1 57 Q. Okay.

2 A. Not that that's of much significance, but it's just a
3 conversation I recollect having with him over soup.

4 58 Q. Okay. So, if we could just then just move to the 29th
5 November, you haven't alluded to this in your interview 11:04
6 with the Tribunal investigators or in your statement to
7 the Tribunal, and just for completeness sake, if we
8 could have page 721 up on the screen. This is the
9 statement of Detective Inspector Cryan, and if we
10 scroll down, we'll see there, about half-way down the 11:05
11 page, a little bit more than that:

12

13 "I do have a note of meeting Sergeant Hughes on the
14 29th November 2006 at about 3:30pm. He expressed
15 annoyance at not receiving support from Garda 11:05
16 authorities and told me he had spoken to a solicitor.
17 He asked me to tell the chief this and he wanted to
18 know why he was being excluded from the investigation.
19 He wanted to know what was being done with regard to
20 the Sun journalist who wrote a story about a hit out on 11:05
21 him. I informed him that I was aware that the
22 journalist had been spoken to and had refused to
23 divulge his sources. He wanted to know why they
24 weren't arrested under section 30 for withholding
25 information on what he called a "capital" murder. I 11:06
26 stated that they were claiming privilege and doubted
27 that they could be so arrested. He said he wanted them
28 arrested and prosecuted."
29

1 Do you recall that conversation with Detective
2 Inspector Cryan?

3 A. I don't recollect exactly that conversation or when I
4 met him, but it does -- I do recollect informing him
5 that I wasn't happy with the feedback I was getting in 11:06
6 relation to the Sun article from local management.

7 59 Q. You see, there is quite a substantial change there in a
8 week, between the 22nd November, where he is indicating
9 to you that effectively you had the support of senior
10 management, that you don't have to worry about the 11:06
11 Victim Impact Statement, and then here we have, on the
12 29th November, you are obviously complaining at that
13 stage about a number of issues, but you are complaining
14 that you feel that you have been left out of the
15 criminal investigation? 11:07

16 A. Well, as the Member in Charge of the child abduction
17 investigation, at that stage I hadn't been approached
18 by senior management in relation to a debriefing or in
19 relation to making a statement in relation to my
20 dealings with Baiba. 11:07

21 60 Q. When you say debriefing, what do you mean by that?

22 A. I know we'll be dealing with probably -- the chronology
23 I gave to Inspector Mangan subsequently I would
24 consider that as a debriefing; in other words, I was
25 letting management know every artifact and every 11:07
26 dealing I had with Baiba from start to finish, our
27 conversations, interactions, visits and that was -- and
28 I would have expected management would want to know
29 that from me at the earliest stage following the

1 murder.

2 61 Q. Right. Obviously you sat down with Detective Inspector
3 O'Sullivan and you don't seem to have discussed with
4 him information that you thought might be important to
5 the investigation team during your conversation with 11:08
6 him at the bail application and then subsequently
7 socially. I mean, why was there a need for a sort of
8 formal arrangement? Were you expecting to be formally
9 invited to conferences?

10 A. Oh, no, no, not at all. 11:08

11 62 Q. I mean, was there a conference everyday?

12 A. I don't recollect when the conferences were actually
13 held and I think I made the -- I tried to distinguish
14 yesterday between the conference and the murder
15 investigation. The conference is maybe held once, 11:08
16 maybe twice, twice a week or maybe three times a week,
17 but the murder investigation is consistent. And it's
18 the murder investigation team, I feel, should have
19 approached me at an early stage to sit down and we'd go
20 through exactly the chronology of events of my dealings 11:09
21 with Baiba Saulite from start to finish.

22 63 Q. Well, you have a conference in which everybody will be
23 able to have a discussion, and that would normally be a
24 conference amongst the lead investigators, isn't that
25 right? 11:09

26 A. No, the conference is attended by gardaí who are
27 actually doing work in relation to the murder going
28 out, as I said yesterday, boots on the ground, visiting
29 houses, doing job sheets. That's to brief --

1 64 Q. Doing the jobs that had been allocated to them at the
2 conference?
3 A. Yes, by the book person on the and the -- or the chief
4 superintendent who is there would be delegating
5 functions out to different units to go out and do work. 11:09
6 65 Q. I understand that because of your duties you wouldn't
7 expect to be given a job arising out of a conference,
8 is that right?
9 A. That's correct.
10 66 Q. And am I getting a sense from you that you expected, in 11:09
11 this situation, to be the subject matter of a job;
12 namely, find out from Sergeant Hughes about his
13 interactions with Baiba Saulite?
14 A. I think myself, and with respect to the murder
15 investigation team, the lead table, I think that that 11:10
16 should have been one of the earliest jobs allocated to
17 the murder investigation.
18 67 Q. Did you think that that would just simply be a job that
19 would be created or did you have an expectation that
20 they actually might sit down with you and go through it 11:10
21 with you?
22 A. No, that I'd be asked to submit a statement or a report
23 in relation to my dealings at the earliest juncture
24 following the murder. And I had already expressed to
25 Inspector Cryan, as per his notes there, that I had a 11:10
26 feeling that the crimes were not correlated before --
27 in other words, I think I said that we didn't actually
28 correlate the crimes before the murder. So, I was
29 expecting a job, somebody with a job to come to me and

1 say, right, Liam, we need to get your statement now in
2 relation to the murder, so will you do your statement
3 to cover all aspects of your dealings with Baiba prior
4 to her murder. And I don't know the actual dates of
5 the Balbriggan lads coming, I don't have them on me 11:11
6 here now at the moment, I can stand corrected, but they
7 did visit my house, but they went back and submitted
8 their reports without me seeing them, to their senior
9 manager, who was Superintendent Kelly, and by discovery
10 I see that he actually forwarded those reports onto the 11:11
11 Chief Superintendent DMR North, Gerry Phillips. I
12 think that's the train.

13
14 So I hadn't actually seen any of the reports they
15 actually had, they didn't -- they didn't tell me at the 11:11
16 time we believe that you are in terrible danger or
17 anything like that. I only discovered that
18 subsequently, you know.

19 68 Q. Okay. So, you felt in terms of the investigation that
20 there should have been a job created and that you had 11:11
21 information that might be of assistance to the murder
22 investigation. Did you not feel that if you had that
23 information that you could just simply volunteer it to
24 the investigation team? I mean, why did you need an
25 invitation or a job created? 11:12

26 A. Well, I didn't need it, but generally speaking in a
27 murder investigation they do allocate jobs for
28 precisely that reason.

29 69 Q. But I mean, you could have said to Detective Inspector

1 O'Sullivan, or to Detective Inspector Cryan for that
2 matter, who you were having some interactions with,
3 look, I have an expectation that somebody is going to
4 come and take a statement from me and I have
5 information to give here, I can put a lot of what 11:12
6 transpired into historical context because I had
7 extensive dealings with Baiba Saulite, did you not feel
8 that you should step forward and say that; there is a
9 whole in your investigation and you need to fill it by
10 talking to me? 11:12

11 A. No, not at the time I didn't think there was a hole in
12 their investigation, but I do think there was an onus
13 on them to actually, as soon as possible, to interview
14 all relevant witnesses who had dealings with Baiba
15 Saulite prior to her murder. 11:12

16 70 Q. In any event, their failure to do that created in you a
17 sense of isolation, is that right?

18 A. It would have, yes.

19 71 Q. And will you just, if you wouldn't mind, would you just
20 tell us how you felt at the time and why you felt that 11:13
21 way?

22 A. Well, I did feel that there had been a systems failure
23 prior to the murder and my impression was, from not
24 being approached and nobody discussing this with
25 particular aspect, that management did not want to know 11:13
26 the details of this, didn't want to know from me any
27 details in relation to a systems failure.

28 72 Q. Okay. So then if we move on then to the 6th December
29 and if we just have page 854 up on the screen. (

1 On the 6th December 2006 Assistant Commissioner McHugh
2 gave this direction to Chief Superintendent Feehan to
3 conduct a fact-finding inquiry, and we'll just have a
4 look at it briefly.

5
6 The first paragraph he points out the history of it.
7 The second paragraph:

8
9 "Ms. Saulite had previously been interacting with
10 members of An Garda Síochána involving her husband
11 which resulted in recent court proceedings."

12
13 That is obviously a reference to the abduction case
14 there, because nothing else resulted in court
15 proceedings.

16
17 "On the 14th November two members of An Garda Síochána
18 from Swords Garda Station met with Ms. Saulite. During
19 the course of this meeting, Ms. Saulite provided
20 written material for the preparation of a Victim Impact
21 Statement in relation to the sentencing of Mr. A
22 arising from the abduction of her children. It
23 transpires that Ms. Saulite had raised in the written
24 material fears for her safety.

25
26 Carry out a fact-finding investigation into the level
27 of knowledge in possession of An Garda Síochána prior
28 to Ms. Saulite's murder. Let me have your views and
29 recommendations in early course."

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A. were you advised of that inquiry at that stage or when did you first find out that there was such an inquiry well, obviously I hadn't seen that document but I was contacted by Inspector Mangan, Detective Inspector Mangan, later on in December to meet with him in that regard.

11:15

73 Q. Now, I think on the 15th December, if we have page 1883 up on the screen please, Mr. Kavanagh, this is a report that was done by Detective Inspector Denedy, who was attached to Santry. And if we look there, you'll see that he conducts an interview with Damien Lane, journalist with the Sun Newspaper, and if we scroll over to page 1884, he refers to an interview with you and Garda Declan Nyhan at Swords Garda Station on the 12th December 2006 at 3:30pm. Do you recall that meeting with him?

11:16

A. I think I do, yes. I do recall that meeting.

74 Q. He says that he enquired if either of two members - that's yourself and Garda Nyhan - had been personally threatened or if they had any more information to support the substance of their letters. I think Garda Nyhan had also sent a letter.

11:17

"Sergeant Hughes stated at the time of his arrest Mr. A stated that the Gardaí were being personal towards him, and at the bail application his demeanour was aggressive and he went on a rant, and there were commenced that been made by Detective Inspector

11:17

1 O' Sullivan at the bail application that he was a
2 dangerous criminal with international connections. "

3
4 You see there, there is no reference to terrorist so it
5 may well be that it's an embellishment that you put on 11:18
6 it inadvertently later on.

7
8 "Baiba told him at Swords Garda Station that she feared
9 for her life and that of Sergeant Hughes, Garda Nyhan
10 and Mr. Hennessy solicitor." 11:18

11
12 Now, is that correct?

13 A. That I -- I can't recollect that chronology with the
14 Detective Inspector Dennedy, or the Superintendent
15 Dennedy at the time. 11:18

16 75 Q. It's just that the statement there under do it D -
17 "Baiba told him at Swords Garda Station that she feared
18 for her life and that of Sergeant Hughes and Garda
19 Nyhan and Mr. Hennessy" - I had understood you to say
20 previously that she had feared for your safety and that 11:18
21 of Garda Nyhan and actually hadn't expressed a fear for
22 her own safety?

23 A. No, she never expressed a fear for her own personal
24 safety. If we're talking about the meeting on the 14th
25 November, she never did. She just said that he is 11:18
26 blaming us and that she expressed concerns for John
27 Hennessy.

28 76 Q. Well you see Garda Dennedy has you recorded saying that
29 Baiba Saulite had said to you that she feared for her

1 life, that of Sergeant Hughes and Garda Nyhan and
2 Mr. Hennessy, do you say that?

3 A. I see that.

4 77 Q. But anyway --

5 A. No, she never expressed a fear for her life to me. 11:19

6 78 Q. That's not correct. He then went on to say that he had
7 an interview with Mr. Cunningham of the Mirror
8 Newspaper arising out of an article there as well. And
9 the conclusion at the end:

10 11:19

11 "The article in the Sun Newspaper dated the 23rd
12 November is a concocted piece of journalism with no
13 substance to it whatsoever and the article in the
14 Mirror Newspaper is a piece of vague journalism which I
15 believe piggybacked on the article in the Sun 11:20
16 Newspaper.

17
18 There is no evidence available to the investigation
19 team that threats exist against either Sergeant Hughes
20 or Garda Nyhan. I believe that Sergeant Hughes is 11:20
21 driving this issue on behalf of both members, his
22 agenda being a claim of libel against the Sun
23 Newspaper."

24
25 Do you see that? 11:20

26 A. I do, and I am very disappointed with that expression
27 because I never conveyed that to any person, that I was
28 going to sue a newspaper in relation to -- in relation
29 to the article.

1 79 Q. Were you ever advised of this report or given a copy of
2 this report?

3 A. No.

4 80 Q. Because, you had made a complaint to the superintendent
5 about him and an inquiry was -- you made a complaint 11:20
6 about the article and the inquiry into this article was
7 directed by the superintendent, and this is the report
8 back to the superintendent. But were you ever advised
9 of the outcome of that inquiry?

10 A. No. Sorry, just to clarify. In fact, I went and 11:21
11 engaged with a solicitor myself and he wrote to the Sun
12 himself. He had it clarified within a number of days,
13 they wrote back to him, and I was happy enough with
14 that clarification and I let it rest myself.

15 81 Q. Yes, your solicitor wrote and they wrote back 11:21
16 indicating that there was no source for the
17 information --

18 A. Exactly.

19 82 Q. -- and that they had no information to suggest that
20 your life was in danger, is that right? 11:21

21 A. Exactly. And I was happy to let the matter rest I
22 think then.

23 83 Q. Now, we next come to the 17th December of 2006 and your
24 interaction with Detective Inspector Mangan. Now I
25 think that you had been contacted by him and he had 11:22
26 asked you for a report of your dealings with Baiba
27 Saulite, isn't that right?

28 A. That's correct.

29 84 Q. And you prepared a chronology for him of all the

1 relevant events and dates and your interactions with
2 Baiba Saulite up until the time of her death, isn't
3 that right?

4 A. Yes, I had it already prepared, and I had told him,
5 look it, I have a document here you might be interested 11:22
6 in, and he told me to bring it along with me.

7 85 Q. Now, you supplied that statement to the Tribunal. It's
8 at page 631 to 640. There is no need to put it on the
9 screen, Mr. Kavanagh, but it's there for the parties to
10 see. And An Garda Síochána disclosed a document as 11:22
11 well, which is at page 615 and 630, which they state
12 was the document you handed to Detective Inspector
13 Mangan, and there are obviously differences between the
14 two documents, isn't that right?

15 A. Which I found out recently, yes, relatively recently. 11:23

16 86 Q. And I think that you were re-interviewed by the
17 Tribunal investigators, and that's in Volume 3 at page
18 601 of the material, and the differences were
19 highlighted to you during the course of that interview,
20 isn't that right? 11:23

21 A. Correct.

22 87 Q. And those differences commence at page 603. I don't
23 intend to go through these, Chairman.

24 CHAIRMAN: Thanks. Can I just clarify, because it's a
25 us useful point. Mr. O'Higgins - I don't want to put 11:23
26 you on the spot, you are perfectly free to tell me to
27 leave it over - it seemed obvious that the document was
28 in one form and that Sergeant Hughes added a glossary
29 or comments on it which appeared in different typeface

1 and everything else, it appeared obvious what had
2 happened, and that there was nothing sinister about it,
3 that does not stop anybody from suggesting there is
4 something sinister in it, but our investigators brought
5 Sergeant Hughes back for the purpose of formally 11:24
6 confirming that the original document was different and
7 that it was a glossary or commentary on it that he had
8 made; is that in fact the position, as your evidence
9 is, Sergeant Hughes?

10 A. That's correct. 11:24

11 CHAIRMAN: That you had the document -- in that report
12 you gave to Inspector Mangan was one thing. You
13 supplied in fact a different document. The one,
14 Inspector Mangan had a document, you supplied a
15 different one, with a glossary and comments and 11:25
16 observations. And when I saw it I thought this is a
17 commentary he is making on this. Now, is there any
18 dispute about that Mr. O'Higgins or...

19 MR. O'HIGGINS: Chairman, I don't demur.

20 CHAIRMAN: Very good. Thanks very much. Well, look, 11:25
21 if there's anything you want to ask, or anybody else
22 wants to ask, by all means feel free to do it but I
23 think, Mr. Marrinan, if I say that I am taking it,
24 until further instructions, until further information,
25 I am taking it that Sergeant Hughes gave Detective 11:25
26 Inspector Mangan a document, and we know what that
27 document was, and that he subsequently produced for his
28 own purposes, or for whatever purposes, a document in
29 which he inserted comments about the Mangan report. I

1 think that's -- is that the position?
2 A. That's the position, Mr. Chairman. The document I
3 produced at the Tribunal was a document I was working
4 off as a draft for production to other entities
5 involved in this, and -- 11:26
6 CHAIRMAN: well look, I am taking it that's what it
7 appeared to the Tribunal, that's what it appeared to us
8 to be, but if anybody wants to ask anything about that
9 or to make any suggestion, there is no way that I am
10 out ruling any legitimate inquiry into that. Okay. 11:26
11 MR. O'HIGGINS: Chairman, could I say that in saying I
12 don't demur, I accept of course your provisional
13 analysis, if I could use that phrase, but I do say it
14 is not irrelevant --
15 CHAIRMAN: Sorry, I want to make clear that you are -- 11:26
16 MR. O'HIGGINS: -- and it may in fact be a matter that
17 will be worthy of questions.
18 CHAIRMAN: -- you are perfectly entitled to explore any
19 aspects of it, Mr. O'Higgins, and to make any
20 suggestion arising out of it, that's not a problem. 11:27
21 But I am just alerting you so as to save time and to
22 save Mr. Marrinan's time, that's the assumption, that
23 will be the working assumption until further advised,
24 until something further happens. Is that okay,
25 Mr. Marrinan? 11:27
26 MR. MARRINAN: Yes. So we'll move on. But we'll just
27 deal with your conversation that you had with Detective
28 Inspector Mangan at the time.
29 CHAIRMAN: I mean, anything relevant that you want to

1 highlight arising out of the report, the Mangan report,
2 Mr. Marrinan, please feel completely free obviously to
3 do that. There is nothing -- I'm not inhibiting any
4 pursuit of that.

5 MR. MARRINAN: No, I don't intend to go into --

11:27

6 CHAIRMAN: That's a matter for you, thank you.

7 88 Q. MR. MARRINAN: I think that in your interview with
8 Tribunal investigators, at page 611 - again there is no
9 need to open it, Mr. Kavanagh, I am just giving the
10 page numbers for reference for the parties - I think
11 that you indicated to the investigator that you had,
12 you told Inspector Mangan that there had been a systems
13 failure and that he said that he would bring your
14 concerns to the attention of the Commissioner.

11:27

15 A. That's what I said, yes.

11:28

16 89 Q. Is that right?

17 A. That's what I said in my report, yes.

18 90 Q. But is that right? In the report there is no mention
19 of --

20 A. No.

11:28

21 91 Q. -- a systems failure, you appreciate that?

22 A. No, I handed him the report and I was -- he was
23 perusing it and we were having a general conversation
24 and I said, look, I believe there is a systems failure.
25 Now, it wasn't included, that terminology wasn't
26 included in the report I handed to Inspector Mangan on
27 that date, but he said that he would bring my concerns
28 to the attention of the Commissioner.

11:28

29 92 Q. And you also go on to say that he said that this was

1 just another murder.

2 A. well, I didn't mean to portray that he was being casual
3 about anything. He just casually said, yeah, we have
4 another murder down here in the Store Street area here,
5 yesterday or the day before, or whatever, he just 11:28
6 happened to say that things were busy. I don't think
7 he was saying it from the -- from being casual about it
8 because I saw the statement as a result and that wasn't
9 what I wanted to convey.

10 93 Q. We just might have page 851 up on the screen, please. 11:29
11 This is the statement that was made to the Tribunal
12 from Detective Inspector Mangan, and if we can scroll
13 half-way down. He says:
14

15 "I am a member of An Garda Síochána for 37 years and I 11:29
16 do not casually discuss murder investigations and I
17 have never viewed a murder investigation as, to quote
18 --"
19

20 And he is quoting from you statement. 11:29
21

22 "-- 'simply just another murder' as outlined by
23 Sergeant Hughes in his statement to the Tribunal."
24

25 And then he says: 11:29
26

27 "I did not inform Sergeant Hughes that the Garda
28 management would seek further clarifications from him.
29 I did not inform him that I would contact him again."

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Do you see that? What do you say to that?

A. I don't know whether I said that -- I said he would contact me again. I think I said that he did not contact me again.

11:30

94 Q. Then he goes on to say, because this was asserted by you in your statement:

"Sergeant Hughes did not inform me of how he was feeling in respect of being isolated or being treated by senior management, as stated at line 185 and 186..."

11:30

A. I think that's what we have dealt with here. That, I clarified that with the Tribunal; that they were the comments that were added in, in the glossary. I have amended that with the Tribunal already.

11:30

95 Q. Okay. Well, that's a difference between you. And if we could then just move on.

During this period of time you were at work and on duty, isn't that right

11:31

A. That's correct.

96 Q. And were you doing your normal duties in the community policing section?

A. Yes, I was, pretty much, but I was distracted by the bail applications and the fact-finding inquiry of course, you know.

11:31

97 Q. And I think that at the time you were attending Dr. James O'Reilly who was your general practitioner, is that right?

1 A. That's correct.

2 98 Q. And I think that you told him about your concerns in
3 relation to the murder of Baiba Saulite, is that right?

4 A. That's correct.

5 99 Q. And you told him at the time that you were concerned 11:31
6 that there had been, as you described it, a systems
7 failure within An Garda Síochána that might have
8 contributed to her death insofar as you thought it
9 might have been preventible?

10 A. That's correct. 11:31

11 100 Q. And he then certified you as suffering from work
12 related stress, and you were off work from the 18th
13 December 2006, isn't that right?

14 A. That's correct.

15 101 Q. Now, if we could just move on then to the 22nd December 11:32
16 2006, and we'll just look at this very briefly. If we
17 could have page 879 up on the screen. This is the
18 report from Detective Inspector Mangan to Chief
19 Superintendent Feehan in relation to his investigation.
20 And if we scroll on to page 882, he has his conclusion, 11:32
21 where he says:

22

23 "Sergeant Hughes has submitted a comprehensive report
24 outlining his dealings with the deceased. "

25 11:33

26 And then:

27

28 "Detective Sergeant Tiernan McEaney has submitted a
29 report outlining his dealings with the deceased. Both

1 sergeants were not in possession of specific threats to
2 her and she did not make any formal complaint to either
3 member.

4
5 The handwritten document submitted by Baiba Saulite to 11:33
6 Sergeant Hughes would not constitute a Victim Impact
7 Statement and would not have been accepted by the
8 courts.

9
10 The handwritten document purporting to be a Victim 11:33
11 Impact Statement could not be used by the Gardaí to
12 investigate or instigate a prosecution against Mr. A.

13
14 As a result of an examination of the facts to hand, I
15 am of the view that Sergeant Hughes and Garda Nyhan 11:33
16 completed a complex investigation in a very
17 professional manner.

18
19 There certainly was knowledge in existence and
20 available to the Gardaí in relation to threats from 11:34
21 Mr. A to Baiba Saulite, the members of An Garda
22 Síochána involved with Baiba Saulite readily admit this
23 in their reports.

24
25 In the absence of a statement of complaint from Baiba 11:34
26 Saulite, the Gardaí would be unable to interview Mr. A
27 who was in prison when the intimidation was ongoing.
28 Without a statement of complaint a prosecution could
29 not be instigated against Mr. A for the issuing of

1 threats. As the matter stood, the Gardaí had no
2 evidence to deal with the situation and impose any form
3 of sanction on Mr. A."

4
5 Were you aware of that report at the time in 2006? 11:34

6 A. No, I didn't become aware of that report until 2012.

7 102 Q. Until 2012?

8 A. Yes, the High Court proceedings.

9 103 Q. Now, we'll -- yes, we'll now move on to 2007. I think
10 that you were off work until the 28th January, and you 11:35
11 returned for two days and you were out again from the
12 30th January, is that right?

13 A. That's correct.

14 104 Q. And we then have a report, which is at page 698 of the 11:35
15 material, and this is a report from Detective Inspector
16 Walter O'Sullivan. This concerns threat to members of
17 An Garda Síochána, yourself and Garda Declan Nyhan.
18 Yes, if we could turn to page 699, please,
19 Mr. Kavanagh, and we'll look at the second paragraph.

20 11:36
21 "It is suggested that local management in the "R"
22 district is not keeping Garda Declan Nyhan advised of
23 developments and that he is 'being kept in the dark'.
24 This assertion is rejected. Sergeant Liam Hughes and
25 his staff were invited in November 2006 by Detective 11:36
26 Inspector Walter O'Sullivan to take part in the murder
27 investigation. Neither sergeant Liam Hughes nor Garda
28 Declan Nyhan have attended the investigative
29 conferences to date held at Swords Garda Station.

1 There is no issue with regard to sharing information
2 with the members concerned."

3

4 You see that statement from him?

5 A. I do.

11:37

6 105 Q. Do you agree with that or disagree?

7 A. No, I don't agree with that. The context that he is
8 putting it there seems to be that we were declining to
9 attend at the -- sorry, declining to participate in the
10 murder investigation.

11:37

11 106 Q. You see there that the last paragraph then:

12

13 "The notion that management in the "R" district is in
14 some way isolating Sergeant Hughes and Garda Declan
15 Nyhan is not accepted. They are at liberty to call to
16 the office of Detective Inspector Walter O'Sullivan
17 with a view to being informed on any matter that is of
18 concern to them and the investigation. Both members
19 are also welcome to take part in the investigation."

11:37

20

21 That's his report. Now, you hadn't at that stage made
22 any formal complaint in relation to feeling isolated,
23 isn't that right?

24 A. I think that's correct, yes.

25 107 Q. You say that you told Detective Inspector Mangan about
26 this and he says that that's not accurate, but this
27 appears -- this report appears to emerge out of a
28 complaint that had been made by Garda Nyhan, is that
29 right?

11:37

1 A. It could be. Yes, it seems to be.

2 108 Q. And he has dealt with you. But in any event, was that
3 report ever drawn to your attention at that time?

4 A. Not at the time, no.

5 109 Q. Now, the next event that happened is on the 10th 11:38
6 January, we don't need to open this, but I think you
7 are familiar with it, the Tribunal is, but Chief
8 Superintendent Feehan raised queries within Inspector
9 Mangan in relation to his report, and those queries are
10 set out at page 885 of the material. As I say, there 11:38
11 is no need to open it. Now you are off work until
12 March, isn't that right?

13 A. That's correct.

14 110 Q. Did anybody contact you from senior management during
15 that period of time? 11:39

16 A. Yes, acting Superintendent Donal Waters rang me and
17 asked me how I was and I then relayed to him -- I
18 recollect that I relayed to him that I was out sick,
19 work related stress, and I think I mentioned the
20 systems failure to him on the phone. 11:39

21 111 Q. And what was your expectation in relation to how
22 management would deal with you at that time when you
23 were out from work related stress?

24 A. Well, I thought I'd be formally visited, you know, or
25 contacted in relation to the source of my stress and 11:39
26 what was my problem with turning into work, you know,
27 from the non-medical matters, in other words.

28 112 Q. Yes, now the Tribunal is familiar with this in relation
29 to work related stress, the duty of management to visit

1 an accused, to interview him in relation to the source
2 of the stress and we're familiar with those
3 regulations, I don't need -- I don't think I need open
4 them, Chairman. I think that everybody in the room is
5 familiar with those and you were familiar with them at 11:40
6 the time as well, were you?

7 A. I was.

8 113 Q. But other than the one call that you got from Detective
9 Inspector O'Sullivan -- sorry, Inspector Waters --

10 A. Yes. 11:40

11 114 Q. -- you had no other contact?

12 A. No.

13 115 Q. And then on your return to the Garda Station, is there
14 a procedure to take place on your return to the Garda
15 Station? 11:40

16 A. Yes, when you report, you have to report fit for duty,
17 which I did, and there is an expectation then that
18 you'd be visited by an officer, a senior officer there
19 to conduct what's called a resumption of duty
20 interview, to ensure that all is regular in relation to 11:40
21 taking up your -- the post again.

22 116 Q. And did that happen?

23 A. No.

24 117 Q. Now, I think throughout this period of time Inspector
25 Waters was the acting superintendent because Inspector 11:41
26 Superintendent Noel McLoughlin had retired very shortly
27 after the murder of Baiba Saulite, isn't that right?

28 A. That's correct. I think that Superintendent Curran had
29 transferred in February, shortly before I resumed duty.

1 118 Q. He actually took up duty as the district officer on the
2 6th March of 2007, three days after you returned to
3 work on the 3rd March, is that right?
4 A. That's correct.

5 119 Q. Now, again I don't intend to open this, Chairman, but 11:41
6 on the 2nd February 2007, Inspector Mangan reported
7 further to Chief Superintendent Feehan dealing with the
8 queries that had been raised by the chief
9 superintendent on the 10th January, and his report is
10 at page 543 to 551 of the material, but again I don't 11:42
11 intend to open that. But you weren't familiar with the
12 contents of that report?
13 A. No.

14 120 Q. And again you didn't see that report until 2012, is
15 that right? 11:42
16 A. That's correct.

17 121 Q. Now, if we could have page 6847 up on the screen. As I
18 already indicated, you had been attending Dr. James
19 Reilly, isn't that right?
20 A. That's correct. 11:43

21 122 Q. And this is a letter that was sent by him on the 3rd
22 January 2008, that appears to be. Yes, this is a
23 letter that he sent in 2008. If you just look at the
24 history he gives. He says:
25 11:44
26 "He attended at surgery on 4th December 2006 where he
27 was seen by my colleague Dr. Anna Barron. He was
28 complaining about a stressful situation in relation to
29 work, and was given a week off. I saw him again one

1 week later on the 11th December 2006 --"

2

3 Is that correct, that you had been given a week off by
4 your superiors? Do you recall that?

5 A. 4th December -- I don't recollect that sequence.

11:44

6 123 Q. "-- at which time it was clear that he had a stressful,
7 a serious stressful time at work. I referred him to a
8 counsellor who worked in the practice and gave him a
9 note for work.

10

11:44

11 William was seen again on the 16th December and again
12 he was somewhat hypertensive and stressed. He was
13 given a note for work until 14th February.

14

15 He was seen once again on the 16th February at which
16 time he was back at work for a couple of days and found
17 he could not cope. At that point he was anxious for a
18 psychiatric opinion. His sleep was good and
19 concentration was poor.

11:45

20

11:45

21 He had started to work on his problems which were work
22 related to the murder of a young woman. He had been
23 involved in a case in relation to the kidnapping of her
24 children. He felt the work situation was poor, in that
25 information that he should have been informed of was
26 not made available to him and that he and his partner
27 had been ostracised and felt unable to trust their
28 colleagues. At this point William was referred to
29 Dr. Fernandez, a consultant psychiatrist."

11:45

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Now, it would appear that -- and this is really fast forwarding to a complaint that you make in relation to referrals to a psychiatrist by the Assistant Chief Medical Officer, Dr. Quigley, and we'll come to deal with this more later on, but it was you who first sought the intervention of a psychiatrist with your general practitioner, isn't that right?

11:46

A. I am just reading this now for the first time, reading in detail, and when he says that I sought a psychiatric evaluation, that's not true. I should say, that's just not accurate. He suggested to me that I go to see a psychiatrist.

11:46

124 Q. One way or the other you were amenable to it?

A. Oh absolutely.

11:46

125 Q. And you did attend Dr. Fernandez?

A. I did.

126 Q. And this was long before you went to see the Chief Medical Officer --

A. Yes.

11:46

127 Q. -- or the Assistant Chief Medical Officer should I say?

A. Yes.

128 Q. Yes, I think that you also had -- you went to see a solicitor, isn't that right, Mr. Costello? And if we could have page 1277 up on the screen, please.

11:47

Now, at this time you're back at work. You haven't been interviewed in relation to going back to work which, you say, is a formality that should be undertaken by management. And this is a letter that is

1 sent on your behalf to Assistant Commissioner Human
2 Resource Management in Garda Headquarters. Now the
3 first paragraph of that deals with a prior complaint
4 that you had that I'm not going to go into, involving
5 other members, and in particular another member who had 11:48
6 made a complaint of bullying and harassment against
7 you, and the manner in which that was dealt with by
8 management. You had entered into extensive
9 correspondence through your solicitor with HRM in that
10 regard, and I'm opening this just because I am 11:48
11 concerned about the complaints that you then had and
12 that you wished to make in relation to this, all right?

13 A. Sure, I understand that.

14 129 Q. And those are dealt with in paragraph 2.

15 11:48
16 "Our client has since consulted us concerning matters
17 of extreme concern to him. You will of course be aware
18 that our client was an officer central to the affairs
19 of the now deceased Bai ba Sauli te. Bai ba Sauli te was
20 murdered on the 19th November 2006. Essentially our 11:49
21 client believed that he was dealing with a family law
22 matter which had reached a point where it became a
23 child abduction case. Our client at all times had
24 familiarised himself with reports concerning Mr. A who
25 ultimately pleaded guilty to the abduction of the two 11:49
26 children of the relationship of Mr. A and Bai ba
27 Sauli te. It was well known that our client was deeply
28 involved in this case and assisted Ms. Sauli te and her
29 solicitor, John Hennessy, in every way.

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After Baiba Saulite's murder, our client became aware for the first time that the authorities had concerns relating to Mr. A and in particular that this individual was a dangerous criminal who had the capability and resources to murder any person who got in his way and was also a person who had national and international terrorist connections. Our client was astounded to find this information within the intelligence of An Garda Síochána in circumstances where other members had such intelligence and given the history and in particular the threats made and carried out insofar as they concerned John Hennessy.

11:50

11:50

Coupled with this, newspaper reports were circulated to the effect that a "contract" had been placed on our client's life by drug lords arising out of his involvement in the family law abduction case. My client reported the matter to his authorities by way of report to superintendent in Coolock, a copy to the incident room in Swords and a further copy by fax was sent to the superintendent in Balbriggan. My client received some assistance in the following days from some gardaí at Balbriggan and some reassurance from certain members."

11:50

11:50

11:51

That relates to your security, isn't that right?

A. That's correct.

130 Q. "Since then, however, our client has been left in the

1 dark as to what has been investigated and the outcome
2 of such investigation --"

3
4 That refers to the complaint that you made in relation
5 to the article, is that right? 11:51

6 A. Correct, yes.

7 131 Q. "-- as to what outcome of such investigation, but no
8 further contact has been made in relation to the entire
9 matter and our client has been left utterly isolated.
10 Having made inquiries from his immediate authorities he 11:51
11 received no assurance or information as to what was
12 occurring and has since been caused to place a fire
13 alarm and CCTV equipment inside the front door of his
14 own house. This matter has had an utterly profound
15 effect on both himself and his spouse and in respect of 11:52
16 Sergeant Hughes, this has only exasperated the
17 pre-existing problems arising from the matters about
18 which we have already written.

19
20 Our client has asked us to write to complain about the 11:52
21 manner in which he has been treated by his authorities
22 as set out above and continues in the absence of
23 information to fear for his own life. In addition, no
24 assistance has been provided to our client even in the
25 limited circumstances of the "peer support" system 11:52
26 which is available. Also, our client requires the
27 payment of allowances having been on sick leave as a
28 result of injury on duty and this requires the
29 certification of the divisional officer and we would be

1 obliged if you would provide for this."

2

3 That's a reference to what we know to be Code 11.37
4 that's in the materials, isn't that right?

5 A. That's correct.

11:53

6 132 Q. "We understand that an investigation was launched by
7 the Commissioner in relation to the circumstances of
8 Baiba Saulite's murder and in particular the
9 information available to the Gardaí at the time of her
10 murder and the threats made on her life prior to this. 11:53
11 You might let us know the current position with regard
12 to that investigation.

13

14 Our client continues under medical supervision and we
15 await hearing from you as a matter of urgency." 11:53
16

17 So, if we turn to page 1279, this is the response that
18 was received on the 6th June. And we'll come to this
19 in due course, but just to refer to that. That in fact
20 doesn't address any of this -- this letter from HRM, 11:54
21 Assistant Commissioner Catherine Clancy to your
22 solicitor, and it doesn't address the issues that he
23 has highlighted in his letter but refers back to the
24 earlier issues that had arisen, isn't that right?

25 A. It seems to be, yes.

11:54

26 CHAIRMAN: Is this, Mr. Marrinan, is there some
27 confusion here? I thought the letter from Costello's,
28 Mr. Costello was the 26th March?

29 MR. MARRINAN: Yes,

1 CHAIRMAN: But this letter refers to a letter of the
2 4th June?
3 MR. MARRINAN: It's a reminder that's sent.
4 CHAIRMAN: I am sorry. So, Mr. Costello sent a
5 reminder of the 4th June? 11:54
6 MR. MARRINAN: Yeah. We'll come to deal with that
7 later on.
8 CHAIRMAN: That's all right.
9 MR. MARRINAN: But I just thought I'd highlight at this
10 stage that none of the issues that you raised in that 11:54
11 letter were addressed, isn't that right?
12 A. They don't seem to be there, no, in that
13 correspondence.
14 133 Q. And in the letter you were complaining about feeling
15 isolated. You were also complaining about not being 11:55
16 informed of the result of the investigation into the
17 newspaper article. You also were asking to be kept up
18 to date in relation to the investigation that you were
19 providing a statement to, looking into the
20 circumstances leading up to Baiba Saulite's death, 11:55
21 isn't that right? And you were also highlighting the
22 issue in relation to your work related stress and the
23 investigations and decisions that had to be undertaken
24 in relation to that?
25 A. That's correct. 11:55
26 134 Q. If we move forward now to the 23rd April. I think that
27 you had a discussion with Sergeant Camillus
28 Fitzpatrick, isn't that right?
29 A. That's correct.

1 135 Q. And he is a staff sergeant in Swords Garda Station, is
2 that right?

3 A. Actually in Coolock Garda Station.

4 136 Q. Oh, he is in Coolock Garda Station. And would you just
5 tell us what conversation that you had with him? 11:56

6 A. When I met Camillus he was on a visit out to Swords
7 Garda Station and I met him and I just explained the
8 difficulties I was going through in relation to matters
9 concerning the murder of Baiba Saulite and the
10 isolation I was feeling, and that I discussed with him 11:56
11 in relation to the systems failure I felt and that
12 nobody was going to interview me in relation to it, and
13 just a general feeling of isolation that I felt I was
14 experiencing back then at that time.

15 137 Q. And how did he react to what you were saying to him? 11:57

16 A. He immediately picked up the phone and he contacted
17 Superintendent Curran and he explained the difficulties
18 that I was relating to him to Superintendent Curran.
19 And I recall during the conversation between
20 Superintendent Curran and Camillus, that Camillus said, 11:57
21 what do you mean keep out of that loop? Or don't --
22 you know, keep out of that loop? And Camillus
23 responded by, what do you mean, what loop should I keep
24 out of? So there was a bit of an interaction there
25 between them. And Camillus was very direct with the 11:57
26 superintendent, he said, look here, you are going to
27 have to get down here and see this man, he has serious
28 problems in relation to his workplace. And so, that
29 was the content of the conversation.

1 138 Q. Now, Sergeant Fitzpatrick doesn't have a recollection
2 of this conversation in that level of detail, and
3 Superintendent Curran has made a statement to the
4 Tribunal where this reference to "stay out of the
5 loop", and you seem to be attributing something 11:58
6 sinister to that, he says -- and this is at page
7 1032 -- he says:
8
9 "In the interests of clarity, I believe that the "stay
10 out of the loop" reference --" 11:58
11
12 And this is referring to your statements.
13
14 "-- attributed to me in my conversation with then
15 Sergeant Camillus Fitzpatrick related to the role of 11:58
16 Detective Inspector Mangan who was performing a task on
17 behalf of another divisional officer, namely Chief
18 Superintendent Feehan. I was unaware of his function
19 up to that point and had not been in contact with him,
20 nor with Chief Superintendent Feehan about this 11:59
21 matter."
22
23 So, what he is indicating in his statement to the
24 Tribunal is that there is nothing sinister in this. He
25 wasn't aware of what was transpiring in relation to the 11:59
26 investigation into the circumstances leading up to
27 Baiba Saulite's murder, do you understand that?
28 A. He says he wasn't aware of the circumstances?
29 139 Q. He wasn't aware of the circumstances at that time. He

1 wasn't familiar with the investigation that was being
2 conducted by Detective Inspector Mangan?

3 A. Oh, I see, yes. But, I perceived it as being, in other
4 words, that I felt in isolation at the time and I felt
5 I was being further isolated by that remark. 11:59

6 140 Q. Okay. But, in any event, you met with Superintendent
7 Curran, isn't that right?

8 A. That afternoon, yes.

9 141 Q. That afternoon. And if we just -- could I have page 15
10 up on the screen -- this is your interview with 12:00
11 Tribunal investigators. In the fourth line down:
12
13 "That afternoon I got a phone call from Superintendent
14 Mark Curran. I went to meet him in Swords Garda
15 Station." 12:00

16
17 Had you met him prior to this?

18 A. Not in his position as superintendent in Coolock, but I
19 worked with him previously at previous stages in my
20 career. 12:00

21 142 Q. Right. How long ago was that?

22 A. He was an inspector in the Bridewell, a garda inspector
23 in the Bridewell and he was a sergeant there and then
24 he was a sergeant in Swords when I was a guard, so
25 we're talking about probably a year each of those 12:00
26 occasions that we worked together.

27 143 Q. And had you got on well with him previously?

28 A. Oh very well, very well.

29 144 Q. You then say:

1
2 "There was no one else present at the meeting. I told
3 him of the systems failure. What struck me was that he
4 just had a pen and envelope on which to make notes and
5 it appeared he wasn't going to take a full report from 12:01
6 me and he didn't request one either. I directly told
7 him of my concerns (systems failure) and I warned him
8 that if the matters were not fully investigated it
9 would have serious implications for the murder
10 investigation and upcoming coroner's inquest. I told 12:01
11 him that these were very serious allegations I was
12 making and one would expect that senior management
13 would act on this. I discussed with him how I was
14 feeling, how I believed I was being isolated by senior
15 management and also how the Garda Code had not been 12:02
16 complied with in respect of my sick leave."
17

18 will you just tell us how the meeting kicked off when
19 you went in to see him?

20 A. He wanted to see me in relation -- 12:02

21 145 Q. what did you discuss first of all?

22 A. when --

23 146 Q. when you went in to see him?

24 A. we sat down and spoke in relation to what's on the
25 transcript there, you know, so... I told him that I had 12:02
26 serious concerns in relation to the investigations, the
27 isolation and I told him specifically that I believed
28 that there was a systems failure in the crimes
29 investigations and correlations before the murder, and

1 I believed that it was serious and had to be looked
2 after by management directly because I feared that it
3 would actually have an effect, an adverse effect on the
4 murder investigation that was ultimately and the
5 coroner's inquest would have to be explained too. 12:03

6 147 Q. You hadn't sought this meeting with Superintendent
7 Curran, had you?

8 A. Well, the following the phone call with Camillus,
9 Camillus suggested to him strongly that he'd see me.
10 And then I was at home and I received a phone call from 12:03
11 Superintendent Curran, I went back to the station and
12 met him there at the station. He is based in Coolock,
13 so he came out to Swords to meet me.

14 148 Q. I might be wrong in relation to this, and correct me if
15 I'm wrong, I get the impression that you had decided to 12:03
16 inform Sergeant Camillus Fitzpatrick about your
17 concerns about the systems failure, and that he then
18 decided that this really was a matter that
19 Superintendent Curran should be aware of, and that he
20 phoned Superintendent Curran? 12:04

21 A. In my presence, yes.

22 149 Q. Is that right?

23 A. That's correct.

24 150 Q. And arising out of that, an arrangement was made to
25 meet Superintendent Curran, is that right? 12:04

26 A. He rang me at home, yes, and I went in to meet him in
27 Swords.

28 CHAIRMAN: Just could you go back for a moment to your
29 conversation with Sergeant Camillus Fitzpatrick? Could

1 you remind me about what that was about?

2 A. Sorry, excuse me?

3 CHAIRMAN: Could you remind us about your conversation
4 with -- sorry, with Camillus Fitzpatrick?

5 A. Yes, he arrived -- Camillus is based in Coolock and he 12:04
6 arrived out to Swords Garda Station, obviously on duty.
7 CHAIRMAN: You can speak into the microphone.

8 A. Sorry. Sergeant Fitzpatrick arrived out in Swords
9 Garda Station and we began a conversation and in that
10 conversation then I started to relay to him how I felt 12:04
11 in relation to the entire matter, you know, in relation
12 to following the murder and how I felt. So he --
13 CHAIRMAN: what do you mean how you felt?

14 A. Well, how I was feeling, you know, in relation to
15 Baiba's death and the approach from management and -- 12:05
16 CHAIRMAN: I see. So it was a whole thing.

17 A. Yes.

18 CHAIRMAN: Sorry, I understood a moment ago that it
19 wasn't just that you told him systems failure and he as
20 a result of that; you told him a lot of things, how you 12:05
21 were feeling and so on, is that right?

22 A. Yes, part of his brief is the welfare of individuals.

23 CHAIRMAN: He is a welfare --

24 A. He deals with welfare matters. And so, I was
25 explaining to him how I was feeling and I had been on 12:05
26 sick leave and then I went back into what I considered
27 the systems failure in relation to Baiba and the
28 correlation of the crimes. And so, it was at that
29 point, when he was listening to me, he decided

1 straightaway to ring Superintendent Curran.

2 CHAIRMAN: So as the welfare officer, so to speak, he'd

3 be entitled to take whatever steps he needed to?

4 A. He is not an appointed welfare officer now, he just

5 deals with welfare issues on behalf of members. 12:06

6 CHAIRMAN: Sorry. Thank you for clarifying that.

7 Okay. So this brought you -- the result of this was a

8 phone call from Superintendent Curran?

9 A. Yes, indeed.

10 CHAIRMAN: As a result of which, you went to meet him 12:06

11 and he went to meet you?

12 A. Yes. And just to qualify that. Meeting a

13 superintendent and going to relay these matters to them

14 wasn't just an everyday conversation.

15 CHAIRMAN: Of course. 12:06

16 A. And it was foremost in my mind that I was going to be

17 relaying very serious matters to him, you know.

18 CHAIRMAN: Okay. Thanks very much. Thank you.

19 151 Q. MR. MARRINAN: How long did the conversation last? How

20 long was the meeting 12:06

21 A. I'd say 20 minutes to a half hour.

22 152 Q. Okay. If we could just have page 1032 up on the screen

23 please. Do we have it already up there, do we? No.

24 1032, please. Now, if we scroll down to the end there.

25 This is the statement of Superintendent Curran. And 12:07

26 we'll go through this in some detail because this is an

27 important meeting.

28

29 "I recall the fact that I had a meeting with Sergeant

1 Hughes in Swords Garda Station in April 2007. I
2 believe that the first meeting occurred on the 23rd
3 April 2007, but it is possible that the first meeting
4 with him was on an earlier date. This was in response
5 to the aforementioned telephone call possibly earlier 12:07
6 that day from Sergeant Camillus Fitzpatrick suggesting
7 that Sergeant Hughes had raised a number of issues with
8 him, which caused him to be concerned for Sergeant
9 Hughes's welfare. This is why I later travelled to
10 Swords to meet Sergeant Hughes. I now, with the 12:08
11 passage of time, have little or no recollection of the
12 entire substance or the duration of the meeting. I am
13 guided by the content of my report dated 24th April
14 2007 which I regard as being an accurate and
15 contemporaneous note of my conversation with him on the 12:08
16 23rd April."

17
18 And perhaps we'll look at that then, his report of that
19 meeting, and it's at page 1067 of the material. This
20 is a report dated the 24th April, and it's to the chief 12:08
21 superintendent of the Dublin Metropolitan Region. He
22 reports:

23
24 "I met Sergeant Hughes on the 23rd April 2007."

25
26 You don't recall the date? 12:09

27 A. I don't.

28 153 Q. This appears to be the date, isn't that right, that you
29 first met with Superintendent Curran?

1 A. Yes, that's the date, yes.

2 154 Q. "Sergeant Hughes raised a number of issues which he
3 believed are outstanding and requested that he receives
4 communication regarding same.
5
6 They are as follows:
7 1. Since the murder of Baiba Saulite he is still in
8 fear for both himself and his family. He states that
9 he has not been informed of any assessment of
10 information regarding his or his family's situations." 12:09
11
12 Did you mention that at the meeting?
13 A. I don't recall that conversation with him at the
14 meeting.
15 155 Q. Was it a concern that you had at the time? 12:09
16 A. It would have been a concern that I had at the time,
17 yes.
18 156 Q. "2. The second issue relates to the investigation into
19 certain matters - some of which relate to the first
20 point above - by Chief Superintendent Feehan and 12:10
21 Superintendent Mangan. No communication of status or
22 outcome of investigation."
23
24 That was of concern to you --
25 A. At the time, yes. 12:10
26 157 Q. And was that something that you highlighted to him?
27 A. I don't recollect highlighting that particular issue to
28 him, but he obviously has made notes somewhere in
29 relation to it. And sent them on.

1 158 Q. Yes, but do you accept that you did?
2 A. I don't accept -- I don't recollect, but it was of
3 concern to me at the time.
4 159 Q. All right.
5
6 "3. The investigation into the article in the Sun
7 Newspaper in November 2006 conducted by Detective
8 Inspector Dennedy - no communication of status on
9 outcome of investigation."
10
11 Did you mention that to him as well?
12 A. Again, I don't recollect that chronology of --
13 CHAIRMAN: Do you accept that this is an accurate
14 report as he remembered it?
15 A. Excuse me?
16 CHAIRMAN: Sorry, do you accept that this is his
17 recollection of what happened at the meeting?
18 A. I accept that's his recollection.
19 CHAIRMAN: I mean, it's probably impossible for you to
20 remember exactly everything that he said, is that
21 right?
22 A. Exactly.
23 CHAIRMAN: Is there anything you disagree with in it?
24 A. I am just going down, on a bit further on it. The
25 first three items, they would have been matters on my
26 mind at the time. I could have discussed that thing in
27 relation to the discipline --
28 CHAIRMAN: Really what I am concerned about is: Are
29 you challenging any of this?

1 A. I don't think I am challenging any of it, except --
2 CHAIRMAN: Do you know what I mean? I don't mean
3 challenging in the sense of being objectionable or
4 offensive. I mean this is what he wrote the day after
5 the meeting, and is there anything about it that you 12:11
6 disagree with?

7 A. I don't disagree with the contents, it's just I don't
8 recollect it fully, that chronology.

9 CHAIRMAN: Of course, I understand that perfectly.

10 A. I just see -- I don't -- if we can just see the bottom, 12:11
11 is that just a one-page report, is it?

12 MR. MARRINAN: No, we'll go on. I'll read through the
13 rest of it. You see, the dilemma that we're confronted
14 with a witness who says, well, I don't remember that,
15 it leaves it sort of in limbo. I mean, these -- this 12:12
16 would appear to reflect the conversation, because it
17 reflects the letter that was sent by Mr. Costello on
18 your behalf expressing the very concerns that you had
19 expressed through Mr. Costello at the time.

20 A. Yes. 12:12

21 160 Q. So, this appears to be relatively accurate. Now, I
22 know that you say there's some matters that you said
23 that aren't contained in this report --

24 A. Yes.

25 161 Q. -- but what he has reported appears to be accurate, is 12:12
26 that right?

27 A. It seems to be, yeah, to reflect exactly the Sean
28 Costello --

29 162 Q. And you are not contesting that these were discussed in

1 terms, perhaps not specifically the terms as outlined
2 there, but they were discussed in terms?

3 A. I'm not disputing that, no.

4 163 Q. Yes, okay. And then he goes on to 4:

5 12:13

6 "He believes that he may be the subject of a discipline
7 regarding the allegations of a garda which was reported
8 approximately two years ago."

9
10 That goes back to the issue that we're not going into, 12:13
11 isn't that right?

12 A. That's correct.

13 164 Q. "He believes that discipline proceedings may be
14 contemplated against him but he is not aware what they
15 might be. He has suffered considerably from stress 12:13
16 since the murder of Baiba Saulite. He is currently
17 employed as a sergeant in charge community police in
18 Swords and believes that he is fully able to perform
19 these tasks. He is under the care of a medical
20 professional who has certified his ability to perform 12:13
21 tasks."

22
23 And then he says:
24
25 "I read over the list of issues with Sergeant Hughes. 12:14
26 He requests some communication regarding each matter
27 raised."

28
29 All right?

1 A. Not precisely. That last paragraph there, he read over
2 the list of issues -- is he talking about the issues in
3 that correspondence? If he is referring to the issues
4 in the correspondence, he actually had, and I remember
5 it very well, that he had a pen and a brown envelope, 12:14
6 and he was taking some notes on the brown envelope, but
7 it wasn't, it was a sort of small brown envelope and I
8 couldn't see how he'd have all that information.
9 CHAIRMAN: He says he read over the issues that he has
10 just described. I mean he has written it in the 12:14
11 letter. He said "I read over these issues", the
12 issues, is that right?
13 A. Well --
14 CHAIRMAN: There might be other things that you say you
15 said to him that he hasn't included. 12:14
16 A. Yes.
17 CHAIRMAN: There is no problem about that.
18 A. Okay.
19 CHAIRMAN: But he took notes and he says I read over
20 these issues to him, and then he writes the letter, is 12:14
21 that right?
22 A. Em, I think that the issue of the systems failure
23 hasn't been read back over to me.
24 CHAIRMAN: Sorry, hold on. The issues he has described
25 in his letter, he says I read over these issues to him. 12:15
26 You say I also made a report, complaint, discussion,
27 reference, to systems failure, and you say that's not
28 in it.
29 A. Okay.

1 CHAIRMAN: Isn't that right?

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

3 CHAIRMAN: That's the essential -- if I'm
4 understanding, the only difference that you make, the
5 only, so to speak, complaint or disagreement you have 12:15
6 with this report is that it doesn't have the stuff
7 about systems failure and the dangers and the
8 implications of it?

9 A. Yes. And I am just a bit apprehensive that I'd let
10 this slip by without raising that issue, you know. 12:15

11 165 Q. MR. MARRINAN: If we just go back to his statement at
12 page 1034 of the material. If we scroll down to the
13 last paragraph. If we look there, he said:
14

15 "I communicated his concerns as set out in the report." 12:16
16

17 That we just read.

18

19 "I have a clear recollection of the fact that I had at
20 least one telephone conversation with Sergeant Hughes 12:16
21 at the time of completing the final draft of the
22 report. This conversation involved reading out its
23 exact contents to him for the purpose of ensuring its
24 accuracy in every respect. He confirmed to me orally
25 over the telephone that he was satisfied that this 12:16
26 document reflected his concerns at the time."
27

28 Do you see that?

29 A. I see that, yes.

1 166 Q. So, what do you say in relation to that?
2 A. I don't recollect him ringing me and reading the
3 content of a document to me over the phone for -- in
4 other words, for me to say that yeah, that's fine. I
5 don't recollect that telephone call at all. 12:17

6 167 Q. You maintain that this amounted to being a protected
7 disclosure to Superintendent Curran, isn't that right?
8 A. That's right.

9 168 Q. And you say that you highlighted the systems failure
10 that you had been discussing with other people, and 12:17
11 that you said that you had discussed those with
12 Superintendent Curran. He has no recollection of that;
13 it's not reflected in his report. Did you see this as
14 some sort of a formal complaint that you were making to
15 him? 12:18

16 A. It was as it was. It was, I was telling him that I
17 believed there was a systems failure and that it would
18 have to be investigated and I distinctly remember that
19 and when I said to him in relation to it might affect
20 the murder investigation and have an impact on the 12:18
21 corner's inquest as well, I remember that vividly.

22 169 Q. Well, you see one might see a situation where, separate
23 to the issues that you had, right, you had complaints
24 to make as to how you had been treated by management in
25 relation to almost every aspect of your interactions 12:18
26 with him and the failure to be updated. But separate
27 to these issues, there is the issue of a systems
28 failure and making allegations in relation to that.
29 Did you see this as in any way being a formal complaint

1 that you were putting to the superintendent of
2 wrongdoing within An Garda Síochána?

3 A. I certainly did.

4 170 Q. Well then, could I ask you this: that's of great
5 import, why did you jumble it up with all the other 12:19
6 complaints that you had --

7 A. Well --

8 171 Q. Just let me finish.

9 A. Sorry.

10 172 Q. -- relating to the issues that you had, not only in 12:19
11 relation to Baiba Saulite, but also going back to the
12 earlier bullying and harassment case, why did you
13 jumble it up with that? Was there not a danger that it
14 would become lost in your complaints about how you had
15 been treated as opposed to how the organisation had 12:19
16 responded to the issues of Baiba Saulite?

17 A. Yes. Well, you do recall that from the night of the
18 murder and the following morning, I had it in my mind
19 that there had been a systems failure and that it was
20 obviously not the opinion of any other member in 12:20
21 management at the time, and I had to be careful exactly
22 of what I was saying. But as the weeks and months went
23 by and I was on sick leave, I was determined when I
24 went back then to actually report it in some fashion
25 and I am absolutely certain that I met Mark Curran, 12:20
26 Superintendent Mark Curran, at Swords Garda Station and
27 I raised the issue of systems failure with him in
28 relation to that, and my recollection is very clear
29 that I mentioned the impact it would have on the murder

1 investigation and on the inquest. We would of course
2 have spoken about other matters as well that may have
3 been affecting me, and obviously he drew up that list
4 there from those conversations. But unfortunately I
5 don't see any mention of the systems failure in that 12:20
6 report.

7 173 Q. Just one matter you don't say that you raised with him
8 was what had been said, allegedly, by Detective
9 Inspector Walter O'Sullivan to you about the fact that
10 an application had been made for security for Baiba 12:21
11 Saulite. On your account, you don't mention that to
12 him?

13 A. Sorry, I overlooked that as well. I would have
14 discussed that with him as well at the time in relation
15 to that. 12:21

16 174 Q. But it doesn't appear that you did, on any account that
17 you have given to anybody to date?

18 A. Yeah, I'll have to consult my notes on that.

19 175 Q. Would you mind doing that and having a look on that --

20 A. I will. 12:21

21 176 Q. -- because it's not part of any of the statements that
22 you have made at any time to the Tribunal.

23 CHAIRMAN: Was that in the notes that you gave us? Did
24 you give those notes to the Tribunal

25 A. I'd have to check, Mr. Chairman. 12:21

26 CHAIRMAN: All right. That's grand.

27 177 Q. MR. MARRINAN: Well now, just to clear this up because
28 you have referred to notes. Obviously you'd have
29 prepared personal notes coming here to give your

1 evidence at the Tribunal, there is nothing wrong with
2 that.

3 A. I'd have to check my chronology, let me put it that
4 way, in relation to the events.

5 178 Q. All right. So then if we just move on to page 3873 of 12:22
6 the material. This is the response from Chief
7 Superintendent Phillips from the report that was sent
8 in by Superintendent Curran and he deals with each of
9 the items one by one. He says:

10 12:22

11 "1. There is no evidence from any quarter that
12 Sergeant Hughes or his family is or was under threat in
13 relation to the Bai ba Sauli te murder.

14 2. This issue will be raised with Chief Superintendent
15 Feehan. 12:22

16 3. Superintendent Denny carried out a thorough
17 investigation in relation to this article in the Sun
18 Newspaper, the result of which was exaggerated by the
19 author of the newspaper item.

20 4. Sergeant Hughes is not the subject of discipline in 12:23
21 relation to --"

22

23 That's the Garda earlier on.

24

25 "5. Medical advice has been sought from the Chief 12:23
26 Medical Officer Garda HQ in relation to the stress
27 Sergeant Hughes has suffered since the murder of
28 Ms. Sauli te. Has the welfare officer been contacted in
29 relation to Sergeant Hughes?"

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And then it says:

"Superintendent Curran should review the current duties being performed by Sergeant Hughes to ascertain are his current responsibilities particularly in the area of community policing suitable and can be facilitated in his district or in the division accordingly to avoid such stressful responsibilities. 12:23

A report will be submitted to this office within one week in relation to this matter." 12:23

Now, in relation to that, you wouldn't have been aware of the contents of that, but again, were any of the reports -- the results of the Dennedy investigation, was that communicated to you at that time by Superintendent Curran? 12:24

A. No.

179 Q. Okay, if we then just move on and we have page 3877 of the material. This is a - now, I'm having trouble with the date but it seems to be the 26th April - I think is a claim for loss of allowances that you sent to Superintendent Curran, isn't that right? 12:24

A. Correct. 12:24

180 Q. And if we then turn over to the page 3876, this is a response on the 4th May of 2007 from Superintendent Curran to you:

1 "With regard to the above and your recent
2 correspondence, I am to advise you that there is no
3 provision under the Code Regulations to ensure that a
4 to claim of loss of allowances and unsocial hours in
5 relation to an absence from work due to work related
6 stress." 12:25

7
8 And then, if we go on to page 1139 of the material,
9 please, this is your response. And we look at the
10 second paragraph: 12:25

11
12 "I respectfully wish to seek clarification with regard
13 to the issue of "injury" insofar as set out in the
14 relevant Code Regulations. It is my assertion that my
15 absence on sick leave was as a direct consequence of
16 traumatic occurrences in my workplace. This is also
17 the view of two medical practitioners I am attending. 12:25

18
19 The Code Regulations are silent on whether the term
20 "injury" refers to physical injury or otherwise. I 12:26
21 respectfully request that this issue be referred to the
22 Chief Medical Officer for determination as to whether
23 my case falls under the category of "injury on duty".
24

25 So, certainly that was your view at that time, isn't
26 that right? 12:26

27 A. That is correct.

28 181 Q. And then if we go on to page 1137, this is
29 Superintendent Curran forwarding this to Chief

1 Superintendent Phillips:
2
3 "Sergeant Hughes' request for determination by the
4 Chief Medical Officer is forwarded for your information
5 and attention, please." 12:26
6
7 And then if we have 878, the 15th May, Chief
8 Superintendent Phillips forwards this to Assistant
9 Commissioner HRM, saying:
10 12:27
11 "The observations of the Chief Medical Officer are
12 requested in this case."
13
14 So, it appears that at that stage this issue arose in
15 the instance where you were looking for -- you had a 12:27
16 claim of allowances, you were claiming that this was an
17 injury on duty, you submitted that this was a matter
18 for the Chief Medical Officer and for his
19 determination, and it was sent up by Superintendent
20 Curran to the chief superintendent who then forwarded 12:27
21 it to HRM for determination by the Chief Medical
22 Officer. Now, have you any complaint in relation to
23 any of that and --
24 A. No.
25 182 Q. And how -- 12:28
26 A. No. Not at that juncture, no.
27 183 Q. Yes. Now, unknown to you at that time - could we have
28 page 2081 of the material - we have a direction by
29 Assistant Commissioner McHugh on the 4th May where it's

1 a letter to Chief Superintendent Feehan, it says:

2
3 "In accordance with section 8 of the Garda Síochána
4 (Discipline) Regulations 1989, I have appointed you to
5 fully investigate the alleged breaches of discipline 12:29
6 arising out of your fact-finding investigation into the
7 level of knowledge in possession of An Garda Síochána
8 prior to the murder of Baiba Saulite at her home in
9 towards on the 19th November 2007."

10
11 It attached Form B33, which is at page 2082. And it's
12 headed "Order of appointment of investigating officer
13 under Regulation 8" and then it's "Discipline", it's
14 yourself and Garda Declan Nyhan. And it says:

15
16 "Pursuant to the provisions of regulation 8, it appears
17 that Sergeant Hughes and Garda Nyhan may have been in
18 breach of discipline arising out of D. Brief details
19 which are overleaf."

20
21 So, we'll come to deal shortly with the service of
22 those documents on you, but if we go over to the
23 following page at 2085:

24
25 "Brief outlines of the acts of omission or omission 12:30
26 alleged."

27
28 It reads:
29

1 "It alleges that you were in possession of
2 documentation and information as a result of meetings
3 with Ms. Baiba Saulite and being in possession of same,
4 knew or ought to have known at the time of the
5 existence of a real and immediate risk to the life of 12:30
6 Ms. Baiba Saulite, and failed in your duty to take
7 measures that might have been expected to avoid that
8 risk."

9
10 Now, in April, you also made contact with Inspector 12:31
11 Della Murray from the Employee Assistance Service in
12 HRM in Garda Headquarters, isn't that correct?

13 A. That's correct.

14 184 Q. And I think her statement is at page 1449 of the 12:31
15 material, if we could have that on screen. If we just
16 scroll down there it says:

17
18 "On the 30th May at 7:00pm I received a call from
19 Sergeant William Hughes."

20 12:31
21 She was then of inspector rank.

22
23 "Sergeant Hughes stated that he was unhappy with the
24 service he had received from one of the officers and
25 that he no longer wishes to engage with him." 12:32
26

27 we don't need to name the officer, but that was
28 somebody you had an interaction with and it hadn't gone
29 well, is that the situation? we don't need to go into

1 the details of it.

2 A. It just -- no, I wasn't happy with that service.

3 185 Q. Okay. And then she said she met with you at 2:00pm on
4 the 1st June at the Great Southern Hotel, Dublin
5 Airport to discuss issues and to offer ongoing support. 12:32
6 Do you recall that meeting?

7 A. I do. I recall the meetings with Della, yes.

8 186 Q. And what did you discuss with her at that meeting?

9 A. I discussed my difficulties in relation to several
10 matters, and, you know, the ongoing issues in the 12:32
11 workplace.

12 187 Q. These were the matters that are highlighted by your
13 solicitor when he wrote to HRM, is that right, by and
14 large?

15 A. By and large, yes, and I think at -- we probably 12:32
16 haven't got to it yet, the final meeting I had with her
17 was in June, or sorry, the final meeting before the
18 discipline matters were started.

19 188 Q. You see there she says:
20
21 "On the 15th June 2007 at 12:00pm I met with Sergeant
22 Hughes at the Radisson Hotel, Dublin Airport, to check
23 in on his well being. During this intervention,
24 Sergeant Hughes stated that he was very unhappy with
25 the way that he was being treated by management. 12:33
26 From my recollection, he was annoyed that he was not
27 asked to be part of the team investigating the murder
28 of Bai ba Sauli te despite having dealt previously with
29 the deceased person and her family."

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Is that correct?

A. That's correct.

189 Q. "Sergeant Hughes handed me a document prepared by him marked "Private and confidential for the information of Inspector Della Murray, Garda Welfare Service only". "

12:33

And if we could just perhaps have a look at that document briefly, and I'm not going to go through this with you, but if we have page 6794 up on the screen. You had no expectation that Inspector Murray was going to do anything about any of the matters that were listed here, is that right?

12:34

A. No. She was there simply as a welfare officer, yes.

190 Q. Yes. You started off by saying:

12:34

"As discussed I am forwarding you a detailed account of developments with regard to my case. I have set out a complete background of my involvement in the Baiba Saulite case prior to her murder. The investigation into the abduction of her two children was principally carried out by the writer and Garda Declan Nyhan, Swords station."

12:34

If we just scroll down there you'll see "In August 2003..." You then go on to deal with matters that we're not looking into, but these were concerns that you had at the time as to how an earlier issue had been dealt with.

12:35

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You then, at page 3796 of the material, you say:

"It is necessary at this point to include a chronology of my involvement with the abduction case."

12:35

You then go on to highlight that over the following pages and it reflects, to a large extent, your report on what you had sent in your report to Detective Inspector Mangan, isn't that right?

12:36

A. It does, yes.

191 Q. And probably you used it as a template when you had prepared this report.

You then, at page 60804, you refer to information that had come in in relation to the threat to John Hennessy's life, and the fact that it was investigated. And then the damage to Baiba Saulite's car, and you highlight the fact that it was investigated by Malahide Gardaí. And you highlight the fact that you weren't approached at all about that incident, isn't that right?

12:36

12:36

A. That's correct.

192 Q. And then you continue on in the next pages dealing with your interactions with Baiba Saulite on the 14th November.

12:37

Then if we go to page 6808, the second paragraph there, you are now going on to deal with matters that weren't

1 in the Mangan report, and you say:

2

3 "Later that morning I contacted Detective Inspector
4 Walter O' Sullivan and he met me at Swords Garda
5 Station. I informed him of the developments with 12:37
6 regard to Baiba's visit, her references to Mr. A, and
7 showed him the photocopy of her twelve-page document.
8 Detective Inspector O' Sullivan took some notes and then
9 left the room. I placed the twelve-page document back
10 in my locker." 12:37

11

12 You recall that I pointed out to you that in the
13 documentation that you sent to the Tribunal that you
14 hadn't referred at all in your discussion with
15 Superintendent Curran, in April, to the conversation 12:38
16 that you now said that you had with Detective Inspector
17 O'Sullivan, do you recall that? And you said that you
18 were going to check your notes.

19 A. Yes.

20 193 Q. But in this report that you have sent to Della Murray, 12:38
21 while you deal with the conversation that you had with
22 him, you don't refer again to, I suppose, the most
23 dramatic part of that conversation; namely, the
24 disclosure of information to you that protection had
25 been sought for Baiba Saulite. It's not in this 12:38
26 document?

27 A. That's correct, it's not in this document.

28 194 Q. Can you explain that?

29 A. No. As we said, that was a template document I was

1 using and I think it may have been a template as -- I
2 know you say it's not in the Mangan report, I'll have
3 to compare the two of them. But it was a template that
4 I was drawing from my computer there for the
5 information of officers that I wanted to present it to. 12:39

6 195 Q. well, you've moved away from the Mangan report, you are
7 now going on to deal with other matters, but I'll move
8 on in any event. If we go down to deal with the bottom
9 of that page, in the paragraph you say:

10
11 "At this point I was traumatised at the developments.
12 I remember being very angry at the turn of events. I
13 asked myself over and over if there was anything I had
14 done or not done that could have prevented Bai ba's
15 murder. We had conducted an thorough investigation 12:39
16 into the abduction of her children, arrested and
17 imprisoned her partner, Mr. A, persevered in efforts to
18 have the children returned and finally ensured that
19 Bai ba Saulite would turn up in Dublin Circuit Court as
20 a witness against her partner. I have blamed myself 12:40
21 that if at least one of these activities had not been
22 persevered with she would still be alive. I was also
23 extremely perturbed at the obvious isolation of myself
24 and Garda Nyhan by the Garda authorities dealing with
25 the murder case." 12:40

26
27 Now, I don't understand your reasoning in relation to
28 casting blame on yourself for conducting a good
29 investigation that led to a turn of events, but, in any

1 event, that's how you expressed yourself at the time.

2
3 Then if we go on to page 6810 and we look at the third
4 paragraph, you point out:

5
6 "I received considerable assistance in the following
7 days from the Gardaí at Balbriggan station under the
8 direction of Superintendent Kelly. Members from that
9 division visited my home and I found their input very
10 reassuring. I also received a visit from the crime
11 prevention sergeant, Harcourt Square."

12:40

12:41

12
13 You then, if we go on to 6812, you say:

14
15 "Arising out of this entire matter, I wish to expand my
16 concerns."

12:41

17
18 Now the first concern in that paragraph you have is
19 that there was no supervision. And you highlight some
20 other concerns, but if we could just move over at page
21 6813, the first paragraph there you say:

12:41

22
23 "I am concerned that there were two "conspiracy to
24 murder" threats on John Hennessy's life and that Mr. A
25 was suspect for these threats. It disturbs me, given
26 the potential threat to the life of John Hennessy, that
27 an investigation akin to a murder investigation was not
28 arranged, particularly since his house had already been
29 the subject of an arson attack before the "contracts"

12:42

1 were placed on him. In fact, I am aware that John
2 Hennessy was also concerned at the apparent lack of
3 Garda attention to his police prior to Baiba's murder."
4

5 The next bullet point is:

12:42

6
7 "I am concerned that the incident of criminal damage
8 (arson) to Ms. Saulite's car in the weeks prior to her
9 murder was dealt with only as that, an isolated
10 criminal damage incident and investigated by members
11 from Malahide station. Again, this appears to have
12 been left as a separate investigation."
13

12:42

14 Then the next one:

15
16 "I am concerned that having dealt with the abduction
17 case for almost two years little or no intelligence was
18 furnished to me by the Garda authorities concerning the
19 grave threat he posed to the witness in the case, yet
20 within four days of Ms. Saulite's death the Circuit
21 Court was told that Mr. A was capable of murder if
22 released on bail."
23

12:42

12:43

24 And then you go on to deal with that.

12:43

25
26 The last bullet point on that page, you were concerned
27 that no member of the murder investigation had
28 approached you.
29

1 And then you express a concern that we have already
2 gone through in relation to the Garda Commissioner
3 ordering an inquiry into the precise information
4 available. And you express your concern in that regard
5 by saying: 12:43

6
7 "I am concerned that the inquiry is focusing strictly
8 on the meeting that Baiba Saulite had with myself and
9 Garda Nyhan at Swords Garda Station in the days prior
10 to her death." 12:43

11
12 And then the next bullet point might be important. You
13 say:

14
15 "I have already informed a superintendent and two garda 12:44
16 inspectors that I have serious concerns as set out
17 above."

18
19 Who were you referring to when you referred to the
20 superintendent and the two garda inspectors? 12:44

21 A. Superintendent Curran and Inspector Waters and
22 Inspector Cryan.

23 196 Q. You say: "One inspector (mid-December) informed me
24 that he would relay my concerns to the authorities.
25 The second inspector (mid-January) stated that he would 12:44
26 alert the divisional officer. At the time of writing,
27 no person in authority has formally approached me in
28 that regard."
29

1 You then go on to deal with your concerns in relation
2 to the newspaper article, and you say that no member of
3 authority has contacted you to assuage your fears in
4 that regard, and that you have had no "-- received
5 little or no update as to whether there is in fact 12:45
6 evidence of a threat against me from criminals".

7
8 Now, you then go on -- we'll just skip the next one,
9 the next bullet point further down if we scroll down
10 Mr. Kavanagh. 12:45

11
12 "I have sought advice from Mr. John Redmond in AGSI in
13 relation to my concerns. He has informed me that,
14 apart from reporting these concerns to my authorities,
15 there is no effective forum established to deal with 12:45
16 same."

17
18 would you just tell us about that and when you
19 consulted with Mr. Redmond?

20 A. I would have consulted with him -- I can't recollect 12:45
21 exactly when, but obviously I did, and I had a
22 conversation regarding these matters.

23 197 Q. You go on to say:

24
25 "The matters to which I refer I believe are of the 12:46
26 utmost seriousness and I am concerned that there
27 appears to be no effective forum for highlighting these
28 matters. I am concerned that, given the record of my
29 dealings with reporting disciplinary matters to date, I

1 will not be afforded a proper hearing by the Garda
2 authority. "

3
4 And then you go on to say that in December 2006 that
5 you hadn't been contacted when you were out sick. 12:46

6
7 And then to sum up, at page 6817:

8
9 "I feel that my treatment by the Garda authorities of
10 myself and Garda Nyhan in the aftermath of Baiba 12:46
11 Saulite's murder was far from professional. "

12
13 And you go on to state the reasons why.

14
15 And that's a fair indication of the way that you were 12:47
16 feeling at that time.

17 A. Yes, indeed.

18 198 Q. Could I just ask you this though: I mean, the contents
19 of this could amount to a protected disclosure, because
20 obviously you're highlighting what you have highlighted 12:47
21 all along, namely a systems failure, all right?

22 A. That's correct.

23 199 Q. And you have gone to the trouble before you meet
24 Inspector Murray, as she then was, to type all this out
25 and to put in the chronology and then to put in all 12:47
26 your concerns and to highlight all these matters to
27 her?

28 A. That's correct.

29 200 Q. But it's done in strictest confidence?

1 A. Correct.

2 201 Q. On the understanding that it's to go no further?

3 A. That's correct.

4 202 Q. You had a meeting with Superintendent Curran maybe a
5 month previously, a little over a month previously? 12:48

6 A. Yes indeed.

7 203 Q. And you had the same concerns, and you say that you
8 expressed those concerns to him. But why didn't you do
9 a report like you have done for Della Murray?

10 A. To be quite honest, I was in fear of reporting to that 12:48
11 extent to the superintendent, because, you know, I had
12 to really be sure of what I'm saying and I didn't
13 actually furnish him with that report, and I can't
14 recollect why, but I know there was fear back then of
15 actually reporting matters that I couldn't substantiate 12:48
16 or stand over. So I decided to give this to Della
17 Murray in the form of, you know, from a welfare point
18 of view for her to see the trauma I was going through
19 at the time.

20 204 Q. You say you were in fear. Fear of what? 12:49

21 A. Eh, well, I had already reported the matters and I was
22 being ignored by the authorities, and I didn't see --
23 you know, I was just in fear of reporting such matters
24 there in that sense to the authorities. There is no
25 protection, in other words. That I was in fear of the 12:49
26 authorities at the time, you know. I was in fear of
27 the situation I was in at that time. I had a fear
28 within myself.

29 205 Q. I suppose one way of looking at it could be that in

1 actual fact you hadn't disclosed an allegation of
2 systems failure at that stage to anybody, and that you
3 were comfortable doing it in the privacy of your
4 interaction with Inspector Murray, and that you hadn't
5 actually come forward at that time to make an 12:49
6 allegation of a systems failure in any sort of official
7 way?

8 A. No, that's incorrect.

9 206 Q. Right. Well you say -- it might be seen in that way or
10 it could potentially be seen in that way? 12:50

11 A. It could be. And in the sequence of events -- I
12 suppose, in hindsight, probably the furnishing of that
13 report to Superintendent Curran would have been the
14 most appropriate, but at the time I didn't think it was
15 appropriate to finish him with that type of 12:50
16 information.

17 207 Q. And in fairness to you, you do highlight, in that
18 report to her, that you had in fact disclosed your
19 concerns in relation to a systems failure to two
20 inspectors and to Superintendent Curran? 12:50

21 A. It's a bit remiss of me I didn't actually read through
22 Inspector Murray's -- or the report I gave to her fully
23 before this tribunal sitting.

24 208 Q. Now, I think on the 15th June, you were served with
25 disciplinary proceedings, isn't that right? 12:51

26 A. I think it's the same day as I met Della I received the
27 telephone call at the hotel to go to -- and we made
28 arrangements to go -- the telephone call was from
29 Inspector Waters saying that Chief Superintendent

1 Feehan was looking for me and it was arranged then that
2 I'd meet at Santry Garda Station.

3 209 Q. And you regard this -- it's at page 17 of your
4 statement to the Tribunal investigators -- you
5 highlight this as an incident where you had been -- you 12:51
6 believe the service of these documents on you
7 constitutes targeting, isn't that right?

8 A. That's correct.

9 210 Q. Would you like just to expand on that?

10 A. Well, I felt that the service of the documents was 12:51
11 alleging that I was being investigated for failure,
12 some serious failure with regard to Baiba Saulite, and,
13 hand on heart, I would say that I would never
14 deliberately or, you know, recklessly cause any injury
15 or serious injury to Baiba Saulite. I thought that as 12:52
16 well as that, the investigation that preceded these
17 disciplinary papers was not a full investigation and
18 not every member involved with Baiba Saulite before her
19 death was interviewed.

20 CHAIRMAN: Sergeant, can I just clarify something? I 12:52
21 understand what you say the service of the documents
22 represented targeting. My understanding is that you
23 say that it was unfair and unreasonable -- sorry, it
24 was unfair and unreasonable to subject me to this
25 discipline, but the actual service of the documents on 12:52
26 you, you are not complaining about that?

27 A. The actual service of the documents?

28 CHAIRMAN: Yeah, Mr. Marrinan referred you and put the
29 question, which I think comes from your statement, that

1 the service of these documents on me represented
2 targeting.

3 A. Yes.

4 CHAIRMAN: And I am understanding that you are actually
5 saying subjecting me to discipline in this form I 12:53
6 regard as targeting, but the actual giving you the
7 documents, you are not objecting to?

8 A. Oh, no, no.

9 CHAIRMAN: Have I got that correct?

10 A. The act of handing the documents to me wasn't targeting 12:53
11 but the content --

12 CHAIRMAN: I mean there could be circumstances where
13 somebody would serve documents on another person and
14 there could be a complaint the circumstances could be
15 humiliating or embarrassing or whatever it was. That's 12:53
16 not the situation here?

17 A. No, no.

18 CHAIRMAN: You say I shouldn't have been subjected to
19 this discipline, and that's my objection?

20 A. That's correct, Mr. Chairman. 12:53

21 CHAIRMAN: Thanks very much.

22 MR. MARRINAN: And if we just, at page 808 up on the
23 screen. This is the statement from Assistant
24 Commissioner Al McHugh, and if we scroll down to the
25 last paragraph, he says: 12:54
26

27 "Sergeant Hughes states that the disciplinary papers
28 were served on him on 15th June 2007. He further
29 states that "I felt the service of the documents was as

1 a direct result of me raising the spectre of systems
2 failure in the Baiba Saulite murder investigation" and
3 that was how he was now being targeted. I had no
4 knowledge of Sergeant Hughes raising any issue
5 regarding utterances made by certain local senior 12:54
6 officers at the time and I totally reject that I
7 targeted Sergeant Hughes. "

8
9 He then goes on to say:

10
11 "As Sergeant Hughes reported in his fact-finding report 12:54
12 that..." and he quotes from it -- "contained a
13 chronology of the events from the time of the abduction
14 of the children until the death of Ms. Saulite." That
15 is all it contained, a chronology of events and 12:55
16 absolutely no reference whatsoever "to the raising of
17 the spectre of a systems failure in the Baiba Saulite
18 murder investigation" which he appears to be using as a
19 basis for alleging as the reason for the institution of
20 the disciplinary investigation. " 12:55

21
22 So, just to be clear in relation to that. what he is
23 saying is that he based his decision on the basis of
24 the Feehan investigation and that the document that was
25 submitted by you to Detective Inspector Mangan had a 12:55
26 chronology, there was no allegations of systems
27 failure, and that's correct, isn't that right?

28 A. That's correct.

29 211 Q. And that he said that he wasn't aware of the fact that

1 you had raised the issue with anybody else and that it
2 was done on the basis of the papers before him, okay.
3 So what do you say to that?

4 A. I felt that he would have been aware that I was raising
5 these issues with local management and that I raised 12:56
6 the issue with Inspector Mangan, and that's the reason
7 why I felt that as a result of raising these issues in
8 the workplace, that he had formed an opinion, or that
9 he had created this disciplinary procedure.

10 212 Q. Could you see that potentially the matter might give
11 rise to disciplinary proceedings? 12:56

12 A. Not -- if the they are focussing in on the last
13 paragraph of the Victim Impact Report, I couldn't see
14 why there would be disciplinary procedures in relation
15 to that. 12:56

16 213 Q. Well if you just deal -- if we separate it and we just
17 deal purely with the Victim Impact Statement. Now,
18 your case is that you are deeply concerned that this
19 focus was on that aspect of the Baiba Saulite affair,
20 isn't that right? 12:57

21 A. That's correct.

22 214 Q. You say it should have been wider if it was going to be
23 fair?

24 A. Yes, indeed.

25 215 Q. And you say it's unfair that there was this focus on
26 you. Now, allowing for that -- 12:57

27 A. Yes, that's correct.

28 216 Q. -- but having focussed on you and having received the
29 report from Chief Superintendent Feehan and your

1 account of how this document was made available to you
2 and the contents of the document, can you see that it
3 at least warranted a further inquiry under the
4 disciplinary investigations to examine the
5 circumstances in which this took place --

12:57

6 A. No.

7 217 Q. -- in that context?

8 A. Sorry, I don't see that it required a disciplinary, the
9 invoking of the disciplinary regulations at all. The
10 inquiries would have been made just by routine inquiry
11 with me or Garda Nyhan in relation to our handling of
12 that -- of the Victim Impact Report, and I don't see
13 why the disciplinary regulations had to be invoked for
14 that purpose.

12:57

15 218 Q. And we know that those were ultimately concluded, and
16 we'll come to those in due course, and you were
17 exonerated of any disciplinary breach, and the case
18 that you have made to the investigators and to the
19 Tribunal is that, as evidence of your position in
20 relation to the institution of -- unnecessary
21 institution of disciplinary proceedings, that nothing
22 more was known of these events than was known to the
23 Feehan inquiry at that stage?

12:58

12:58

24 A. That's correct. I felt that at the conclusion of the
25 disciplinary investigation -- and, incidentally, I
26 didn't see the documents until 2012 -- there was
27 nothing in those documents that couldn't have been
28 established through just reasonable inquiry prior to
29 the initiation of the disciplinary process.

12:58

1 219 Q. Is there any more you want to say about that at this
2 stage?
3 A. Eh, not really no. Not at this stage.
4 MR. MARRINAN: It's one o'clock.
5 CHAIRMAN: we'll leave it there for the moment. Thanks 12:59
6 very much. Thank you.
7
8 THE HEARING ADJOURNED FOR LUNCH AND RESUMED AS FOLLOWS
9
10 CHAIRMAN: we're having a bit of a problem, 14:00
11 Mr. Marrinan, with the computer and documents coming up
12 on the screen. You are going to be referring to
13 documents. Sit down for the moment --
14 MR. MARRINAN: The real problem is we don't have hard
15 copies because of the -- 14:00
16 CHAIRMAN: Of course. Well, because of the convenience
17 of having this and I mean, it's so much easier than
18 having -- Look, we'll suspend operations for the
19 moment. The idea of bringing down 29 volumes for
20 everybody in the audience is out of the question, and I 14:01
21 mean that's -- so that's ridiculous. But I'm sure that
22 Mr. Kavanagh will find help, if necessary, if he can't
23 sort it out, but the last thing he needs is for me to
24 be looking over his shoulder as he tries to sort out
25 the problem. So, look we'll just -- we have a glitch, 14:01
26 so please keep in touch.
27
28 Look, I'll tell what you we'll do. Half an hour. Take
29 a cup of coffee, or something like that and, and come

1 back to us at 2:30. Isn't that the sensible thing to
2 do? All right.

3

4 THE HEARING ADJOURNED AND RESUMED AS FOLLOWS:

5

14:29

6 CHAIRMAN: Okay. Now, thanks very much. Sorry for the
7 glitch/interruption, but here we are again, thanks to
8 Mr. Kavanagh's expertise.

9

10 220 Q. MR. MARRINAN: we're going to go through some
11 documentation this afternoon, and I'm going to try my
12 best to truncate it and to concentrate on the core
13 issues that emerge from the documents, but if you feel
14 that I'm missing something and you wish to highlight
15 something in any of the letters or reports that we'll
16 be going through, please indicate that. I don't want
17 you to feel in any way rushed or otherwise, do you
18 understand?

14:29

14:29

19 A. I understand, yes.

20 221 Q. It's just we're trying to get to the core documents.

14:30

21

22 I think after the service of the disciplinary
23 proceedings on you on the 15th June that you called to
24 see Mr. John Hennessy, isn't that right, solicitor?

25 A. Sorry, after the 15th June?

14:30

26 222 Q. You went to see John Hennessy solicitor?

27 A. That's correct, yeah.

28 223 Q. And I think that you had a discussion with him because
29 your solicitor wasn't in town at the time?

1 A. That's correct.

2 224 Q. And you went to him and you showed him the disciplinary
3 papers that had been served on you, and I think that
4 you had a discussion with him and he indicated that
5 this was very a serious matter that was -- 14:30

6 A. Yes, he did.

7 225 Q. -- potentially alleged against you, isn't that right?

8 A. That's correct.

9 226 Q. Now, if we then pick up on correspondence that was
10 sent, I referred to a letter of the 6th June 2007 14:30
11 earlier on this morning, that was sent by Assistant
12 Commissioner Clancy to your solicitor, Sean Costello,
13 on the 6th June.2007. And if we could have page 1281
14 of the material, please, Mr. Kavanagh, this is a
15 response from your solicitor on the 16th June 2010. If 14:31
16 he with scroll down, we'll see in the first paragraph
17 he says -- he refers to the response from Assistant
18 Commissioner Clancy, he says:

19

20 "This letter purported to be a reply to my letter of 14:31
21 the 13th March 2007. With due respect, it does not in
22 any form deal with the matters raised. It appears to
23 reiterate what I understand to be the stance being
24 adopted by the Commissioner in relation to the matters
25 that arose from earlier correspondence beginning with 14:32
26 my correspondence on the 9th March 2005 addressed to
27 Superintendent McLoughlin."
28

29 And that appears to be the situation; that Assistant

1 Commissioner Clancy appears merely to have dealt with
2 the earlier allegations going back to matters that
3 aren't a concern to the Tribunal.
4

5 The second paragraph he says:

14:32

6
7 "I repeat my request that you deal with my letter of
8 the 13th March 2007 particularly insofar as it relates
9 to matters that arise from the most unfortunate death
10 of Baiba Saulite. This has now made all the more
11 urgent by the fact that our client has been served with
12 a B33A form under the Garda Síochána (Discipline)
13 Regulations 1989 which is a notice under regulation 9.
14 It is now alleged that our client was in possession of
15 documentation and information arising from meeting with
16 Baiba Saulite and failing in his duty to take measures
17 that might have been expected to avoid the risk to the
18 life of Baiba Saulite. Our client finds this a most
19 disturbing and scandalous action on behalf of the
20 Commissioner particularly given the concerns that he
21 has time and time again raised and referred to in my
22 letter of the 13th March 2007.
23

14:32

14:32

14:33

24 Our client's instructs --"

26 It should be:

27
28 "Our client instructs the motive behind the service of
29 such a notice on our client is quite clear and at this

1 point and in order to advise our client we require to
2 know the following information..."

3
4 what was the motive that you were alluding to there?

5 A. I think we referred to it earlier on there, that I 14:33
6 believed that the service of the papers was -- sorry,
7 the disciplinary action was formed to actually -- as a
8 result of me raising a spectre of systems failure
9 and --

10 227 Q. Okay. If we go on then to page -- the following page, 14:34
11 1282, he lists A, B and C there, which he requests
12 information in relation to, and then he concludes the
13 letter by saying:

14
15 "The matters under correspondence have, as you know, 14:34
16 affected our client greatly and he continues to suffer
17 from stress. We require an immediate reply to this
18 letter."

19
20 And if we have 1283 up on the screen, this is the reply 14:34
21 from Assistant Commissioner Clancy, an acknowledgment
22 of the letter and she says:

23
24 "I am unable to add to my letter of the 6th June in
25 relation to the first issue raised in 2005. 14:35
26

27 I am to advise you that Assistant Commissioner DMR has
28 appointed under the discipline regulations a senior
29 officer to investigate the matter raised in paragraph 2

1 of your letter dated 19th June 2007. The investigation
2 is ongoing. Any further queries in this matter should
3 be addressed to the Assistant Commissioner, Dublin
4 Metropolitan Region. I trust this clarifies the matter
5 for you." 14:35

6
7 That's where matters rested then with HRM at that
8 stage, isn't it?

9 A. I think so, yes.

10 228 Q. And in fact, you didn't, as such, get an answer to the 14:35
11 matters that were -- the issues that had been raised by
12 you.

13
14 Now, if you could just clarify a matter for the
15 Tribunal. In your statement to the Tribunal you say 14:36
16 that you were out from July 2007. That may be an error
17 on your part. I think that the records indicate that
18 you were out from the 17th May 2007 until the 21st
19 December 2009 with work related stress.

20 A. No, I think -- the sick certificate for the extended 14:36
21 period of duty was the 4th July 2007.

22 229 Q. Right. The records indicate otherwise: that you went
23 out on the 17th May?

24 A. No, my recollection is that I was -- I'll have to come
25 back to you on that -- my recollection is it was from 14:36
26 July 2007.

27 230 Q. All right. Okay. Now, if we could then turn to the
28 29th June of 2007. There are a number of reports that
29 are sent by Superintendent Curran to the chief

1 superintendent concerning a sick report, and a report
2 is sent on the 29th June, a very brief report - there
3 is no need to bring it up on screen, but it's 1161 -
4 and it's a report from superintendent enclosing a
5 report from Staff Sergeant Camillus Fitzpatrick. We 14:37
6 have this at page 1145 of the material, please. A sick
7 report, Sergeant Hughes -- we'll just get there now if
8 we scroll down. You see, the line there.

9
10 "The decision regarding the nature of the stress in my 14:38
11 view is a matter for decision by the Chief Medical
12 Officer."

13
14 And if we then scroll over to 1163 of the material,
15 Chief Superintendent Phillips writes to Superintendent 14:38
16 Curran in relation to this issue and he says:

17
18 "I would appreciate your personal views on the matter
19 raised by Sergeant Fitzpatrick."

20 14:38
21 And then at 1167, there is a response from
22 Superintendent Curran where he says:

23
24 "Reference to above in correspondence --"

25 14:38
26 And he refers to it.

27
28 "-- Inspector Donal Waters contacted Sergeant Liam
29 Hughes. Sergeant Hughes advised Inspector Waters that

1 he is out of work with work related stress. Sergeant
2 Hughes is liaising with Inspector Della Murray, welfare
3 officer."

4
5 And it was forwarded for your attention. And he 14:39
6 forwarded a report at 1165, it's a handwritten report
7 that we see there, if we scroll down. Yes, there is
8 the handwritten report, it seems to be:

9
10 "I phoned Sergeant Liam Hughes on [his mobile number]. 14:39
11 I enquired regarding his health and --"

12 CHAIRMAN: "-- and if he was --"

13 MR. MARRINAN: "-- if he was visiting --" or is that
14 "-- the welfare officer"?

15 CHAIRMAN: "He said he is on --" 14:40

16 MR. MARRINAN: "He is out of work with work related
17 stress. He said he is receiving excellent service from
18 Inspector Della Murray."

19
20 And that was signed by Inspector Waters. So I suppose 14:40
21 from a point of view of the issue of work related
22 stress, this is matter we'll come back to at a later
23 stage because it's one of your principal complaints to
24 the Tribunal, I opened material to you this morning
25 with a letter in relation to allowances where you said 14:40
26 that you wanted a referral to the CMO, that it seemed
27 to be the role of the CMO to determine whether or not
28 you were out from work related stress. These follow-up
29 reports tend to suggest that that was the view held by

1 management at the time, you'd agree with that?

2 A. Yes, I'd see that from the reports here, yes.

3 231 Q. And it would appear that it was a view shared by
4 Sergeant Camillus Fitzpatrick and also by
5 Superintendent Curran?

14:41

6 A. That's correct.

7 232 Q. That's fine. Just before we pass on, we might be able
8 to deal with the issue of when you were out and just to
9 clarify. If we had page 6827 up on the screen. This
10 is the SAMS printout, you are familiar with that, are
11 you, in relation to absence from work?

14:41

12 A. I would be, yes.

13 233 Q. And you'll see there from the 17th May 2007 to the 21st
14 December 2009, you'll see a continuous period of
15 absence, and it's stress, ordinary illness, you see
16 that?

14:42

17 A. I see that there, yes. If you don't mind, can I check
18 my records and come back to you on that please?

19 234 Q. Of course you can. They may have made a mistake as
20 well, but not a huge amount turns on it in any event,
21 but nevertheless, it would be nice just simply to
22 clarify it.

14:42

23

24 If we could just have 1172 up on the screen please.
25 And if we scroll down. This is, again, a sick report
26 relating to you. Again, this is Superintendent Curran
27 reporting to his chief superintendent, and he says:

14:42

28

29 "Sergeant Hughes has indicated that following the

1 recent service of discipline documents in respect of
2 Chief Superintendent Feehan's investigations he has
3 suffered stress. He is receiving medical attention and
4 is aware of the services of Garda welfare personnel.

14:43

5
6 He is in regular contact with both myself and Inspector
7 Cryan. The stress which he referred to in previous
8 sick certificates relates to his concerns around the
9 Bai ba Saulite murder. He initially had fears about his
10 and his family's safety but this has abated somewhat in
11 recent times.

14:43

12
13 Support is also being made available to him in terms of
14 his current work role."

14:43

15
16 Do you see that?

17 A. I do.

18 235 Q. Is that accurate, all of that?

19 A. No, I don't recollect that, those conversations with
20 Superintendent Curran or Inspector Cryan in that
21 regard.

14:44

22 236 Q. All right. But does it reflect your position that --
23 he is indicating the service of these documents,
24 disciplinary documents on you had an adverse effect on
25 you, is that right?

14:44

26 A. Oh yes, indeed.

27 237 Q. So he is reporting that. And he is reporting that you
28 are getting support from the welfare personnel, is that
29 right? That's correct, isn't that right?

1 A. Inspector Murray.

2 238 Q. Yes.

3 A. Yes.

4 239 Q. And that the stress which you had previously suffered
5 from related to your concerns around the Baiba Saulite 14:44
6 murder, isn't that right?

7 A. That's correct. But also in relation to the lack of
8 correlation of crimes and -- et cetera.

9 240 Q. Yes. "And he initially had fears about his and his
10 family's safety", and that's right, isn't that right? 14:45

11 A. That's correct.

12 241 Q. And had they abated, as he indicates there, at that
13 time?

14 A. Yes, as the months went by, yes.

15 242 Q. So it would appear that that is accurate. 14:45

16

17 Now, then if we could have page 2106 up on the screen.
18 This is moving forward to the 21st August of 2007.
19 This is a reference to an earlier letter on the 31st
20 July 2007 from your solicitor, Sean Costello. And it 14:45
21 relates to clarification being sought -- this is
22 reflected in the letter that was sent to Assistant
23 Commissioner Catherine Clancy. If we turn over to the
24 second page, he says:

25

26 "With regard to the queries raised in your office
27 correspondence of the 19th June --"
28
29 which I just opened.

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-- 2007 to Assistant Commissioner, Human Resource Management, I wish to inform you of the following:
(A) the documentation and information alleged to have been in your client's possession include, inter alia, a copy of a 12-page handwritten document wherein Bai ba Saulite stated, inter alia 'he constantly blames my solicitor for ruining his life and that he will pay for it. At the moment I am very scared for my life because Mr. A is blaming me for everything that has gone wrong in his life. All I want is some peace for my children and myself to live a normal life, safe and happy knowing that this man cannot hurt us any more.'

(B) It is alleged that your client failed in his duty to take measures that would have been expected of him to avoid any risk to Ms. Saulite.

(C) There is no prescription in the Garda Síochána (Discipline) Regulations 1989 to supply with you any material at this stage other than the regulation 9 notice already provided. However, upon receipt of the completed investigation file should I deem it prudent to prefer specific breaches of discipline against your client, the member will be provided with all relevant information and documents in accordance with regulation 11 of the Garda Síochána (Discipline) Regulations, 1989.

1 Your client's responses to the matters alleged is
2 awaited.

3
4 I wish to inform you that these matters are separate
5 and distinct to any issues pertaining to your client 14:47
6 that were addressed to the divisional officer at Santry
7 under the grievance procedure.

8
9 Trusting this clarifies the position."
10 14:48

11 So then if we can move on -- is there anything you'd
12 like to say about that and the response?

13 A. Just one line in that particular correspondence there -
14 "Your client's response to the matters alleged is
15 awaited." - I wasn't invited by any party to actually 14:48
16 submit a response at that point.

17 243 Q. Indeed, yes.

18 A. Just that point there in relation to that.

19 244 Q. And you had already given a -- the history of the
20 matter to Detective Inspector Mangan as well? 14:48

21 A. Oh, that's correct, that's in the fact fine. But "Your
22 client's response to the matters alleged is
23 awaiting..." I think that refers to the disciplinary
24 matter which was served in June 2007. But I hadn't
25 been invited by any party involved to actually submit a 14:49
26 response at that point.

27 245 Q. Now, if we have page 43 up on the screen. This is your
28 interview with Tribunal investigators. You say:

29

1 "In August 2007 correspondence from Assistant
2 Commissioner Al McHugh to my solicitor Sean Costello
3 clarified the alleged disciplinary breach which, to me,
4 was confirmation of the scapegoating of me and the
5 abuse of process. This confirmation confirmed that the 14:49
6 disciplinary breach only related to the 12-page
7 document which Bai ba had prepared for our meeting on 14
8 November 2006. To me this was proof that this was a
9 singular incident of my work under investigation and
10 despite all the genuine issues I had raised about the 14:50
11 systems failure I was now being targeted."

12
13 And that was your position. Do you wish to expand on
14 that? It's one of the incidents of targeting that you
15 have given to the Tribunal investigators. 14:50

16 A. Sorry, could you repeat that, sorry?

17 246 Q. It's one of the instances of targeting that you gave to
18 the Tribunal investigators?

19 A. Sure, yes. That's correct.

20 247 Q. Do you want to expand on it in any way? 14:50

21 A. Oh, no, I was just referring to that particular line.
22 I took that as though I was being -- I had been asked
23 for a response and they were awaiting my response, but
24 formally I hadn't been asked for a response. I didn't
25 take that letter, that correspondence as being an 14:50
26 official request for a response.

27 248 Q. Now, there is another incident on the 20th September
28 2007 that you have highlighted, where Detective
29 Inspector Walter O'Sullivan was in contact with you in

1 relation to the criminal investigation?

2 A. That's correct.

3 249 Q. Will you just tell us what your concerns are about
4 that? First of all, did he contact you by phone?

5 A. He contacted me by telephone, yes, and he said he had a 14:51
6 job to complete in relation to obtaining a statement
7 from me in relation to the murder, and I said I have
8 absolutely no problem providing him with a statement
9 and I explained the difficulties I was in with the
10 disciplinary investigation and that I would be 14:51
11 including in my statement my views as to a systems
12 failure in the correlation of crimes relating to Baiba
13 Saulite before she was murdered, and he intimated to me
14 that he was going to check that out and get back to me.

15 250 Q. If we could have page 672 up on the screen. We see 14:51
16 here, this is the statement of Detective Inspector
17 O'Sullivan, and he says:

18

19 "My response to the assertion of Sergeant William
20 Hughes is as follows." 14:52
21

22 This is on this point.

23

24 "I informed Sergeant Hughes that I was seeking his
25 statement for inclusion in the report to the Director 14:52
26 of Public Prosecutions. I did not inform Sergeant
27 William Hughes that the DPP was looking for his
28 Statement of Evidence. Sergeant Hughes did not tell me
29 that he had absolutely no problem in providing a

1 statement.

2

3 Sergeant Hughes did not say to me that he would be
4 including in his statement the allegations of "systems
5 failure". Sergeant Hughes made no reference to
6 "systems failure" in my conversation with him.

14:52

7

8 The first time I became aware of the words "systems
9 failure" being used in any context in relation to this
10 matter was two years later was when I was presented

14:52

11 with a document in January 2009 by Detective
12 Superintendent Gabriel O'Gara who was assisting
13 Assistant Commissioner Michael Feehan in investigating
14 a report from the Garda Síochána confidential recipient
15 concerning the murder of Bai ba Sauli te and asked to
16 complete same that I had completed on March 4, 2009.

14:53

17

18 Sergeant William Hughes said that he would have to take
19 legal advice in relation to the matter of making a
20 statement. I telephoned Sergeant William Hughes on a
21 number of occasions seeking that he prepare and present
22 a formal statement of witness for the purpose of the
23 criminal investigation into the murder of Bai ba
24 Sauli te.

14:53

25

26 I did not target Sergeant William Hughes in September
27 2007 when I requested that he prepare and present a
28 formal statement of witness for inclusion in the report
29 for the DPP."

14:53

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He then goes on to say:

"I am now aware for the first time from the statement of Sergeant Hughes to the Tribunal of Inquiry completed on March 27th, eleven and a half years, approximately, after the making a request by me in September 2007 for a statement, that he (Sergeant Hughes) says now that this was an instance of targeting him."

14:54

14:54

Okay, so you see, he is denying your version of events, you understand?

A. Yes.

251 Q. And I suppose the principal area of difference between the two of you is in relation to your assertion that you advised him that you would be including in the document an allegation of systems failure?

A. Yes.

252 Q. And he says that he heard nothing about a systems failure, or the use of that expression until much, much later when he was served with this documentation, and you are familiar with the nature of that documentation which effectively was a questionnaire that had been sent out by the team under then Assistant Commissioner Feehan. So, are you absolutely certain that you mentioned the systems failure?

A. Yes, I know where I was when I was talking to him on the phone when he rang me in September 2007 and I know exactly what I said to him.

14:54

14:54

14:55

1 253 Q. I am just wondering, I mean if he was looking for a
2 Statement of Evidence, that would be normal, isn't that
3 right?

4 A. Absolutely normal.

5 254 Q. And it's the sort of thing that one would get out from 14:55
6 a job. If we look over at page 695 of the material,
7 this is a report that was sent by Detective Inspector
8 O'Sullivan to the officer in charge in the incident
9 room, and he refers to it as job 734, and wherein
10 reference is made to Sergeant Liam Hughes and Mr. John 14:56
11 Hennessy, solicitor. And then:

12

13 "Detective Garda John Collins has communicated with
14 Mr. Hennessy and has filed a report.

15

14:56

16 In relation to Sergeant Hughes please be advised that
17 Detective Inspector O'Sullivan requested Sergeant
18 Hughes on the 20th September 2007 to prepare and
19 present a formal statement of witness comprehensively
20 covering his dealings with Mr. A and Bai ba Saulite and 14:56
21 the investigation undertaken by him in relation to the
22 child abduction case. To date no statement has been
23 presented to my office."

24

25 And that was dated on the 25th November 2007. 14:56

26 CHAIRMAN: Can I just ask you a question, Sergeant
27 Hughes?

28 A. Yes.

29 CHAIRMAN: So he rings you up and he asks you for a

1 statement.

2 A. That's correct, yeah.

3 CHAIRMAN: why didn't you give him one?

4 A. I told him --

5 CHAIRMAN: Include anything you like in it. 14:57

6 A. I told him that I had no problem providing a statement

7 to him but I was going to include my --

8 CHAIRMAN: Speak into the microphone.

9 A. Sorry, I was going to include my assertions in relation

10 to a systems failure. 14:57

11 CHAIRMAN: Okay. So --

12 A. And he sort of intimated that he would get back in

13 touch with me.

14 CHAIRMAN: Sorry. So, the next thing he said 'I will

15 get back in touch with you'? 14:57

16 A. Yes, Chairman.

17 CHAIRMAN: I don't see that -- am I missing that in

18 your --

19 A. well, we're only looking at his account.

20 CHAIRMAN: I'm looking at your account at the moment. 14:57

21 A. Oh, my account, yes.

22 CHAIRMAN: You say: "I will be including in my

23 statement the allegations of a systems failure. I

24 heard no more from him." But, why didn't you just give

25 him a statement anyway, including all the stuff about 14:57

26 systems failure? I mean you didn't -- what more was to

27 happen?

28 A. Em --

29 CHAIRMAN: He wasn't going to improve -- approve what

1 you were saying. why didn't you just give him one? I
2 will set out everything, you know, if that was your
3 mind, well, I'll set out my details, my thing in
4 relation to the crime and why wouldn't you tell him of
5 the systems failure? 14:58

6 A. Yes, at the time he was requesting that I was on sick
7 leave and I did consult with Sean Costello solicitors.
8 And that's not saying that he advised me against giving
9 it.

10 CHAIRMAN: No, I understand that, sorry, the only 14:58
11 reason I'm asking you is, the only reason I'm asking
12 you is because it's a question, and if there is a
13 reason for it beyond that, don't worry about that in
14 the slightest, I can understand. So you decided,
15 having heard from him -- now you don't say that he said 14:58
16 he would get back to you, but is that your recollection

17 A. That's my recollection?

18 CHAIRMAN: That he said he'd get back to you?

19 A. That's my recollection.

20 CHAIRMAN: So we have to add in that extra bit that he 14:58
21 said 'I will get back to you'?

22 A. Yes.

23 CHAIRMAN: And?

24 A. And then he did by telephone and he wanted to know
25 about this systems failure and I explained what, the 14:58
26 conversation we had in relation to in the office that
27 day and his words back to me was 'I wouldn't have used
28 those exact words'.
29 CHAIRMAN: I wouldn't what?

1 A. 'I wouldn't have used those exact words.'

2 CHAIRMAN: Right.

3 A. And there was no -- he didn't get back in touch with me
4 to say, okay, let's include that in the statement or
5 not. So, I was sort of left in abeyance. But -- 14:59

6 CHAIRMAN: I am slightly not following the sequence.
7 He rings you, he says I want, please I want a statement
8 in connection, there is no surprise in that, that's
9 routine.

10 A. Yes. 14:59

11 CHAIRMAN: And you said, well, I'm going to be
12 including material about my contentions about systems
13 failure, something of that kind, systems failure, and
14 he said I'll get back to you?

15 A. That's correct. 14:59

16 CHAIRMAN: Why was he going to get back to you? What
17 was going to happen?

18 A. Well, maybe he probably wouldn't have deemed it
19 appropriate for those expressions to go into a witness
20 statement in relation to a murder, or -- I can't say 15:00
21 what he was thinking but he said he would get back to
22 me.

23 CHAIRMAN: And he didn't?

24 A. He did. He rang me when I was at home.

25 CHAIRMAN: I am sorry, he did ring you 15:00

26 A. I was at home this time when he rang me. I wasn't at
27 home when he rang me the first time. And we went
28 through the same thing again, discussing whether or
29 not, you know, this would be suitable to go into a

1 witness statement, and when I explained the narrative
2 he said, well, I wouldn't have used those exact words.
3 CHAIRMAN: Just tell me more or less exactly as best
4 you can remember, he rings you again this time you were
5 at home? 15:00

6 A. Yes.

7 CHAIRMAN: I appreciate that people can't remember
8 precisely what -- I understand that entirely. So, he
9 rings you again at home and says what? Remember that
10 statement I was looking for or something like that? 15:00

11 A. Yes. And we discussed the matter of the systems
12 failure, and --

13 CHAIRMAN: The bit I am stopping is, "we discussed" I
14 am wondering what you said and what he said as best you
15 can remember. So, he said, remember that business I 15:00
16 was looking for a statement from you --

17 A. Yes.

18 CHAIRMAN: -- and you say?

19 A. Well I said back to him I said, yes, I'll be including
20 in the statement my assertions that there was a systems 15:01
21 failure that you described to me shortly after the
22 murder.

23 CHAIRMAN: Right. And he said?

24 A. He said that -- I explained the narrative to him, the
25 narrative that he used, shortly after the murder and he 15:01
26 says 'I wouldn't have used those exact words'.

27 CHAIRMAN: Yes. But why didn't you still make a
28 statement including all that?

29 A. Again he said he'd be back in touch with me but he

1 never formally requested the statement after that and I
2 wasn't privy to the contents of this here. I was
3 shocked when I read this here.

4 CHAIRMAN: Okay. Sergeant, a question: would it be
5 normal to put into a statement observations about 15:01
6 systems failure, or would that not be more appropriate
7 in a separate report?

8 A. Yes --

9 CHAIRMAN: I mean, why would you attach one to the
10 other? You were asked for a statement in relation to 15:01
11 the murder investigation, why not give it?

12 A. Well, if you look at the chronology I gave to Inspector
13 Mangan, my statement would actually follow that
14 context, you know. So I'd be including that I wasn't
15 briefed in relation to certain matters, I wasn't 15:02
16 briefed in relation to --

17 CHAIRMAN: I understand that. But can you understand
18 what I'm getting -- what I'm saying? The inspector
19 rings you and says can I have is statement for the
20 purpose of the murder investigation? 15:02

21 A. Yes.

22 CHAIRMAN: That's not complicated.

23 A. Yes.

24 CHAIRMAN: That's fair enough.

25 A. Okay. 15:02

26 CHAIRMAN: Isn't that right?

27 A. That's correct.

28 CHAIRMAN: And all the stuff about a systems failure,
29 that wouldn't be relevant to the murder investigation,

1 yes, no?

2 A. well, that's the question that had to be clarified.
3 Because as I said, if we refer again to the Mangan
4 report, my statement would actually follow that
5 chronology, and my question to him, I'd have to be 15:02
6 putting in things like, you know, I wasn't briefed in
7 relation to certain investigations --

8 CHAIRMAN: I understand that, and I understand your
9 complaint about that. I have no -- I mean I am
10 following your thing in the Mangan report. 15:02
11 But specifically the systems failure, would you not put
12 that into a separate report and go to the highest
13 level?

14 A. well, I already had. The Mangan report in and which
15 sort of -- 15:03

16 CHAIRMAN: The Mangan report doesn't mention systems
17 failure.

18 A. It doesn't mention the words systems failure but it
19 mentions lack of correlation of crimes.

20 CHAIRMAN: well, okay... Anyway, there it was. That 15:03
21 was the conversation you had. But it does seem a
22 little puzzling that you are attaching as an extra
23 systems failure to a document in which it is not
24 relevant and not including it in a separate document
25 and making sure -- I mean nobody could -- if you sent 15:03
26 it to the Commissioner, or whoever it was, nobody could
27 say we'll ignore this.

28 A. Yeah, and I think this goes back, Chairman, to the
29 report I gave to Della Murray, at the time I was

1 probably - and probably Garda Nyhan - we are actually
2 alleging systems failure and if there was any truth to
3 it, it would mean, you know, that from the higher up in
4 the organisation down to, you know, the tiniest --
5 CHAIRMAN: It would be very embarrassing if there was a 15:04
6 systems -- clearly, as you thought. That what you
7 thought --
8 A. I was in an extremely tough position in 2007 as to what
9 to say to the authorities, you know, and, you know,
10 which way to go about it, you know. 15:04
11 CHAIRMAN: But you were in no difficulty about what to
12 say because you were blue in the face saying it to
13 them. You were saying to everybody you could meet that
14 there was a systems failure
15 A. Yes. 15:04
16 CHAIRMAN: Including the welfare officer.
17 A. well, the welfare officer received it in confidence in
18 fairness, you know.
19 CHAIRMAN: Sorry, what I mean is you were talking to
20 everybody. 15:04
21 A. I was talking to two inspectors who ignored me and the
22 superintendent didn't get back in touch with me in
23 relation to it.
24 CHAIRMAN: All right.
25 A. So the feeling I had in mid to late September 2007 was 15:04
26 one of apprehension as to what I should say next and
27 what I should do next and what would the authorities do
28 next, you know. And just a comment in relation to this
29 report from Walter O'Sullivan, Walter, respectfully, I

1 am saying, he wasn't my line manager and if he had any
2 difficulty at all with any aspect of communicating with
3 me in relation to such a serious matter, he should have
4 brought it to the attention of my superintendent, or
5 acting superintendent, and I'm sure they would have 15:05
6 been in touch with me to explain -- first of all to ask
7 me what my difficulties were and then to secure the
8 statement from me that way. But the fact I wasn't
9 hearing anything back there, the silence there, you
10 know, it was actually very, very -- I was very 15:05
11 tentative about what to do next, you know.
12 CHAIRMAN: Okay. Thanks very much. Sorry,
13 Mr. Marrinan. Thanks for clearing that up, thank you.
14 255 Q. MR. MARRINAN: Just to come back to that in terms of
15 what the Chairman was asking you about. I mean you 15:05
16 were obliged to give a statement in relation to your
17 interactions with Baiba Saulite, because it was
18 relevant to the murder investigation, isn't that right?
19 A. Absolutely.
20 256 Q. And you had already really prepared a statement which 15:06
21 would have just reflected what was in the Mangan
22 report, isn't that right?
23 A. Exactly.
24 257 Q. So, I don't understand why you just didn't simply hand
25 that over, print it out and hand it over, or send it to 15:06
26 Detective Inspector O'Sullivan and say there is the
27 report that you are looking for, the statement that
28 you're looking for, and then if you were going to raise
29 the issue of a systems failure, to raise it elsewhere,

1 even with the DPP, even as a supplemental report that
2 went in along with your statement, but you'd have
3 experience as a sergeant that a report, such that you
4 envisaged, wouldn't form part of a statement of a
5 witness to go into a Book of Evidence or otherwise, 15:07
6 isn't that right?

7 A. I wasn't that sure now as to what part of my account of
8 my dealings with Baiba Saulite and the systems failure
9 would actually go to a separate report or statement,
10 and that's the queries I presented to Detective 15:07
11 Inspector O'Sullivan at the time.

12 258 Q. Yes. Now, just another thing that you said there, that
13 when he phoned you, he referred to the narrative -- you
14 referred to the narrative, and that he said that he
15 wouldn't use words like that -- 15:07

16 A. Yes.

17 259 Q. -- what did you mean by that?

18 A. Well, the conversation I had with him in my office
19 following the murder when he said that he sought
20 protection and it was refused. 15:07

21 260 Q. And what words were you referring specifically to that
22 he had used?

23 A. That he told me that he sought -- sorry, there was
24 protection sought for Baiba Saulite and John Hennessy
25 prior to the murder and it was refused by the 15:07
26 Commissioner's office and his response was, well, I
27 wouldn't have used those exact words.

28 261 Q. Okay.

29 A. In his narrative to me.

1 262 Q. Now, that's not something that you have indicated
2 previously, isn't that right, in your statement to the
3 Tribunal investigators or in any of the statements you
4 made to the Tribunal?

5 A. I'll have to check that. Maybe not, maybe not. 15:08

6 263 Q. I'm just concerned that it's becoming part of the
7 story, as it were, now at this stage and I don't use
8 the word story in a pejorative sense but your account
9 at this stage.

10 MR. MÍCHEÁL O' HIGGINS: Could I just say in fairness to 15:08
11 the witness I think there was a reference. But not in
12 precisely those terms.

13 CHAIRMAN: Yes, that is what I am thinking,
14 Mr. Murrinan. We have so much documentation, but it
15 doesn't come as a surprise to me. The reference -- the 15:08
16 particular occasion I'm not sure was clearly in my
17 mind, but the reference that Sergeant Hughes had said
18 that he had reminded, not that Inspector O'Sullivan is
19 going to --

20 MR. MARRINAN: He remind him of what he had said. 15:09

21 CHAIRMAN: -- but that he had reminded him of their
22 conversation in relation to seeking special -- seeking
23 personal protection and that the inspector had
24 responded by saying 'I wouldn't have used those exact
25 words'. That part is certainly included in the 15:09
26 documents somewhere, I can tell you.

27 MR. MARRINAN: Thank you very much Mr. O'Higgins for
28 pointing that out.

29 CHAIRMAN: Thank you.

1 264 Q. MR. MARRINAN: Now if we move then to the 9th September
2 of 2007, this is your first meeting with Dr. Quigley,
3 isn't that right?
4 A. That's correct.

5 265 Q. Now, in the statement that you made to the 15:09
6 investigators you said that you were concerned that he
7 had no correspondence on the file, and that he insisted
8 that you should go to see a psychiatrist, but that you
9 refused at the time. And that was the complaint that
10 you made in relation to the first meeting that you had 15:10
11 with him, is that right?
12 A. Yeah, he recommended I go to see a psychiatrist and I
13 remember sort of asking him why, why would I need to
14 see a psychiatrist.

15 266 Q. If we just have page 1331 up on the screen. This is 15:10
16 the statement made by Dr. Quigley to the Tribunal. And
17 if we scroll down "Narrative summary in relation to
18 Sergeant William Hughes attendance", second paragraph
19 there:
20 15:10
21 "I noted that he had been out on sick leave continually
22 from 17 May 2007 --"
23
24 You see there is another reference to that as being the
25 date you went out sick? 15:10
26 A. I'll have to check that.

27 267 Q. "-- and I took extensive history from him and
28 considered his presentation. I noted that he had
29 perceptions of negative behaviours towards him in the

1 workplace, in the context of the unfortunate murder of
2 Ms. Baiba Saulite, and his role as is a community
3 policing sergeant with responsibility to liaise with
4 her in the context of a criminal prosecution of her
5 former partner in a family law matter. He stated that 15:11
6 he was unaware of information that had been made
7 available to other parties of An Garda Síochána that
8 this individual was a serious criminal capable of
9 murder or procuring murder. He also reported that he
10 felt under stress due to alleged threats to kill, known 15:11
11 to the Garda Síochána, also potentially involved
12 himself as a garda sergeant connected with the case. I
13 noted that, by his account, his GP, Dr. James O'Reilly,
14 had referred him to a consultant psychiatrist,
15 Dr. Joseph Fernandez, but that no pharmacotherapy had 15:11
16 been prescribed."

17 A. Drugs.

18 268 Q. He then goes on to say.

19
20 "I consider that an appointment with an independent 15:12
21 specialist, a consultant psychiatrist, was appropriate
22 in order to inform this service regarding his mental
23 health in that context and to assist me in advising
24 Garda management on the member's fitness for policing
25 duties and in relation to workplace accommodation that 15:12
26 might support its reintegration to the workplace and
27 securing a sustained attendance and effectiveness into
28 the future."
29

1 And we see that Dr. Quigley sent a report to HRM, it's
2 at page 1240 of the material, please. If we scroll
3 down there, he gives the history of it and his dealings
4 with you and your problems at the time. And if we look
5 at the second last paragraph:

15:13

6
7 "I note Sergeant Hughes is particularly anxious that
8 this current sickness absence be regarded as injury on
9 duty. I have pointed out to Sergeant Hughes that this
10 is a matter for management to decide but I will advise
11 on the medical component relating to this when the
12 relevant medical reports are to hand.

15:13

13
14 One further issue has been that Sergeant Hughes reports
15 no follow-up contacts with management during the period
16 of his sickness absence either at the end of 2006,
17 beginning of 2007, nor during the current sickness
18 absence.

15:13

19
20 Notwithstanding the difficulties of this case, such
21 contacts would be helpful and appropriate either by his
22 direct managers or a person of appropriate seniority
23 acting on behalf of his local management."

15:14

24
25 That seems to be the position in relation to your
26 concerns at that time, isn't that right?

15:14

27 A. That's correct.

28 269 Q. And do you accept what Dr. Quigley has said there in
29 his report, and also in his statement to the Tribunal?

1 A. I do.

2 270 Q. And no issue arises in relation to it.

3 A. Not that I can see at this juncture, no.

4 271 Q. The only issue that arises, I suppose, is that you had
5 taken the view that it was for him to decide on the 15:14
6 issue of injury on duty, as had the superintendents,
7 but he is saying that he only acted in an advisory role
8 effectively in relation to that, and hadn't the last
9 say.

10 15:14

11 Now, I think on the 10th October of 2007, you were
12 informed by HRM that your pay was being cut from the
13 3rd September 2007, is that right?

14 A. That's correct.

15 272 Q. And it was being cut to half pay, is that right? 15:15

16 A. That's half pay, yes.

17 273 Q. We'll hear about this as we go through the following
18 years, but in terms of your own personal circumstances,
19 the reduction of your pay to half pay and then to the
20 pension rate of pay, that's lower again, what sort of 15:15
21 impact did it have on you at the time?

22 A. Oh, a huge impact financially, yes.

23 274 Q. Do you want to expand on that or are you just happy to
24 be able to leave it sit there, that this was something
25 that had a huge impact on you? 15:15

26 A. If you don't mind, yes.

27 275 Q. I understand that. Now, I think that on the 11th
28 October - can we have page 1342 up on the screen
29 please - yes, this is a letter that's sent to

1 Dr. Quigley by Assistant Commissioner Clancy noting his
2 report of the 19th September wherein you outlined:

3
4 "The member states he has no contact from his
5 management throughout the period of his sickness
6 absence. "

15:16

7
8 She says she has examined the file and she is satisfied
9 that local management made every effort to contact him.

10 15:16

11 "In a report dated 31 July 2007 Superintendent Curran
12 states, inter alia, that Sergeant Hughes "is in regular
13 contact with both myself and Inspector Cryan". Support
14 is also being made available to him in terms of his
15 current work role.

15:17

16
17 Superintendent Curran is very honourable and committed
18 officer who would deal with any matters such as this
19 sympathetically and I am satisfied from the evidence
20 available to me on the file that he has done so in this
21 case. "

15:17

22
23 Then on the same day, if we have page 3928, Sean
24 Costello writes to Assistant Commissioner Clancy, and
25 we see there that -- if we just scroll down, the first
26 paragraph:

15:18

27
28 "my client has informed me that his pay has been
29 stopped. . . "

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That's not actually the letter. Scroll on. No, I may have the wrong page number. A letter sent -- we'll get it up later on.

15:18

This is a letter sent by your solicitor, Sean Costello, to Assistant Commissioner Clancy informing her that his client, namely you, had been reduced to half pay from the 20th September, and calling for your pay to be increased.

15:18

Then if we have page 3928 up on the screen. This is a response to that letter.

"I am to advise you that as at the date of your letter the most recent medical certificate received from Sergeant Hughes covered a period 22 August 2007 to 21 September 2007. A medical certificate for the period 22nd September to 20th October 2007 has now been received and processed.

15:19

15:19

When further medical certificates are received they will be processed in the normal fashion and pay will be authorised. In the absence of medical certificates, pay cannot be sanctioned."

15:19

And if we could have page 3929 up on the screen -- 3926, I am sorry. This is a sick report from Inspector Cryan. He references a number of conversations that he

1 had with you during the course of this, but if we look
2 at paragraph 2:

3
4 "I spoke with Sergeant Hughes again on the 17th October
5 and he informed me that he was still not in receipt of 15:20
6 any pay since September 2007. He no longer blames
7 administrative errors and states that the matter is in
8 the hand of his solicitor."

9
10 Now, do you recall that conversation with him? 15:20

11 A. I recall any time Inspector Cryan contacted me was in
12 relation to serving notices to go to see the CMO or in
13 relation to the pay stoppages.

14 276 Q. Yes.

15 A. Yes. So this -- I don't -- I don't obviously recollect 15:21
16 the actual conversation on that particular date, but it
17 would be something probably that we would be in contact
18 with about the pay and, as I said, he was delivering
19 notices to me in relation to pay sanctions.

20 277 Q. Yeah. He refers to the fact that he needed to serve 15:21
21 documentation on you, on him personally, and he made an
22 arrangement to meet at Swords Garda Station at 11:00am
23 on the 18th October 2007. And then we see the next
24 paragraph:

25
26 "On the 18th October I went to Swords Garda Station to
27 meet him but he did not appear. I rang his mobile...
28 but it was turned off."
29

1 And then the next paragraph he says:

2

3 "About 4:00pm on the 18th October I again rang Sergeant
4 Hughes on his mobile... He apologised for not attending
5 our arranged meeting claiming he was with his 15:22
6 solicitor. He stated he got the envelope and thanked
7 me. He informed me that his solicitor would be
8 appearing in the High Court on the 19th October in an
9 effort to get his pay reinstated."

10

11 So, Detective Inspector Cryan has reported at various
12 stages that he had various interactions with you on a
13 fairly frequent basis?

14 A. My recollection is yes, that was in relation to the
15 likes of pay notices and appearances before the CMO. 15:22

16 278 Q. And all those interactions that he had with you, they
17 were amicable, were they?

18 A. Oh, absolutely. Absolutely.

19 279 Q. And would you accept that Detective Inspector Cryan was
20 behaving professionally towards you? 15:22

21 A. Oh, I have no reason --

22 280 Q. There is no suggestion otherwise?

23 A. Yes, he was acting under instructions there from HRM to
24 visit me and to deliver these notices of pay reduction,
25 et cetera. 15:23

26 281 Q. And then if we just have a look at page 3929 of the
27 material. This is a letter sent by your solicitor to
28 HRM. And this is the 24th October 2007, and if we
29 scroll down to the second last paragraph:

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"Our client has complied with his obligations concerning his current absence from employment. However, as per our letter of the 9th October 2007, you are now reducing our client's pay to half pay. We would be obliged if you would set out the grounds upon which this decision is made. It is quite clear to us that our client has suffered the injuries giving rise to his absence from employment in circumstances attributable to the execution of his duty.

In the circumstances we require that our client's full pay be immediately reinstated, failing which we shall rely on this and previous correspondence in our application to the Court which we shall make should we fail to hear from you by 1:00pm on Friday, 26th."

Now, I think that on the 1st November you had a conversation with Chief Superintendent Michael Feehan, isn't that right?

A. In around that time, yes.

282 Q. And that was to do with the discipline investigation?

A. That's correct.

283 Q. And you deal with this at page 18 of your interview with the investigators. I just might have a look at that. Yes, this is what you say half-way down the page:

"In November 2007 Chief Superintendent Michael Feehan

1 looked to have me interviewed in respect to the
2 discipline investigation. I felt very uncomfortable
3 about the prospect of going in to see him. I was off
4 sick at the time, having been off sick since July 2007,
5 again as a result of work related stress. I strongly 15:26
6 believed that the disciplinary process was highly
7 irregular and I did not want to partake in such a
8 process. What I mean by highly irregular is that I
9 believe that I was being targeted unfairly by the
10 disciplinary process arising from the systems failure 15:26
11 issues that I was raising. As I said, I was reluctant
12 to see him, I was off work on sick leave, I spoke to
13 him on the phone explaining that it was not that I was
14 unwilling to see him, rather I wanted matters
15 clarified, I wanted to know why I was being targeted 15:26
16 when it was obvious there were failures in respect to
17 the other investigations. I was extremely worried at
18 this stage -- this was November 2007."

19
20 Now, there are a number of matters that arise in 15:27
21 relation to that. I mean, first of all, you point out
22 you were out with work related stress.

23 A. That's correct.

24 284 Q. So, in other words, you wouldn't have been in a
25 position to be interviewed by him, all right? So 15:27
26 that's the first point that would arise. So --

27 A. Yes.

28 285 Q. So, you could maybe legitimately say, well, I'm out
29 with work related stress, my doctor has certified me

1 unfit for duty, this is part of my duty and I'm not in
2 a fit medical state to be interviewed. Do you
3 understand?

4 A. Yes, indeed.

5 286 Q. That's one position you could adopt. The other 15:27
6 position you could adopt is regardless of your medical
7 wellbeing, you could say, well, no, this procedure is
8 irregular, and I am just going to refuse to meet him,
9 okay? And thirdly, you could say, well, I'm going to
10 meet him but I'm going to raise these issues before the 15:27
11 meeting and I am going to tell him that there are these
12 irregularities, that this whole procedure is a sham and
13 whatever you wanted to say. Now which was it? What
14 were you trying to communicate at that time?

15 A. Well, I was in an extremely low state of health in 15:28
16 November 2007, I recall it specifically, and I hadn't
17 been contacted by the disciplinary investigation team
18 since the service of the -- sorry, I hadn't been
19 formally contacted by them in relation to the
20 disciplinary for I think four or five months. In my 15:28
21 head I believed that I was being investigated for an
22 extremely serious matter, and I just was at a very low
23 point, and I just, on that particular occasion, I just
24 felt I wasn't up to going in to a formal meeting in
25 relation to the disciplinary matter, and I rang Chief 15:28
26 Superintendent Feehan personally and I explained that
27 to him.

28 287 Q. Okay. You see, your solicitor had received a fax in
29 relation to this, and if we have page 839 up on the

1 screen, this is the 8th November 2007.

2
3 "I acknowledge receipt of your fax.

4
5 Our client is currently unfit for duty due to work 15:29
6 related stress as will be known to his authorities. As
7 such he will not be attending the meeting with you
8 tomorrow.

9
10 I would be happy to receive the questions you wish to 15:29
11 put to my client and when my client is fit to deal with
12 same we shall provide you with the replies."

13
14 So that was the position that was adopted by your
15 solicitor in relation to this matter. 15:29

16 A. That fax preceded my call to Chief Feehan. I rang him
17 that evening. He was in his office in Store Street,
18 and I explained that situation, so I qualified that
19 message from the solicitor.

20 288 Q. And if we just then look at page 828 of the material, 15:30
21 this is the statement of Assistant Commissioner Feehan.
22 He said, at the first paragraph there:

23
24 "On the same day (8th November) I had a telephone
25 conversation with Sergeant Hughes during which the 15:30
26 sergeant stated that he had met with his solicitor who
27 had advised him not to attend the proposed meeting with
28 me. Sergeant Hughes went on to state that he was
29 feeling awful but that he would come in to meet me

1 anyway as he knew his responsibilities under the Garda
2 Síochána Act. I informed sergeant that, given the
3 state of his health, I would seek guidance from the
4 Garda Chief Medical Officer before proceeding to
5 interview the sergeant." 15:30

6
7 That's his position in relation to it.

8 A. Yes, that's his position. But I don't think Sean
9 Costello actually said I wasn't to attend the meeting.

10 289 Q. Yes. 15:31

11 A. He didn't direct me not -- or sorry, didn't direct me
12 away from the meeting. As I said, I qualified it later
13 with Chief Feehan as to my position on that particular
14 day. It was fear of the unknown. I didn't know what I
15 was walking into, you know. 15:31

16 290 Q. And then he goes on to say:

17
18 "From line 268 of his statement to the tribunal,
19 Mr. Hughes states that he spoke with me on the phone
20 and explained that it was not he was unwilling to see 15:31
21 me, rather that he wanted matters clarified.

22 Mr. Hughes goes on to state that during the telephone
23 conversation he said to me that he wanted to know why
24 he was being targeted when it was obvious there was
25 failures in respect of other investigations. 15:31

26
27 Mr. Hughes stated that my response was that 'I would
28 contact the CMO to get his advice on interviewing him
29 when he was off sick'. I wish to state that during the

1 telephone conversation with Sergeant Hughes, no mention
2 was made of being 'targeted' or of any alleged
3 'failures in respect of other investigations'."

4
5 So, that's his position in relation to it. What do you 15:32
6 say in relation to that?

7 A. Well, I had a conversation with him and I explained my
8 difficulties, and it's my recollection of that
9 conversation.

10 291 Q. Right. Now, one of your complaints is that there was 15:32
11 no contact made by Chief Superintendent Feehan in
12 relation to your fitness to be interviewed with the
13 Chief Medical Officer, isn't that right?

14 A. That's what I said to the Tribunal, yes.

15 292 Q. You have seen the correspondence here, and it would 15:32
16 appear that there was contact, isn't that right?

17 A. He contacted him I think within a day or two, yes.

18 293 Q. If we just look at page 841 of the material. This is
19 the 9th November. Sorry, this is a letter to your
20 solicitor, and it says: 15:33

21
22 "In view of your comments regarding your client's
23 current state of health, I propose to make an
24 application to the Chief Medical Officer requesting
25 that Sergeant Hughes be medically assessed to ascertain 15:33
26 his fitness to be interviewed.

27
28 With regard to your suggestion that I supply you with
29 details of questions I wish to put to your client I

1 wish to inform you that I am not disposed to adopting
2 such a course at this stage."

3
4 And then you'll see on the same day, the 9th November,
5 at page 842, he writes to the Chief Medical Officer, 15:33
6 and the last paragraph there:

7
8 "The member subsequently informed Chief Superintendent
9 Feehan by way of a phone call that he was being
10 referred to a psychiatrist by the Chief Medical 15:34
11 Officer. I request that Sergeant Hughes' fitness to be
12 interviewed be assessed during the course of his
13 consultation.

14
15 Forwarded for your consideration." 15:34

16
17 Now, we also know that subsequent, and I'm dealing with
18 this in a chronological way, but subsequently there was
19 contact again when Assistant Commissioner Feehan was
20 trying to have an interview, he was in contact with 15:34
21 other people and with the CMO and with HRM in relation
22 to the matter, you have seen that documentation in the
23 papers, have you?

24 A. I have.

25 294 Q. And are you satisfied that he was making efforts to 15:34
26 have you medically assessed to see whether or not you
27 could be interviewed?

28 A. If you don't mind, can we have a look at the dates of
29 the chronology there in relation to his contact?

1 295 Q. We'll come to it. I won't take it out of sequence, but
2 I was wondering whether you were accepting that in fact
3 he had made reasonable attempts to contact the Chief
4 Medical Officer and to find out whether you were fit to
5 be interviewed? 15:35

6 A. He made attempts to -- yeah, he wrote to the CMO and
7 then the HRM subsequently.

8 296 Q. Yes.

9 A. Yes.

10 297 Q. Are you happy that he made reasonable attempts to -- 15:35

11 A. It depends on -- we'll look at reasonable, the amount
12 of time that was --

13 298 Q. All right --

14 A. -- in between each correspondence I think wasn't
15 reasonable. 15:35

16 299 Q. All right. Well, we'll deal with it as it comes up so,
17 and we'll --

18 A. So that's the 8th November.

19 300 Q. -- and we'll move on. Now, I think that obviously your
20 solicitor had been threatening legal action in 15:36
21 correspondence that we have opened and consequently a
22 Plenary Summons issued on the 12th November of 2007.
23 That's at page 5253, volume 19. I am not going to open
24 it. It was followed by an affidavit that was sworn on
25 the 14th November, that's at 5257-5256. And then a 15:36
26 Notice of Motion that was brought on your behalf in
27 relation to your pay, and that's also in the papers,
28 and the replying affidavit was sworn on the 28th
29 January on behalf of the State at 2008 -- that's at

1 volume 19 at page 5279, and then a Statement of Claim
2 which was at volume 19 at page 3284. And if any of the
3 parties want to ask you about any of the contents of
4 the affidavits or the Statement of Claim, they can do
5 so.

15:37

6 CHAIRMAN: The Plenary Summons, Mr. Marrinan, the 12th
7 November?

8 MR. MARRINAN: 12th November 2007 was the Plenary
9 Summons.

10 CHAIRMAN: 2007, thank you.

15:37

11 MR. MARRINAN: Yes.

12 301 Q. Now, if we can have page 694 up on the screen, please.
13 Let's just scroll down. This is from Assistant
14 Commissioner Clancy to the chief superintendent in
15 Santry enquiring about the current position in relation
16 to the investigation into Sergeant Hughes's concerns
17 for his and his family's safety subsequent to the
18 murder of Baiba Saulite.

15:37

19
20 "Treat this as urgent and report by return."

15:38

21
22 And then there is a report, which is at page 692-693 of
23 the material, which I have already referred to, which
24 is a report on that from Detective Inspector Walter
25 O'Sullivan. And I opened that earlier on, you'll
26 recall, and it's reporting in relation to those
27 concerns that you had.

15:38

28
29 Then if we have page 3963 up on the screen, please.

1 This refers to a sick report and it's Garda Declan
2 Nyhan and yourself, referring to an earlier minute,
3 but -- and this refers back to the report that came in
4 from Detective Inspector O'Sullivan, and it's addressed
5 to the Chief Superintendent Santry.

15:39

6
7 "I am to inquire if you have to advised Sergeant Hughes
8 and Garda Nyhan in relation to their personal safety as
9 set out in your report.

10
11 Treat as urgent and report developments."

15:39

12
13 Then if we go to page 3965 of the material, please.
14 This is a report from Inspector William Hanrahan and
15 this arises out of those letters that were sent.

15:39

16
17 "With reference to the above and report concerning
18 personal safety advice, I am to report that Sergeant
19 Hughes has met with sergeant Trevor Shields, Community
20 Relations, who spoke to him about his personal safety.
21 Welfare services were contacted in November 2006 which
22 he availed of. I have also met with Sergeant Hughes
23 about security matters having served in the Special
24 Detective Unit for 15 years I have experience
25 concerning this issue."

15:40

15:40

26
27 Then he goes on to say he examined the Book of Evidence
28 in the case of Baiba Saulite and have examined, in
29 particular, the persons arrested and questioned about

1 the murder.

2

3

"From these interviews I can find no reference made regarding a threat to Sergeant Hughes.

4

15:40

5

I have conveyed this to him and he seems to accept what I have said. He has also informed me that the local detective unit from Balbriggan have called to him and are aware of his address. He has also spoken to Superintendent Kelly at Balbriggan who is aware of his situation."

6

15:41

7

8

9

Then he goes on to say:

10

11

"I examined the PULSE system."

15:41

12

13

We don't need to go into that.

14

15

"As members of An Garda Síochána and the persons we come into contact with on a day to day basis, we should accept that there is always a need to be aware of matters concerning personal safety."

15:41

16

17

18

Forwarded please for your information."

19

15:41

20

So, those are the report that's put in in relation to that. And are you -- sorry, I will just refer to the statement of Inspector Hanrahan has been as well. If we have page 1294 up on the screen.

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"My first communication with Sergeant Hughes was on the 26th December 2007 where I requested that I call to his residence within a short period of time to speak with him. Sergeant Hughes requested that I do not attend at his home. He requested that we meet at the Carnegie Court Hotel on the 28th December 2007 at 12 midday."

Is that right?

A. I can't recollect the actual dates but I do remember meeting this officer in the around Carnegie Hotel in Swords at some point.

302 Q. He then goes on to say:

"At this meeting in the Carnegie Court Hotel Sergeant Hughes informed me of his situation surrounding his complaints and discipline procedures being taken against him. He stated at the time that all materials in his possession surrounding the murder of Bai ba Saulite were already in the hands of his legal advisors. He stated that all matters were now the subject of High Court proceedings. He advised me not to get involved for my own sake."

Do you recall saying that to him?

A. No, I didn't say that, no.

303 Q. It might have been something that you did say to him because he was coming in fairly late to the matter and was dealing with issues concerning your security?

1 A. I would never tell an inspector what to do in relation
2 to matters, you know.

3 304 Q. "I informed him of the actions I had taken regarding
4 his personal safety and the possible threat to his
5 life. While he appreciated what I had done, he was not 15:43
6 in agreement with my assessment."
7

8 Is that right? Do you recall that?

9 A. I don't recall that, no.

10 305 Q. "Sergeant Hughes made reference to a Sun Newspaper 15:43
11 report in November 2006 and how no investigation had
12 been taken into the original threat. He made reference
13 of his concerns about a systems failure within An Garda
14 Síochána which did not highlight the dangers to Baiba
15 Saulite." 15:44

16
17 so you certainly raised the issue with him at that
18 juncture.
19

20 "I reported the details of my meeting with Sergeant 15:44
21 Hughes, including details where I requested that any
22 investigation into disciplinary proceedings against
23 Sergeant Hughes be expedited, as it was of a major
24 concern for Sergeant Hughes. Sergeant Hughes was not
25 at that time in a position to return to his workplace." 15:44
26

27 So were you happy with your interactions with Inspector
28 Hanrahan at that time?

29 A. Well, I think that account there fairly is a good

1 analysis of how I felt at the time, generally.

2 306 Q. Yeah. Now, I think that you then -- going into 2008,
3 on the 7th January, you met with Dr. Griffin for the
4 first time, isn't that right?

5 A. That's correct. 15:45

6 307 Q. And you furnished Dr. Griffin with a full report
7 concerning your concerns about a systems failure and
8 bullying and harassment, isn't that right?

9 A. That's correct.

10 308 Q. Now, it's at volume 2 of the material at page 403. And 15:45
11 perhaps we could go to page 418 -- sorry, I have given
12 you the wrong -- no, this is volume 2, page 418 please.
13 If you just scroll down. Stop there. If you just
14 scroll up, I don't have this page in my own papers
15 here. Just stop there. Yeah, this refers to the bail 15:46
16 application and Detective Inspector Walter O'Connor who
17 further stated "that Mr. A had the capacity of
18 committing murder if released and that the witnesses
19 would be in grave danger. I was astounded when I heard
20 this as it was obvious that this information was within 15:47
21 the domain of the Gardaí prior to BaiBa's death, yet I
22 was never informed. If that was the case, why was she
23 not provided with protection? Why this information was
24 not made available to the members investigating the
25 abduction case is beyond me. Why was there only 15:47
26 minimal attention paid to John Hennessy given the death
27 threats, et cetera? Why did the authorities wait until
28 BaiBa was murdered before releasing this information?"
29

1 Now, I am just referring to that passage there because
2 it sort of reflects what you were saying in this
3 document, and I am not going to open the entirety of
4 it, but certainly you lay out quite squarely your
5 allegations of what you perceived to be a systems
6 failure in this document that you provided to
7 Dr. Griffin, isn't that right?

15:47

8 A. That's correct.

9 309 Q. But I suppose it's done in the context again that you
10 are seeing a consultant psychiatrist, you are providing
11 it to him within the confines of a patient-doctor
12 relationship, and that there would be confidentiality
13 that would apply to it. So, again, this is another
14 instance where you are giving details of what you say
15 is a systems failure. You are doing so in writing, but
16 you are doing it in a private setting, do you see?

15:48

17 A. And just, as we said earlier on, I was in a -- I felt
18 in a precarious position because if I was to provide
19 that, the likes of that document to the authorities, I
20 am basically saying that the management in the R
21 District, that's Coolock district there, failed, and I
22 am providing this report to possibly individuals that
23 could be involved in that failure. So, there is a
24 reticence on me there without protection or, you know,
25 like, I was quite insecure in actually disclosing that
26 type of information to persons who may have had
27 responsibility for the failures -- alleged failures.

15:48

15:49

28 310 Q. Will you just bear with me one moment?

29 Now, if --

1 CHAIRMAN: Before you proceed, Mr. Marrinan, may I ask
2 you, sergeant, that last answer you gave, does that
3 suggest that you were consciously not putting your
4 concerns in writing?
5 A. It would suggest that I was in fear of actually putting 15:50
6 my full concerns in writing to the Garda authorities.
7 CHAIRMAN: You were in fear of that?
8 A. I was.
9 CHAIRMAN: So you were conscious -- so you were
10 actually deciding not to put them in writing? 15:50
11 A. I suppose if I was approached by a member of an
12 authority who was separate to the situation and
13 approached in a manner where it was accommodating for
14 me to produce that type of information --
15 CHAIRMAN: If somebody you trusted at senior level came 15:50
16 and said, Sergeant Hughes, or Liam, or whatever it was,
17 tell me about all the concerns you have --
18 A. Yes.
19 CHAIRMAN: -- that might have been an occasion when you
20 would have opened up, is that right? 15:50
21 A. It might have been. I felt alienated by, you know, the
22 management structure within the division at the time.
23 CHAIRMAN: And that went -- was that present all the
24 time?
25 A. Sorry, excuse me? 15:51
26 CHAIRMAN: Was that reticence about putting it in
27 writing present all the time?
28 A. Oh, absolutely.
29 CHAIRMAN: And can you help me on this how can you

1 reconcile that with your willingness to express it
2 orally or verbally?

3 A. Yes, I --

4 CHAIRMAN: And can you understand why I'm a little
5 curious about that?

15:51

6 A. Yes, on the occasion of the meeting with Superintendent
7 Mark Curran I decided on that day that I had more or
8 less -- I was at -- I had had enough and I decided to
9 let him know verbally and hopefully then that would
10 actually get some feedback then.

15:51

11 CHAIRMAN: Okay. April '07.

12 A. April '07, yes.

13 CHAIRMAN: You decide to open up to Superintendent
14 Curran, as he then was, he wasn't a chief at that
15 stage, he was a superintendent. Okay. And before
16 that, when you were talking to Detective Inspector
17 O'Sullivan and Detective Inspector Cryan, and acting
18 Superintendent Waters, were you similarly happy to tell
19 them about it? And if so, why?

15:51

20 A. I spoke -- I spoke to Inspector Waters and Inspector
21 Cryan, they were uniformed inspectors at the time, in
22 the days after the murder, and I was very confused as
23 to what to say to anybody in relation to it except for,
24 I did know in my heart that something dreadful had gone
25 wrong with the Garda operations.

15:52

26 CHAIRMAN: Okay. So at that time you weren't
27 exercising sort of judgement about your own -- there
28 was no prudent, sort of, mentality going on. You were
29 just so shocked and upset that you were sort of telling

1 o'sullivan that you would be willing to make a
2 statement but you're putting a condition in to say
3 yeah, well, I'm going to include all the stuff about
4 the systems failure, what was the logic of that? I am
5 not understanding the logic of that. 15:54

6 A. Well, the telephone call I received was in September
7 2007, I think ten months after the murder, and that's
8 the conversation I had with him on that day.

9 CHAIRMAN: Sure.

10 A. So... 15:54

11 CHAIRMAN: But if you are apprehensive about putting it
12 in writing, that would stop you making the statement
13 including all the systems failure information.

14 A. Yes, and there is also the apprehension that the people
15 to whom I am reporting are the people that I am 15:55
16 complaining about, you know. In other words, their
17 offices that I'm complaining about. I wouldn't be
18 pointing the finger of blame on anybody, that it was a
19 systems failure. And I was just apprehensive about
20 actually submitting my view of it. 15:55

21 CHAIRMAN: And if he had said -- if he had said
22 absolutely, look, give us whatever statements you want,
23 put anything you like into it --

24 A. Yes.

25 CHAIRMAN: If he had said that, would you have put it 15:50
26 down in writing?

27 A. I probably would, yes.

28 CHAIRMAN: Okay.

29 CHAIRMAN: Now. Thanks very much, yeah. So

1 apprehension was -- I am sorry, one last thing:
2 apprehension of a feature, apprehension about reporting
3 a systems failure was present in your mind?

4 A. At all times.

5 CHAIRMAN: At all times? 15:55

6 A. At all times.

7 CHAIRMAN: Okay. Thank you.

8 311 Q. MR. MARRINAN: And in aid of your -- and if we can look
9 at page 419 of the material. Again, this is page 15 of
10 this document that you gave to, Dr. Griffin, and if we 15:56
11 scroll down to the last paragraph, Mr. Kavanagh,
12 please, you say:

13
14 "I decided to return to work in March 2007 and was back
15 approximately three weeks when I had a conversation 15:56
16 with the local staff sergeant. I expressed my complete
17 dissatisfaction with how the system was treating me. I
18 had been back for three weeks and not approached by my
19 authorities even from a welfare point. He communicated
20 my feelings to the district officer who summoned me for 15:56
21 a meeting. I set out my concerns to him, informing him
22 of my concerns of what I saw to be a "systems failure"
23 in the Saulite case and my suspicions of a cover-up,
24 the lack of attention to my plight by the Garda
25 authorities, the fact that I had resumed work without 15:57
26 being properly assessed, the fact that although I had
27 reported sick with work related stress that no
28 investigation or inquiry had been carried out by the
29 Garda authority in that regard. He stated that he

1 would communicate my concerns to the divisional
2 officer. I heard no more, that is, until June 15th."

3
4 And that's the date on which you received the
5 disciplinary papers, isn't that right?

15:57

6 A. That's correct.

7 312 Q. So, if we just go to page 25, so we'll just get a
8 flavour of what you were trying to communicate with
9 Dr. Griffin. You said:

10
11 "Please do not conclude --"

15:57

12
13 Sorry, page 429, which is page 25 of the document.

14
15 "Please do not conclude from the above that I am an
16 embittered employee with an axe to grind. The
17 situation is quite the contrary. I have always thought
18 of myself as a dedicated member of An Garda Síochána.
19 I have a clean disciplinary record with excellent
20 attendance and punctuality records prior to 2007.

15:57

21 Prior to the above, I had always been held in good
22 stead with my superiors. I have striven to highlight
23 what I proceed to be huge failings by the Gardaí in
24 properly protecting the lives of witnesses to the
25 abduction case. I have approached numerous persons in
26 authority and made them aware of my concerns. My
27 solicitor notified the Assistant Commissioner HRM as
28 early as February 2007 that I had these concerns. The
29 Chief Medical Officer is aware of these concerns since

15:58

15:58

1 last September. Yet, I have not been formally
2 approached in that regard by the Garda authority. I
3 either have credible concerns or I do not. Either way,
4 there is an onus and duty of care on management to
5 explore the situation with a view to ensuring 15:59
6 transparency."

7
8 All right. So, that's you setting out your stall to
9 Dr. Griffin. Did you have any expectation that
10 Dr. Griffin would do anything in relation to that 15:59
11 document?

12 A. At the time I hoped that he would communicate all those
13 sentiments to the CMO.

14 313 Q. So the CMO.

15 A. And maybe perhaps the CMO could actually then refer 15:59
16 them to HRM, on that level there, that somebody would
17 actually pay attention to what's going on, you know.
18 So...

19 314 Q. Why didn't you send it directly to HRM if that was your 15:59
20 concern?

21 A. Well, I didn't think of the at the time to send it
22 directly to the HRM. The channels of the communication
23 within the organisation are up through the
24 superintendent to the chief superintendent.

25 315 Q. Okay. In your statement to the investigators you said 15:59
26 that Dr. Griffin had given you three options: either
27 you return to work, return to work with retraining or a
28 medical discharge.

29 We just might look at the report of Dr. Griffin, it's

1 at page 1343 of the material. It's dated the 7th
2 January.

3
4 we'll scroll down there to the third paragraph.

5
6 "Sergeant Hughes described to me in great detail his
7 involvement with the tragic case of the murdered mother
8 and the child abduction. Indeed he gave me sight of a
9 very detailed and long report that he had prepared.
10 Sergeant Hughes alleges considerable bullying by the
11 authorities and indeed is currently instructing a
12 solicitor."

16:00

16:00

13
14 If we turn over the page to 1344: he says:

15
16 "When I pressed Sergeant Hughes on continuing in the
17 police force even in light duties, he feels that he
18 can't foresee any way of returning as an effective
19 police officer. Certainly, having read his detailed
20 file which I don't have a copy of but have had full
21 sight of, I don't think this man is in a position now
22 or will be in a position in the future to give full and
23 effective service as a police officer. I don't think
24 he now has the mental robustness or will in future have
25 the mental robustness to continue in the Garda Force.
26 Thus my recommendation would be that he be considered
27 for retirement on medical grounds.

16:01

16:01

16:01

28
29 I hope this report is helpful."

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So, if we just go over to page 1346, please. This is after some correspondence with Dr. Quigley for clarification. He says:

16:02

"Once again having reviewed Sergeant Hughes's notes I think there is dual effect here, that is the trauma of Ms. Saulite's death affecting him greatly and also the reports of 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" which was what he diagnosed you at that time as having.

16:02

So, there we have it. That's a recommendation that's made. You'll appreciate, I am sure, that it's a recommendation from a doctor who is independent of An Garda Síochána, isn't that right?

16:02

A. Yes.

316 Q. And that's the recommendation that he has made in your case. And Dr. Quigley subsequently writes to the Assistant Commissioner HRM in relation to that. And if we just have his statement in this regard, Dr. Quigley's statement in this regard, at page 1332. He says:

16:03

"In March 2008 I give an opinion that the events of Ms. Saulite's death and the possibility of threat to life were likely normal policing work and if so did not constitute a formal ensure on duty. I also advised

16:03

1 that I had received a medical letter from the member's
2 treating psychiatrist Dr. Joseph Fernandez which
3 indicated that Sergeant Hughes's clinical presentation
4 in February 2008 appeared to be related to the history
5 of assassination of a female immigrant from Eastern 16:04
6 Europe. This in turn was linked to the provision of 24
7 hour Garda protection to her solicitor because of fear
8 for the latter's safety. He noted in essence that
9 Sergeant Hughes involvement in the child abduction
10 case, in his family and the fact that Sergeant Hughes 16:04
11 felt partly responsible for the circumstances of this
12 lady's death. The treating psychiatrist had reported
13 that he had felt personally threatened by these events,
14 and whilst resentful of the fact that he had been left
15 out in the cold by his superiors, with no communication 16:04
16 and with no formal acknowledgment of his predicament.
17 His treating psychiatrist also reported that there had
18 been antecedents going back over the previous three and
19 a half years and that Sergeant Hughes felt that he was
20 the victim of bullying and harassment at work. 16:05

21
22 I further reviewed Sergeant Hughes on 5 June 2,008 and
23 advised him that I had formed the opinion that he
24 should be retired on medical grounds of ill health,
25 based on the independent psychiatric report of 16:05
26 Dr. Griffin... in his assessment of the 4th January
27 2008. "

28
29 He points out:

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"The procedure involved a 'cooling off period' of 28 days."

So, if we have page 435 up on the screen. 16:05
Unfortunately, this is a very poor copy of the document.

A. Sorry, excuse me, do you mind if we refer to that last document, was it from Dr. Griffin or Dr. Quigley?

CHAIRMAN: Yes, certainly. Do you want to say something about it? 16:06

A. Yes, I just wanted to clarify something in relation to it.

MR. MARRINAN: You wanted the report of Dr. Griffin, is it? 16:06

A. I think it's the last document up on the screen.

317 Q. Is it Dr. Griffin or Dr. Quigley?

A. The previous document we had, was it Dr. Quigley?

CHAIRMAN: It's Dr. Quigley's report.

MR. MARRINAN: We hadn't opened Dr. Quigley's report. 16:06

CHAIRMAN: Sorry, is that Dr. Griffin?

MR. MARRINAN: I am just making inquiries in relation to that. Dr. Quigley's statement is that what you want?

A. Yes. 16:06

318 Q. So that's 19332?

CHAIRMAN: Yes. What do you want to say about that?

A. I just want to say that further down that there's recommendations in relation to non-medical issues in

1 that report as well. So, it's addressed to Assistant
2 Commissioner HRM.

3 CHAIRMAN: Take your time. We'll find the passage that
4 you are referring to.

5 A. That's it. 16:07

6 CHAIRMAN: Can you see it there?

7 A. Yes. He says: "I wrote to A/C HRM outlining this and
8 referencing my earlier advices of the 6th March 2008.
9 I noted that the case was particularly complex with
10 grievance welfare issues, disciplinary issues, legal 16:07
11 issues and industrial relations issues and I advised
12 Garda management that a decision regarding the injury
13 on duty should take into account the medical advice but
14 also on the outcome of all these other issues which
15 must be reported to her by the relevant parts of the 16:07
16 organisation of An Garda Síochána."

17 CHAIRMAN: And what do you want to say about that?

18 A. Well, Dr. Quigley was making his recommendations from a
19 medical perspective, obviously, but he also said that,
20 I think what he is telling A/C HRM is that they must 16:07
21 look into the non-medical aspects that were affecting
22 me.

23 CHAIRMAN: Yes. He said it was a complex case that
24 involved other issues as well, at least non-medical,
25 non-directly medical at any rate that's what he is 16:08
26 saying there, if I'm reading it correctly.

27 A. Yes. I thought I'd just highlight that particular
28 section there in relation to the non-medical issues.

29 CHAIRMAN: And am I understanding that you are saying

1 Dr. Quigley is drawing attention to the obligation on
2 the organisation to explore these other issues in order
3 to make a decision, is that what you are saying?
4 A. Yes, and for the -- for them to submit reports to
5 Catherine Clancy, Assistant Commissioner Clancy in that 16:08
6 regard.
7 CHAIRMAN: Okay.
8 MR. MARRINAN: If we had page 1802 up on the screen
9 please. It has been removed. That's -- we thought --
10 CHAIRMAN: Just so we know, I was going to go on till 16:08
11 about a quarter past because we missed a bit of time
12 earlier. So if that's all right with everybody else.
13 But if there is a convenient time for you to break,
14 Mr. Marrinan, I am sure that Sergeant Hughes would be
15 just as happy to take a break if there is one coming 16:09
16 up, but -- would you prefer to break at this stage?
17 It's not going to make a whole lot of difference in the
18 end of the day one way or the other.
19 MR. MARRINAN: I'll just explain, Chairman, this is a
20 document that -- 16:09
21 CHAIRMAN: Have you another document that you can put
22 that's relevant to this area, Mr. Marrinan?
23 MR. MARRINAN: The problem is, this is a document, at
24 page 435 --
25 CHAIRMAN: Is this the one that you can't read? 16:09
26 MR. MARRINAN: That is the one, it's a very poor copy
27 that's been provided by Sergeant Hughes to the
28 Tribunal, and it's very poor quality, and then when one
29 goes to look at the document in the documents that were

1 provided by AGS, there is a claim of privilege in
2 relation to it, but I don't see that there could
3 possibly be a claim of privilege in relation to it.
4 CHAIRMAN: I'll tell what you we'll do --
5 MR. MARRINAN: But they might look at and give us a 16:10
6 better copy of it.
7 CHAIRMAN: I'll tell you what we can do --
8 MR. MARRINAN: Sorry, it is page 8102. We have the
9 wrong page there apparently. Ah, there we are, so it
10 has been resolved. 16:10
11 CHAIRMAN: So now we have the document. And are we
12 happy to use the document? Mr. O'Higgins, have you
13 anything to say about this?
14 MR. MÍCHEÁL O' HIGGINS: No, there does seem to be
15 something in the nature of a complaint there but it 16:10
16 seems to be abandoned now, so I have nothing to say.
17 CHAIRMAN: Very good. There is nothing for us to sort
18 out. Very good. Well I'll tell what you,
19 Mr. Marrinan, why don't you talk about this document
20 and we will then call a halt. 16:10
21 MR. MARRINAN: Yes, indeed.
22 319 Q. So this is a letter from Dr. Quigley, and it's dated
23 the 6th March 2008, and this is the document that you
24 were concerned about, isn't that right? And if we go
25 to paragraph 3 there, if we scroll down, this refers to 16:10
26 the injury on duty. It says:
27
28 "At interview on 6 March 2008 Inspector Matthew Nyhan
29 of HRM (Legal section) pressed me on the issue as to

1 your injury wasn't an injury on duty, isn't that right?

2 A. That's correct. And if I may add, the assessment was
3 made, Mr. Chairman, without me having been formally
4 interviewed by my managers and a report sent --

5 CHAIRMAN: Oh, no I appreciate, don't worry, 1137 is 16:13
6 meat and drink to us, don't worry about that. And we
7 have it from the previous inquiry, so we're under no --
8 do not worry that we'll go away without knowing 11.37,
9 and the implications and the obligations on the
10 divisional officer who may or may not delegate it to 16:13
11 the district officer but we will get into all that, but
12 he is drawing attention to that.

13 A. Thank you, Mr. Chairman.

14 CHAIRMAN: And the later, the one you just drew us back
15 to was drawing attention to those issues. 16:13

16 A. Thank you.

17 CHAIRMAN: All right. Are you happy with that?

18 MR. MARRINAN: Yes.

19 CHAIRMAN: Very good. All right. Well, we'll leave
20 that till the morning. Thanks very much. 16:14

21

22 THE HEARING ADJOURNED UNTIL THURSDAY, 3RD FEBRUARY 2022

23 AT 10:30AM

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