

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

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

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

HEARING HELD IN DUBLIN CASTLE
ON THURSDAY, 3RD FEBRUARY 2022 - DAY 160

160

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
APPEAL

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MR. PATRICK MARRINAN SC
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TAKE NOTICE – PURSUANT TO ORDER DATED THE 1ST DAY OF
FEBRUARY 2022 OF MR. JUSTICE RYAN OF THE DISCLOSURES
TRIBUNAL

IT IS HEREBY ORDERED THAT the identification by name of Mr.
'A' or of any other suspect whether directly or indirectly
in connection with investigations undertaken by An Garda
Síochána is hereby prohibited;

AND IT IS FURTHER ORDERED THAT the any interested party in
this matter be at liberty to apply on the giving of 2 days
notice in writing to the tribu

I N D E X

W I T N E S S	P A G E
S E R G E A N T W I L L I A M H U G H E S	
D I R E C T L Y E X A M I N E D B Y M R . M A R R I N A N	6

1 THE HEARING RESUMED, AS FOLLOWS, ON THURSDAY, 3RD
2 FEBRUARY 2022:

3
4 CHAIRMAN: Good morning everybody. I apologise for not
5 bringing one of my dozens of masks that I have spread 10:29
6 about the office and my jackets of my coats, I came
7 across without doing it, I apologise.

8 MR. MARRINAN: Good morning, Chairman.

9 CHAIRMAN: Morning.

10 MR. MARRINAN: Sergeant Hughes, please. 10:30

11 CHAIRMAN: Thanks very much.

12
13 SERGEANT WILLIAM HUGHES CONTINUED TO BE DIRECTLY
14 EXAMINED BY MR. MARRINAN AS FOLLOWS:

15 10:30
16 1 Q. MR. MARRINAN: Sergeant Hughes, yesterday we dealt with
17 the letter, Dr. Quigley's letter of the 6th March 2008,
18 and if we could just move on from then, from that date,
19 I think that if we look at the material, we'll see that
20 at page 925 of the material -- if we could have that up 10:30
21 on the screen please -- you will see this is a
22 handwritten note that was made available to the
23 Tribunal from Inspector Fergus Dwyer, where he had been
24 in contact. And if we scroll down we'll see there that
25 he had, he phoned the Assistant Chief Medical Officer, 10:31
26 Dr. Quigley, on the 21st February 2008, and he
27 discussed your fitness to be interviewed. So that was
28 a matter he was pursuing at that time. Remember, I
29 mentioned that to you yesterday; that he appears to

1 have been pursuing these matters?

2 A. That's correct.

3 2 Q. And the advice that he received at that time from
4 Dr. Quigley was that you had a High Court case
5 regarding pay, and that if you gave evidence in that 10:31
6 case you may be capable of being interviewed as part of
7 the disciplinary matter, and he undertook at that stage
8 to conduct inquiries.

9

10 Now, I think then if we look at page 3977, please. 10:31
11 This is a letter from Chief Superintendent Michael
12 Feehan on the 29th April 2008, where he's writing to
13 the Assistant Commissioner Human Resource Management,
14 and this is in relation to the disciplinary
15 proceedings. Mr. Kavanagh, if we scroll down, just the 10:32
16 second last paragraph he says:

17

18 "In light of my obligations under the Garda Síochána
19 Regulations to investigate the matters alleged against
20 the member as soon as practicable, your advice is 10:32
21 sought on the following. If the CMO is not forthcoming
22 with the decision on this matter in the near future,
23 would it be prudent to proceed and interview Sergeant
24 Hughes if he is agreeable to such a course?"

25

10:32

26 Do you see that?

27 A. I do.

28 3 Q. And so, it would appear that Inspector Dwyer and Chief
29 Superintendent Feehan were concerned that you should be

1 interviewed as soon as possible, isn't that right?

2 A. On that correspondence, yes.

3 4 Q. I mean this correspondence has only become available to
4 you through disclosure by the Tribunal, isn't that
5 right? 10:33

6 A. That's correct.

7 5 Q. And I am just highlighting it in the light of your
8 allegation that there was a delay in interviewing you
9 and a delay in the disciplinary proceedings. Can you
10 see, to some extent, that that was perhaps 10:33
11 understandable in the circumstances?

12 A. Well perhaps if I was made aware of this correspondence
13 and that they were making attempts, but I wasn't
14 hearing anything back at all in relation to it at the
15 time. 10:33

16 6 Q. Yes, you heard nothing. I'll return to that --

17 A. Yes.

18 7 Q. -- but would I be correct in discerning that maybe your
19 position in relation to your criticism of the
20 disciplinary investigation team in regard to that 10:34
21 matter has softened a little bit?

22 A. Oh absolutely, when I see this correspondence.

23 8 Q. Now I think on the 2nd May 2008, you reached the
24 threshold, I think, of 338 days where you had been out
25 sick and you were placed on the pension rate of pay, 10:34
26 isn't that right?

27 A. That's correct.

28 9 Q. And if we then just look at page 1298 of the material,
29 this is notes that were made at the time, they're

1 bullet point notes that were made by Detective
2 Inspector Hanrahan, and if we look there on the 2nd May
3 2008, he has a note that he spoke with you at 12.45pm,
4 and you requested that he forward a report to the
5 Commissioner's office "re your concerns regarding the 10:35
6 murder of Bai ba Sauli te and i nvestigati on i nto her
7 death to superi ntendent' s offi ce". what' s that a
8 reference to, do you recall?

9 A. I think I have it all right in my chronology, but I'll
10 have to check, but I seem to recollect that transaction 10:35
11 okay.

12 10 Q. Now what's envisaged: "That I forwarded a report to
13 Commi ssi oner' s offi ce re hi s concerns regarding the
14 murder of Bai ba Sauli te" and then "i nvestigati on i nto
15 her death" and then "to superi ntendent' s offi ce". Was 10:35
16 this a request for him to send a report to the
17 Commissioner's office that you were making at the time?

18 A. No, I would say it was for him to send a report to his
19 own superi ntendent, my superi ntendent.

20 11 Q. Okay. All right. I think then on the 17th April, your 10:36
21 solicitor wrote to Assistant Commissioner McHugh -- and
22 if we could have page 2125 up on the screen please --
23 and we look at the second paragraph there:

24
25 "We will be most obliged if you would please confi rm 10:36
26 the up-to-date posi ti on wi th regard to your
27 i nvestigati on of thi s matter."

28
29 which is the Garda disciplinary investigation.

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"Given the seriousness of the breaches as alleged you will appreciate that this matter continues to cause our client great stress and concern."

10:37

I think Assistant Commissioner McHugh responded to that the following day and that he indicated that he'd seek an update from the investigating officer. That's at page 2126, we don't need it on the screen. And then, your solicitor acknowledges that on the 15th May, and he says he was most obliged to for the letter confirming that you had sought an update from the investigating officer -- that's at page 2130, we don't need to open that either.

10:37

10:37

And then, following on from that, on the 27th May, an update is sent by Chief Superintendent Feehan to Assistant Commissioner McHugh -- so page 2134 of the material -- and there, at paragraph 1, he highlights the fact that a request had been made of the Chief Medical Officer to assess your fitness to be interviewed. And he indicates that his decision in that regard had been informed by correspondence from your solicitor dated 8th November, that we mentioned yesterday, stating that "Sergeant Hughes was unfit for duty due to work related stress he would not be attending a meeting with myself on the following day. I had arranged this meeting to progress the investigation into the matter at hand."

10:38

10:38

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And he attached a copy of the correspondence.

So, it would appear on both sides, in terms of your solicitor and as far as you were concerned, you wanted the disciplinary matter progressed, isn't that right? 10:39

A. That's correct.

12 Q. Because it was causing you some degree of stress. And on the other hand, Chief Superintendent Feehan and Inspector Dwyer seem to have run into a problem in relation to getting you assessed and your fitness to be interviewed determined, isn't that right? 10:39

A. That's correct.

13 Q. There doesn't appear, on the face of it, certainly at that stage, to be any mala fides on their part, would you agree with that? 10:39

A. The mala fides, no, but just the amount of time that it was taking for them to progress from one step to another, a matter of five or six months to get correspondence back and forth from HRM or the CMO. 10:40

14 Q. Yes. So, is it more that you are concerned that they were -- you think that they were dragging their heels to some extent in relation to it?

A. I would say so, yes.

15 Q. But I mean do you think that that was deliberate on their part when you look at the correspondence? 10:40

A. I can't say it was deliberate on their behalf. Just that the -- it seemed to be a protracted time between each report to the CMO and -- or to HRM in that regard

1 with the correspondence. I feel that it probably could
2 have been dealt with more expeditiously.

3 16 Q. But do you say that this is a deliberate instance of
4 targeting of you?

5 A. Well, that's getting -- I couldn't really -- I'm not in 10:40
6 a position to say that it was targeting, but the effect
7 on me was that I had to wait all those times, like an
8 interminable amount of time, to actually receive a
9 response in relation to -- from the disciplinary team.

10 17 Q. Well I am not trying to put you in a corner or 10:40
11 anything, but obviously when you made your statement to
12 the Tribunal investigators and your allegations of
13 targeting and discrediting, you weren't familiar with
14 all the papers that were available and then
15 subsequently became available to the Tribunal as a 10:41
16 result of its initial investigation in this matter, and
17 whilst I understand that you regard the fact that there
18 were disciplinary proceedings as an instance of
19 targeting, I am just trying to establish whether the
20 Chairman has to be concerned as to whether you consider 10:41
21 the manner in which the disciplinary proceedings were
22 dealt with and the procedures adopted, that you
23 regarded that as deliberate targeting as well?

24 A. Yes.

25 18 Q. Whether you accept that they appear to have done their 10:41
26 duty in that regard, and whilst there may have been
27 some slight delay in relation to the matter, they seem
28 to have pursued matters as expeditiously as they could
29 in the circumstances.

1 A. No, I don't agree that they were pursued expeditiously,
2 given the inordinate amount of time in receiving
3 responses from what is essentially an office within our
4 own organisation, and it's when I saw the actual
5 discovery on what questions were required to be asked 10:42
6 of me at the end of the procedure, I can't understand
7 why those questions just weren't preferred to me
8 through my solicitor even, or if there was an invite
9 for me to actually -- a further invite for me to attend
10 following the November invite, maybe that would have 10:42
11 resolved it much sooner.

12 19 Q. Okay. If we --

13 CHAIRMAN: Sorry, is that a case of inefficiency that
14 you are making?

15 A. Well I didn't know at the time when I was making my 10:43
16 statement in relation to the correspondence here, but
17 when I see it here I think there was a degree of lack
18 of expeditiousness in the communication.

19 CHAIRMAN: Yes, so let's say that comes down to
20 inefficiency, if you like, is that right? I mean they 10:43
21 should have done it faster?

22 A. I think so possibly, yes.

23 CHAIRMAN: And Mr. Marrinan is saying are you making
24 the case that that was done deliberately in order to
25 target you? 10:43

26 A. Well the evidence is there that there was an inordinate
27 amount of time, in my view, in relation to seeking the
28 correspondence back, and that at all times they're
29 being made aware that this procedure was having the

1 utmost stress upon me.

2 CHAIRMAN: I can understand of course --

3 A. Yes.

4 CHAIRMAN: Anybody can understand that something

5 hanging over you -- 10:43

6 A. Yes.

7 CHAIRMAN: -- is stressful. But my understanding is

8 that the inquiry was concerned to interview you, they

9 were concerned to make sure that you were healthy and

10 properly fit to be interviewed, so they checked with 10:44

11 your solicitor, they checked with the Chief Medical

12 Officer; what more could they do?

13 A. Sorry, when you say they checked with my solicitor, my

14 solicitor was looking for updates in relation to

15 progress of the -- 10:44

16 CHAIRMAN: Yes. But your position was, as notified to

17 the inquiry, that you were not in a position to be to

18 interviewed, isn't that right?

19 A. That's in November 2007.

20 CHAIRMAN: Yes. 10:44

21 A. I am saying that given the protracted --

22 CHAIRMAN: So did your solicitor ever say well he's now

23 in a position to be interviewed?

24 A. No, he did not.

25 CHAIRMAN: So I mean -- listen, I am not -- like 10:44

26 Mr. Marrinan says, but accepting that there was some

27 delay that could have been avoided...

28 A. Yes.

29 CHAIRMAN: Do you see a difference, I mean from this

1 Tribunal's point of view, to whether somebody could
2 have done things a bit faster, in your view, as opposed
3 to deliberately targeting you because you were
4 complaining about systems failure? I mean that seems a
5 pretty wide chasm to bridge. 10:45

6 A. Yes.

7 CHAIRMAN: Do you see what I mean?

8 A. Yes.

9 CHAIRMAN: I mean do you understand?

10 A. Yes. 10:45

11 CHAIRMAN: I don't want to be confusing you.

12 A. Yes.

13 CHAIRMAN: Do you understand where I am going with
14 that?

15 A. I understand that it may appear that there was 10:45
16 correspondence going back and forth between, but, as I
17 said, the disciplinary papers were served on the 15th
18 June the previous year, and it wasn't until
19 October/November until any attempt was made to
20 interview me, and under the regulations I think it has 10:45
21 to be investigated as soon as practicable so --

22 CHAIRMAN: I am with you.

23 A. Yes.

24 CHAIRMAN: But I am just trying to clear one thing. I
25 mean if you maintain that that was targeting, well and 10:46
26 good, that's okay.

27 A. Yes.

28 CHAIRMAN: There's no -- we're here to listen to the
29 case. But it comes down to this, in light of the

1 communication. Sergeant Hughes has no issues
2 concerning my communications with him."
3
4 Is that the position?
5 A. Absolutely. 10:49
6 25 Q. So you weren't anxious for a face-to-face meeting, you
7 prefer it to be dealt with on the phone?
8 A. No, that's not correct. The context of that there
9 would appear to suggest that I was suggesting that all
10 communication will be by telephone. I never intimated 10:49
11 that to Inspector Hanrahan.
12 26 Q. All right. He says:
13
14 "I have on previous occasions offered to meet with
15 Sergeant Hughes but he indicated to me that as I have 10:49
16 his mobile number and he has mine that we have an open
17 line of communication."
18
19 That would suggest that you had a preference to be
20 dealt with on the phone. 10:49
21 A. I could have expressed -- we could have agreed, look,
22 rather than him travelling out from Coolock to my house
23 that, you know, if he had something, just one small
24 conversation with me, no problem, by telephone.
25 27 Q. You see, unfortunately, the report might suggest that 10:50
26 you didn't want a face-to-face meeting and you wanted
27 all communication by phone?
28 A. Absolutely not.
29 28 Q. And I think he agrees with you ultimately, but an

1 interpretation of this report might be that that's what
2 he's conveying. But in any event, you'll see the last
3 paragraph there:

4
5 "Sergeant Hughes has again stated his concerns as to 10:50
6 the discipline proceedings being taken against him as
7 reported on various occasions from this office. He is
8 of the opinion that the investigation is not being
9 processed at reasonable speed, where he may have some
10 conclusion to this discipline matter." 10:50

11
12 Isn't that right?

13 A. That's correct.

14 29 Q. And you don't take any issue with that conversation
15 that you had with Inspector Hanrahan? 10:50

16 A. No.

17 30 Q. would it be fair to say that when you raised concerns
18 with the people that you were dealing with, such as
19 Inspector Hanrahan, that generally those concerns have
20 been conveyed up-the-line to superiors, is that right? 10:51

21 A. In respect of Inspector Hanrahan here, yes.

22 31 Q. Yes...

23 A. And on discovery I have seen that he did actually send
24 the reports up the line, yeah.

25 32 Q. And the concerns that you express to Dr. Quigley also 10:51
26 seem to have been referred to HRM as well?

27 A. which? sorry ?

28 33 Q. Generally.

29 A. Generally, yes, indeed, yes.

1 34 Q. So then, as indicated, you had an appointment with
2 Dr. Quigley on the 5th June. If we just briefly look
3 at his report -- it's at page 1329 of the material --
4 the report is dated 9th June 2008, and if we scroll
5 down you will see in the second line there: 10:52
6
7 "Based on the reports of the independent mental health
8 adviser, I conclude that Sergeant Hughes no longer
9 possesses the necessary health to perform the demanding
10 role of a police officer. I have advised Sergeant 10:52
11 Hughes of this position."
12
13 That decision that he's making is based on the report
14 that we referred to yesterday from the independent
15 psychiatrist Dr. Griffin? 10:52
16 A. That's correct.
17 35 Q. I mean it seems to have been a decision that
18 Dr. Griffin arrived at, was conveyed to Dr. Quigley,
19 who is then making an assessment based on the advice
20 that he has received and his own discussions with you, 10:53
21 and then he is making a recommendation to HRM. It
22 seems a legitimate process?
23 A. Em...
24 36 Q. I mean are you critical of this process?
25 A. No. And what I'm saying, the problems I was having 10:53
26 were largely non-medical which were causing my
27 condition, and, as with the report through Dr. Griffin
28 that I submitted I could be plainly seen that all my
29 problems were really related to the workplace matters

1 and non-medical issues. And I just had a difficulty
2 there with regard to a decision being made for medical
3 retirement without all those issues being explored.

4 37 Q. Yes, but are you suggesting that this is an incident of
5 targeting of you by senior management? 10:54

6 A. HRM?

7 38 Q. Yes.

8 A. Yes.

9 39 Q. And why do you say that?

10 A. Well, the subsequent reports there to HRM, I think Dr. 10:54
11 Quigley actually advises them that they should look at
12 the non-medical issues, and he categorises the
13 non-medical issues in legal issues, industrial
14 relations matters, must be reported on by HRM before a
15 full decision can be made on medical retirement. He 10:54
16 said it was a complex matter.

17 40 Q. Yes. If we scroll down, you we will see what you are
18 referring to:

19

20 "I note this case is particularly complex." 10:54

21

22 And he highlights grievance/welfare issues,
23 disciplinary issues, legal issues, industrial relations
24 issues.

25 10:55

26 "Accordingly I consider that you must decide upon the
27 issue of injury on duty based on the medical advice as
28 given but also based on the outcome of all these other
29 issues which must be reported upon to you by the

1 relevant parts of the organisation of An Garda
2 Síochána. "

3

4 That's what you are referring to, is that right?

5 A. That's correct, yes.

10:55

6 41 Q. That appears to relate to the decision of injury on
7 duty, do you understand? He refers to that there,
8 which is the decision under Code 11.37.

9 A. Yeah.

10 42 Q. But the decision to retire you on medical grounds is a
11 separate decision to that, and he has expressed his
12 upon that you should be retired on medical grounds, and
13 he has based that on the opinion of an independent
14 psychiatrist.

10:55

15 Now, do you say that that decision to retire you on
16 medical grounds, or that advice that you should be
17 retired medical grounds was an instance of targeting?

10:55

18 A. On behalf of by Dr. Quigley, is it?

19 43 Q. Yes.

20 A. Discrediting, I'd say, in respect of that he was going
21 on psychiatric advice -- well the psychiatric advice I
22 had was already furnished a comprehensive report to
23 Dr. Griffin outlining my difficulties and hoping those
24 difficulties then, if those difficulties were tackled
25 by Garda management, I am sure it would have alleviated
26 my position from a mental health point of view.

10:56

10:56

27 44 Q. In any event, you were given the opportunity to appeal
28 that decision, is that correct?

29 A. That's correct.

1 45 Q. And submit your own reports, which you ultimately did.
2 If we could just move on then to two weeks later, the
3 18th June of 2008. I think had you a conversation on
4 the phone with Superintendent Curran, isn't that right?
5 A. Just I have to see it there, sorry. 10:56
6 46 Q. Well yes, again this isn't referred to in your
7 statement --
8 A. No, no.
9 47 Q. -- but it emerges from the papers. I will put it up on
10 the screen for you. This is a report of that 10:57
11 conversation that Superintendent Curran had with you on
12 the 18th June 2008, and the report is dated 17th July,
13 and it's at page 688 on the screen, please. And we
14 will see it is entitled "Sick Report", it's to the
15 chief superintendent. And then he refers to Inspector 10:57
16 Hanrahan's report dated 27th May. And you will see
17 there he says:
18
19 "Inspector Hanrahan states that he offered to have a
20 meeting with Sergeant Hughes in person but Sergeant 10:57
21 Hughes stated his preference to communicate by
22 telephone."
23
24 And then he goes on in the next paragraph to say:
25 10:58
26 "On the 18th June I spoke to Sergeant Hughes by
27 telephone."
28
29 Do you recall this conversation now?

1 A. I don't recollect it, no.

2 48 Q. He says:

3

4 "This conversation took place due to the receipt of the
5 HRM communication with the Chief Medical Officer's 10:58
6 decision to allow Sergeant Hughes to retire on medical
7 grounds."

8

9 Then he goes on to say:

10

11 "I requested to meet Sergeant Hughes regarding this
12 matter due to the significance of the Chief Medical
13 Officer's report and the impact on his personal
14 circumstances."

15

16 Do you recall that; that he asked to meet with you to
17 discuss this?

18 A. I can't -- I don't recall that, no.

19 49 Q. "On 19th June Sergeant Hughes contacted me by
20 telephone. He spoke to me in connection with the Chief 10:58
21 Medical Officer's decision. He informed me that he had
22 been advised that the term 'medically retire' implies
23 that he suffers from a mental illness."

24

25 Is that something that you had done? 10:59

26 A. Well that would be in line with the way I was thinking
27 then.

28 50 Q. Yes. And he says that that terminology was
29 unacceptable to you, do you recall that?

1 A. That would be in line with the way I was thinking, yes.

2 51 Q. "He stated that he had never been asked the reason why
3 he was out sick."

4

5 And then he goes on to say:

10:59

6

7 "I am aware that Inspector Della Murray, welfare
8 officer, has spoken to Sergeant Hughes on several
9 occasions. In April 2007 I spoke to Sergeant Hughes in
10 relation to the matter and he responded that his work
11 related stress was connected to the murder of Bai ba
12 Saulite, the issues that arose around the content of
13 the victim impact report supplied by Bai ba Saulite to
14 him and the perceived threat to him and his family's
15 safety from Mr. A."

10:59

16

17 So he is referring back to the meeting that he reported
18 on in April 2007 that we went through yesterday.

19 A. I see that.

20 52 Q. Is that correct?

11:00

21 A. No, it's not all correct.

22 53 Q. What aspect of it is incorrect?

23 A. Although I don't recollect the actual telephone call,
24 but I would have been looking for him to -- or sorry,
25 for my sickness absence to be fully investigated and
26 for a report to be obtained from me in that regard.

11:00

27 54 Q. He then goes on in the next paragraph, if we scroll
28 down:

29

1 "He also claimed that An Garda Síochána in his opinion
2 had information in his possession concerning threats to
3 the life of Baiba Saulite prior to her murder. He
4 claims that subsequent to Baiba Saulite's murder
5 Inspector Walter O'Sullivan, now superintendent 11:00
6 Kilkenny, informed him that the Commissioner was aware
7 of threats to Baiba Saulite's life."
8

9 Do you see there, that is the point in time that he
10 says that you informed him of that conversation that 11:01
11 had you with Detective Inspector Walter O'Sullivan

12 A. That's correct.

13 55 Q. Is that right?

14 A. Yeah, that would have been my line of thought at the
15 time. 11:01

16 56 Q. Yeah. And then he appears to have raised the issue
17 with Superintendent O'Sullivan, because there's a
18 report from Superintendent O'Sullivan where he states
19 to the contrary and that you were mistaken in your
20 recollection of that conversation. If we have page 11:01
21 1058 up on the screen. Sorry, I may have the wrong
22 pages, give me one moment, please. Sorry, it is 1132,
23 I'm sorry, Mr. Kavanagh. This is a report sent on the
24 17th July 2008 from the superintendent's office in
25 Kilkenny where Superintendent O'Sullivan, as he then 11:02
26 was, was the district officer. And if we look at the
27 last paragraph, if we scroll down there:

28
29 "Neither I nor my officers were in receipt of any

1 information prior to the murder of Bai ba Sauli te on the
2 19th November 2008 which stated that there was a threat
3 to her li fe from Mr. A and hi s associates. No
4 information has been collected to date by the
5 investigation team during the course of thi s 11:03
6 comprehensive investigation which states that the Garda
7 Síochána was in receipt of information from
8 intelligence sources that related to a speci fic threat
9 to the li fe of Bai ba Sauli te prior to her death.

10 11:03
11 Sergeant Hughes suggests that during the course of a
12 conversation with him that I reported to him that the
13 Garda Síochána and the Commissioner of the Garda
14 Síochána had possession of information prior to the
15 19th November 2006 relating to a speci fic threat to the 11:03
16 li fe of Bai ba Sauli te from Mr. A and hi s associ ate.
17 Thi s is not the case. No such information existed and
18 Sergeant Hughes is incorrect and mi staken in hi s
19 assertions concerning my conversations that I held with
20 hi m. " 11:04

21
22 Now I know you disagree with that, but it would appear
23 that Superintendent Curran, as soon as you had raised
24 this issue, sought a report from Superintendent
25 O'Sullivan, and he received that report. And in hi s 11:04
26 statement to the Tribunal he suggests that he has a
27 recollection of phoning you and telling you of that
28 response and that you responded by merely saying that
29 the superintendent was lying.

1 A. I don't think I would have used that term 'lying', but
2 I would have probably said it's not my recollection of
3 events.

4 57 Q. Well do you recall him ringing you and telling you
5 that, look, I have a report from the superintendent and 11:04
6 he says that this conversation didn't take -- isn't as
7 stated by you?

8 A. I have no clear recollection of that telephone call.

9 58 Q. Now there was some correspondence in July, that we
10 needn't go into, where your solicitor wrote to 11:05
11 Dr. Quigley asking what condition that you were
12 suffering from. And then again correspondence from
13 your solicitor, on the 4th July, to HRM, asking about
14 the medical discharge aspect of it.

15 But the next significant event occurred on the 8th July 11:05
16 2008, Garda Declan Nyhan was cleared of any wrongdoing
17 by the disciplinary investigation. Now, at page 45 of
18 the material, in your interview with Tribunal
19 investigators, you claim that this amounted to
20 targeting of you. Will you explain how you could 11:05
21 regard the acquittal, as it were, of Garda Nyhan as
22 being targeting of you?

23 A. Well I felt that the -- obviously we were both served
24 with the same papers, and they must have collected
25 evidence -- in my view, they must have collected 11:06
26 evidence to actually clear him of any wrongdoing, and
27 they obviously had evidence to sustain the disciplinary
28 process in respect of me. And, as I stated previously,
29 on discovery then of documents six years later, I found

1 that there was nothing in the documents there, that
2 there was nothing in those documents that were provided
3 that could not have been ascertained prior to the
4 initiation of the disciplinary process. And that's
5 why, when I made a statement to the Tribunal, I said 11:06
6 that at the time they were clearing Declan Nyhan they
7 were in a position to do the same with me.

8 59 Q. Do you want to say any more about that?

9 A. Sorry, can you remind me?

10 60 Q. No, but do you want to say any more? Do you want to 11:07
11 expand on that in any way?

12 A. Well the -- not really, no. It's just that the
13 disciplinary process then I think went on for a further
14 year with me, and at the time I made my statement to
15 the Tribunal I reckoned that this was too 11:07
16 overly-protracted in the circumstances.

17 61 Q. Now, if we then just move forward again, reverting back
18 now to the disciplinary matter, you'll be familiar with
19 letters that go back and forth in relation to this. On
20 the 17th July, Chief Superintendent Feehan writes to 11:07
21 HRM again about interviewing you -- this is at page
22 3998 of the material. And we see that letter there.
23 Scroll down, and it sets out the history of it. And if
24 we scroll down further, the correspondence entered into
25 with your solicitor on the 9th November. Scroll down 11:08
26 to the next page, further down, and then it says, going
27 up to the penultimate paragraph:

28
29 "On the basis that the investigating officer was

1 informed by the legal representative of Sergeant Hughes
2 that his client is unfit to be interviewed in this
3 matter and that no advice to the contrary has been
4 received by the investigating officer, Sergeant Hughes
5 has not yet been interviewed in this matter. The 11:09
6 interview of Sergeant Hughes is required before the
7 disciplinary aspects of this matter can be brought to
8 closure."

9
10 And he is looking for advice in relation to the matter. 11:09
11 There's then a communication internally from HRM on the
12 same day looking to have you assessed by the CMO in
13 relation to your fitness to be interviewed -- that's at
14 page 4004, we don't need that on the screen but that's
15 the reference to it. 11:09

16
17 And then on the 18th July 2008, there's a letter from
18 Dr. Quigley to HRM, and that's at page 4007. Yes, if
19 you go to the previous page, yes, if we scroll down to
20 the end of that page, this is a letter of the 18th July 11:10
21 to Assistant Commissioner Clancy. He notes, in the
22 last paragraph, halfway down:

23
24 "I referred to the particular complexity of the present
25 case which appeared to have grievance/welfare issues, 11:10
26 disciplinary issues, legal issues and industrial
27 relations issues, I advised that I considered that in
28 relation to his ill health retirement the issue of
29 injury on duty based on the medical advices given but

1 also based on the outcome of all these other issues
2 which must be reported upon to you by the relevant
3 parts of the organisation. I noted that Sergeant
4 Hughes indicated that he had been served with
5 disciplinary papers approximately a year previously. I 11:11
6 stated that he informed me that he has not been
7 interviewed or been informed of when this disciplinary
8 matter will be dealt with. Accordingly I recommended
9 that if it is possible that these disciplinary issues
10 be dealt with at as early a date as possible and as 11:11
11 speedily, effectively and fairly brought to closure. I
12 saw this as being of benefit to Sergeant Hughes and the
13 organisation. Accordingly I did not consider that
14 there was a medical impediment to this, to the then
15 processing of disciplinary matters and that there was 11:12
16 benefit to the Garda member and the organisation in
17 proceeding with it. This remains the position at this
18 time."

19
20 So he is setting out his view in relation to the matter 11:12
21 fairly clearly there.

22 A. That's correct.

23 62 Q. There's another communication from Dr. Quigley to the
24 Assistant Commissioner HRM, dealing with some of the
25 matters that arose in a letter that was sent by your 11:12
26 solicitor on the 4th July. I am not going to go into
27 that, I don't see any need to, any of the other parties
28 can introduce the material.

29

1 There's just one other matter before we move on to a
2 contentious letter that was written on the 19th July
3 2008, which you claim amounts to targeting of you. And
4 it's a letter that was sent on the 24th July of 2008,
5 and it's at page 4010, and it's from Chief
6 Superintendent Michael O'Sullivan to the Assistant
7 Commissioner Human Resource Management. It attaches a
8 comprehensive report from Superintendent Curran that,
9 there's no need to open or go into.

11:13

10
11 If we look at the second paragraph:

11:13

12
13 "All contact with Sergeant Hughes has been conducted
14 through telephone, specifically at his request. He has
15 declined all offers to meet local management to date.
16 This places local management at a disadvantage in that
17 no face-to-face contact is possible. I stress again
18 that this is at the specific request of Sergeant
19 Hughes.

11:13

20
21 In a conversation with Superintendent Curran conducted
22 on the 19th June Sergeant Hughes indicated that he
23 wishes closure on the matter and that he, Sergeant
24 Hughes, would retire on medical grounds if the reasons
25 for his medical retirement would not detract from his
26 character. "

11:14

27
28 Just what observation would you like to make in
29 relation to that letter that was sent?

11:14

1 A. Well in relation to the second paragraph there, that's
2 not true at all. And in relation to the third
3 paragraph, I think that I "would retire on medical
4 grounds if the reason for his medical retirement would
5 not detract from his character" - is inaccurate. 11:14

6 63 Q. Now of course you weren't aware of this allegation that
7 was being made, that you were refusing to meet
8 face-to-face with local management. You didn't become
9 aware of that until the 19th September, isn't that
10 right? 11:15

11 A. That's correct.

12 64 Q. And if we can go to that now, if we look at page 4018
13 of the material, please. So this is a letter sent by
14 Assistant Commissioner Clancy to Séan Costello &
15 Company, 19th September 2008. It encloses reports that 11:16
16 we needn't go into, but if we look at the second
17 paragraph there:

18
19 "The Chief Medical Officer in his report to me
20 subsequent to receiving your letter of the 4th July has 11:16
21 referred to the fact that you appear to quote him as
22 saying that Sergeant Hughes should be let go. The
23 Chief Medical Officer has pointed out that this is not
24 his normal language during an ill health retirement
25 consultation and he feels it should be noted that he 11:16
26 had indicated to Sergeant Hughes that he no longer
27 possesses the necessary health to pursue the demanding
28 role of a police officer, that the position appeared to
29 be permanent and that he was therefore recommending ill

1 health retirement."

2

3 And then it goes on to note another observation of the
4 Chief Medical Officer. And then the last paragraph on
5 that page:

11:17

6

7 "In relation to whether the Chief Medical Officer is
8 relying on reports, documents or otherwise of a
9 non-medical nature, the medical officer advises me that
10 in cases of ill health retirement, his recommendation
11 is based solely on medical criteria and non-medical
12 reports, documents or otherwise are not a factor in the
13 decision to recommend ill health retirement."

11:17

14

15 Do you see that?

11:17

16 A. Yes.

17 65 Q. So the issue of retirement is based solely on the basis
18 of medical reports as opposed to any other type of
19 reports?

20 A. I see that.

11:17

21 66 Q. She goes on to say:

22

23 "The Chief Medical Officer has asked me to point out to
24 you that he does not have a role in the disciplinary
25 process and as such does not deal with the question of
26 disciplinary proceedings against Garda members. He
27 did, however, recommend that if any disciplinary issues
28 could be dealt with at as early a date as possible and
29 as speedily, effectively and fairly brought to closure,

11:18

1 he would see this as being of benefit to Sergeant
2 Hughes and the organisation."

3
4 Then the next paragraph:

5
6 "In your letter you also referred to the fact that
7 prior to being reviewed at the chief medical department
8 on 5th June 2008, local management were to meet with
9 Sergeant Hughes and discuss the issues set out in my
10 letter of the 23rd May. You pointed out that this
11 meeting did not take place. I sought a report from the
12 divisional officer in relation to this issue. The
13 divisional officer advises me that all contact with
14 Sergeant Hughes has been conducted through telephone
15 specifically at his request. Sergeant Hughes has
16 declined all offers to meet local management to date.
17

18 Furthermore you refer in your letter to a letter from
19 you to Assistant Commissioner McHugh dated 5th May
20 concerning the disciplinary inquiry a copy of which was
21 not enclosed as stated in your letter. I cannot reply
22 on behalf of Assistant Commissioner McHugh, however I
23 have received a report from Chief Superintendent
24 Internal Affairs in this regard and I can confirm for
25 you that the discipline investigation is ongoing."
26

27 The final paragraph says:

28
29 "If Sergeant Hughes or his treating physicians are

1 opposed to the recommendations of the Chief Medical
2 Officer that he should be medically retired he must
3 present further reports to the Chief Medical Officer
4 within four weeks from the date of this letter. If no
5 further reports are received within that timeframe, the 11:20
6 Chief Medical Officer will forward his recommendation
7 to the Commissioner that Sergeant Hughes be medically
8 retired."

9
10 Now in that regard will you outline to the Chairman 11:20
11 what your client is in relation to that letter and how
12 you say it constitutes targeting?

13 A. Well the most prominent element of that letter is the
14 fact that it's been reported to the HRM that I was
15 declining to meet with local management and insisting 11:20
16 that all the communication with me would be by
17 telephone, and that is simply not correct -- was simply
18 not correct.

19 67 Q. Your view in relation to that, that that's not just
20 simply a misstatement that arises out of a 11:21
21 misinterpretation of reports that had been sent in.

22 A. The reports are very direct from the chief
23 superintendent that I was declining all offers to meet
24 with Garda management, face-to-face meetings were not
25 available. 11:21

26 68 Q. Yes...

27 A. That is totally incorrect, and I think that
28 correspondence there was relying on that
29 correspondence.

1 69 Q. Yes indeed.
2 A. Yes.
3 70 Q. But do you say that that was deliberate targeting?
4 A. I would say yes, I'd say so. Because at no stage did I
5 intimate to any member of management that I would not 11:21
6 meet him. And I also say I never insisted that
7 communication with me would be by telephone only.
8 71 Q. Now, I mean subsequently you contacted Detective
9 Inspector Hanrahan again and you raised this issue with
10 him -- 11:22
11 A. I did.
12 72 Q. -- where you said that you were very disturbed by this
13 and agitated by it and that you had never declined to
14 meet with senior management, and he agreed with you?
15 A. That's correct. 11:22
16 73 Q. And there's no need to open up his statement in this
17 regard because you're ad idem in relation to this, but
18 it's at page -- his report of the 13th October is at
19 page 4021 of the material. We actually just might look
20 at this very briefly. This is a report of the 13th 11:22
21 October. If we look down, first paragraph, third line
22 from the bottom:
23
24 "Garda management in the R District would like to
25 clarify that Sergeant Hughes has not refused to meet 11:23
26 with us on any occasion since both Superintendent
27 Curran and I arrived in the district. We have agreed
28 to communicate by way of telephone for the convenience
29 of all parties. Sergeant Hughes has my mobile number

1 along with Superintendent Curran's as we have his.
2 There is at all times an open line of communication.
3 He has requested that he receive a copy of this
4 correspondence. I have informed Sergeant Hughes that I
5 will have to first file my report with senior 11:23
6 management for their opinion."
7
8 So I mean it couldn't be clearer in that regard, that
9 he is setting the record straight in relation to that.
10 A. Yes indeed. 11:23
11 74 Q. So were you happy with that response from Inspector
12 Hanrahan?
13 A. I was happy that he was taking the task on board to
14 actually tackle my concerns, and I see now in
15 discovery, I see this, and I'm happy with that, I would 11:24
16 be happy with that attempt that he was making to
17 clarify the issues.
18 75 Q. And what about Superintendent Curran's response?
19 A. I didn't receive a response from Superintendent Curran
20 I don't think. 11:24
21 76 Q. Okay. Sorry, I am a little bit unclear in my mind in
22 relation to this. Was this a meeting that you had in
23 person with Inspector Hanrahan?
24 A. I recollect that it was.
25 77 Q. In the Carnegie? 11:24
26 A. In the Carnegie Hotel, yes.
27 78 Q. Carnegie Court Hotel, right; it just wasn't clear that
28 that was the position. Coming back to that letter of
29 the 19th September, the issue in relation to the

1 misrepresentation of your position vis-à-vis meeting
2 management. So that was eventually cleared up, but
3 nevertheless you took umbrage at the fact that this had
4 been stated by the chief superintendent to the
5 Assistant Commissioner HRM who had then conveyed it to 11:25
6 your solicitor, isn't that right?
7 A. It wasn't cleared up immediately.
8 79 Q. Yes...
9 A. But eventually it was.
10 80 Q. Now in terms of the rest of the letter of the 18th 11:25
11 September, have you any issues in relation to that?
12 A. Not particularly, no. The communications were as
13 stated by Inspector Hanrahan; it was casual, if he
14 needed to contact me, there was no problem contacting
15 me by phone, and vice versa. 11:25
16 81 Q. Okay, so can we move on from that then?
17 CHAIRMAN: Is that the end of the HRM correspondence?
18 MR. MARRINAN: Yes.
19 CHAIRMAN: Is that the end of the issue?
20 MR. MARRINAN: Yes. 11:26
21 CHAIRMAN: The issue is confined -- is that right?
22 MR. MARRINAN: No, it will re-emerge at a subsequent
23 stage but we will move along in a chronological way I
24 think is the best way to deal with it.
25 CHAIRMAN: I am sorry. 11:26
26 82 Q. MR. MARRINAN: Now three days before that you'd in
27 fact --
28 CHAIRMAN: Sorry, but the question -- sorry, I am just
29 looking at Issue 8 where the suggestion was that there

1 were numerous inaccuracies in the letters.

2 MR. MARRINAN: Yes.

3 CHAIRMAN: And you don't appear to be saying there are
4 numerous inaccuracies, is that right?

5 A. Oh sorry, I've addressed that to the Tribunal already 11:26
6 in relation to the numerous inaccuracies. It was
7 questioned by the Tribunal solicitors and we sent a
8 minute to them then in relation to --

9 CHAIRMAN: Yes.

10 MR. MARRINAN: But would you like to point those out 11:27
11 now?

12 CHAIRMAN: Sorry what was the -- I thought we asked
13 further clarity, and then we got a letter from you
14 saying further clarity is sought in the reference to
15 numerous inaccuracies. The numerous inaccuracies were 11:27
16 what you had said.

17 A. Yes.

18 CHAIRMAN: You said I was targeted because of numerous
19 inaccuracies.

20 A. Yes. 11:27

21 CHAIRMAN: Now, you have identified one as the
22 correspondence only by telephone; you say that was
23 wrong.

24 A. Yes.

25 CHAIRMAN: And you say that was targeting because they 11:27
26 deliberately put that in knowing it wasn't true.

27 A. Yes, Mr. Chairman.

28 83 Q. CHAIRMAN: Okay, that is all right. But what other
29 ones, other inaccuracies, do you know what I mean?

1 A. Yes.

2 84 Q. CHAIRMAN: Are there numerous inaccuracies in the
3 letter? And if so, what are the other ones? I am
4 sorry to interrupt but --

5 MR. MARRINAN: Yes. 11:28

6 CHAIRMAN: It's in relation to, I am just thinking of
7 the issues as we go along.

8 MR. MARRINAN: Yes.

9 CHAIRMAN: So this is Issue 8.

10 MR. MARRINAN: We will get the page number for you. 11:28
11 You might want to remind yourself of it. But I mean, I
12 presume you're familiar with your own case that you are
13 making -- advancing.

14 A. I am.

15 85 Q. I am not going to take you short, if you want to return 11:28
16 to it later on?

17 A. Yes, please.

18 86 Q. CHAIRMAN: But as of now, as of now, all we have is
19 your allegation that the Assistant Commissioner HRM
20 targeted you by deliberately stating this communication 11:28
21 only by telephone. That is what we have at the moment.
22 But the numerous inaccuracies we don't know about.

23 A. If we can return to that, we have addressed it already
24 with the Tribunal.

25 CHAIRMAN: Certainly. 11:28

26 MR. MARRINAN: We will return to it.

27 CHAIRMAN: Have a think about it. There's no big deal
28 about that, it's just to make sure -- because the way
29 things stood I thought the only issue was the

1 communication.

2 87 Q. MR. MARRINAN: Yes. Don't worry about it, we'll return
3 to it.

4 A. Sure.

5 CHAIRMAN: So as of now, as of now, until further 11:29
6 notice, unless you come back, I am taking it that the
7 only issue on that letter from HRM is the communication
8 by telephone only.

9 A. That's correct, Mr. Chairman. I am confident that --

10 88 Q. CHAIRMAN: At this moment. But if you want to add 11:29
11 further ones, that is not a problem.

12 A. Thank you, Mr. Chairman.

13 89 Q. MR. MARRINAN: We understand what it's like, you're in
14 the witness box and it's impossible to remember
15 everything... 11:29

16 CHAIRMAN: You don't remember --

17 A. Yes. And I want to be as accurate as possible in my
18 responses.

19 CHAIRMAN: Absolutely. There's no problem about any of
20 that. 11:29

21 90 Q. MR. MARRINAN: So anyway, you made a confidential
22 report to the confidential recipient, Mr. Brian
23 McCarthy, on the 16th September 2008, isn't that right?

24 A. That's correct.

25 91 Q. Did you meet him in person or did you send it in? 11:29

26 A. No, I met him in person first before sending it in.

27 92 Q. And that disclosure that you made is at page 146-161 of
28 the material -- I don't need to have it open -- that's
29 where it commences. But subsequently, on the 9th

1 January 2009, you met with Superintendent Gabriel
2 O'Gara and you added to that report, isn't that right?

3 A. That's correct.

4 93 Q. And that's at page 174-231 of the material. And then
5 you expanded on that again in a report that you made on 11:30
6 the 20th January 2009 to Inspector Peter Boyle, and
7 that's at page 242-247 of the material. We might
8 return later on when we're just looking at your claim
9 of targeting, we might look at the eight allegations
10 that you made briefly? 11:31

11 A. Yes.

12 94 Q. But you set those out clearly to Mr. McCarthy. And
13 they're forwarded by him to the Garda Commissioner,
14 isn't that right?

15 A. That's correct. 11:31

16 95 Q. Can you just tell us why it was at that particular time
17 that you decided to contact the confidential recipient
18 and make this disclosure?

19 A. Well the facility had been voiced and mooted by the
20 press there and Government there in 2007, and I was 11:31
21 looking forward to the commencement of this procedure,
22 and it didn't really commence until late 2008, and I
23 think I might have been one of the first in there with
24 a confidential minute there to have it examined. I was
25 happy enough to -- very happy to actually -- make full 11:32
26 disclosures to Mr. McCarthy there and subsequently to
27 Superintendent O'Gara and Inspector O'Boyle in relation
28 to the matters that were affecting me for the previous
29 two or three years.

1 96 Q. So I think whilst the Regulations were introduced in
2 2007, they weren't actually implemented until 2008, and
3 I think it was in March of 2008 that Brian McCarthy was
4 appointed as confidential recipient, isn't that right?

5 A. That's correct.

11:32

6 97 Q. And up until that time there wasn't a confidential
7 recipient. So, prior to that, did you see any other
8 avenue that you could have gone to with your complaints
9 that you had of a systems failure?

10 A. Yes, I think we touched on this yesterday. The only
11 avenue that was really available to me was the
12 confidential, like the medical or welfare people, but I
13 wouldn't have been comfortable sharing the information
14 that I shared with the whistleblower -- Brian
15 McCarthy's office, I wouldn't have been comfortable
16 sharing that information previously.

11:33

11:33

17 98 Q. Now I think on the 2nd October, a letter was sent by
18 Chief Superintendent Feehan to your solicitor -- it's
19 at page 2200 of the material, please. If we scroll
20 down, if we look at the second paragraph:

11:34

21
22 "In view of the fact that you were on sick leave --"

23
24 This is actually addressed to you, so it wasn't to your
25 solicitor.

11:34

26
27 "In view of the fact that you were on sick leave,
28 suffering from stress, and to avoid any possibility of
29 compounding your illness I sought the advice of the

1 Chief Medical Officer regarding your fitness to be
2 interviewed in respect of the matters alleged in this
3 case.

4
5 On the 19th September 2008 I received correspondence 11:34
6 from Assistant Commissioner HRM indicating that the
7 Chief Medical Officer recommends that if it is possible
8 any disciplinary issues outstanding against you be
9 dealt with as early as possible. Assistant
10 Commissioner HRM has advised that this should be taken 11:34
11 as confirmation that you are fit to be interviewed in
12 relation to the disciplinary issues. In this regard
13 Inspector Fergus Dwyer, Store Street, who is assisting
14 me in my investigation will be in contact with you in
15 the near future to arrange a date and time for the 11:35
16 interview."

17
18 Now, you also highlight this letter that you received
19 as an instance of targeting in your statement to the
20 Tribunal. So would you like to just indicate how you 11:35
21 believe that that constitutes targeting?

22 A. Well again, having received the file eventually there
23 in relation to the discipline, I could see no reason
24 why, even at this juncture there, that Chief
25 Superintendent Feehan could not look at the 11:35
26 circumstances as to, for instance, Declan Nyhan had
27 been cleared earlier on in the year, it seemed to be
28 the same criteria used in my case, therefore
29 determining whether I was in breach of discipline, and

1 those matters could have been resolved at an earlier, a
2 much earlier stage even before the initiation of the
3 disciplinary process.

4 99 Q. Okay. Right, we'll move on then. I think ten or
5 eleven days later, on the 13th October, following up 11:36
6 from that letter, Detective Inspector Fergus Dwyer
7 phoned you. And if we look at page 927 of the
8 material -- his writing is not the best -- so if we
9 look there, he records his conversation with you. He
10 says A/C confirmed that Chief Superintendent Feehan had 11:36
11 tasked Detective Inspector Sweeney and myself with
12 putting certain matters to you.
13 He records you as being reluctant to call into Store
14 Street.
15 "He stated that he was meeting his solicitor at 4:00pm 11:37
16 tomorrow, Séan Costello & Co. We agreed to meet at
17 4:35pm at Séan Costello's offices."
18
19 Is that right?

20 A. That's right. 11:37

21 100 Q. So it's back in train, as it were, the disciplinary
22 matter at that stage, is that right?

23 A. That's correct.

24 101 Q. Now I think there were a number of aborted attempts at
25 a meeting? 11:37

26 A. At the meeting?

27 102 Q. And I don't think an awful lot turns on it. I don't
28 think that inspector -- excuse me for one moment,
29 sorry?

1 A. Can I just make an observation there in relation to the
2 last document, please?

3 103 Q. Yes.

4 A. The fact that he has a detective inspector, a very
5 experienced detective inspector, accompanying him to 11:38
6 the office would have heightened my anxieties as to
7 what was going to ensue at the meeting. And when I
8 discovered then, six years later, that it was simply to
9 ask me routine questions, I think that the intervention
10 or the involvement of a detective inspector at the 11:38
11 meeting was unnecessary really in the circumstances.
12 But at the time when I heard that he was being
13 accompanied by a detective inspector, it just
14 heightened my anxieties.

15 104 Q. CHAIRMAN: what do you think should have happened? 11:39

16 A. Well I was an inspector himself, there was no problem
17 putting the -- the eventual questions that were put to
18 me could have been just put to me by himself.

19 105 Q. CHAIRMAN: But irrespective of that at the time, so I
20 mean there was going to be an inspector coming along, 11:39
21 so what?

22 A. Well it just heightened my anxieties.

23 106 Q. CHAIRMAN: what did you want? what would not have
24 heightened your anxieties?

25 A. Well I suppose it just heightened my anxieties that a 11:39
26 detective inspector was involved in the investigation,
27 you know.

28 107 Q. CHAIRMAN: But suppose there -- I mean what would not
29 have -- what would have relieved your anxiety? So

1 113 Q. CHAIRMAN: So, why didn't you meet them face-to-face?
2 A. Oh, I did. I did meet them.

3 114 Q. CHAIRMAN: But here was a request to meet the
4 disciplinary inquiry, they wanted to meet you. Why
5 didn't you meet them? 11:41

6 A. Sorry, I am just getting a bit confused. I did
7 actually meet these people. I did.

8 115 Q. CHAIRMAN: In the office?
9 A. In Séan Costello's office.

10 116 Q. CHAIRMAN: In the solicitor's office? 11:41
11 A. Yes.

12 117 Q. CHAIRMAN: And was that occasion you gave them a
13 pre-prepared statement?
14 A. That's correct.

15 118 Q. CHAIRMAN: Okay. 11:41
16 A. No, it's just an observation in relation to the
17 detective inspector --

18 119 Q. CHAIRMAN: It seems -- it strikes me as being -- sorry,
19 it strikes me as being extremely defensive that you
20 only meet in the solicitor's office and only with a 11:41
21 prepared statement, presumably with the advice of your
22 solicitor. I am not asking for the advice your
23 solicitor gave you, be clear about this --
24 A. Yes.

25 120 Q. CHAIRMAN: -- I completely respect that. But you 11:41
26 prepared a statement, met him in the solicitor's
27 office, and handed over a statement, and that was it.
28 A. That's correct. He --

29 121 Q. CHAIRMAN: And was that the meeting?

1 A. Well that was -- no, no, he asked me, I think, about
2 six questions there in relation to his end of the
3 disciplinary, which I subsequently found they were the
4 only questions he wanted answered. By furnishing the
5 report I wanted to be as helpful as possible to his 11:42
6 inquiry.

7 122 Q. CHAIRMAN: Okay.

8 A. And I just set out my stall in relation to it, as I had
9 --

10 123 Q. CHAIRMAN: All right, I mean there's nothing wrong with 11:42
11 it, there is nothing unlawful about it --

12 A. Yeah, it clarified everything; in other words --

13 124 Q. CHAIRMAN: But it does suggest that you were very
14 apprehensive about this?

15 A. Absolutely, absolutely. Given what had gone on before 11:42
16 in relation to --

17 125 Q. CHAIRMAN: Why were you so worried?

18 A. Sorry?

19 126 Q. CHAIRMAN: Why were you so worried?

20 A. Well the allegation in the disciplinary matter I 11:42
21 considered to be extremely serious.

22 127 Q. CHAIRMAN: And somebody told you that was -- that you
23 were being accused of a crime?

24 A. Well, they likened it to a charge of manslaughter.

25 128 Q. CHAIRMAN: Okay. Manslaughter? 11:43
26 A. Yes. Recklessness and manslaughter.

27 129 Q. CHAIRMAN: Okay. So somebody advised you of that?

28 A. Yes.

29 CHAIRMAN: Okay.

1 130 Q. MR. MARRINAN: Now I think that we may as well deal
2 with that meeting then on the 29th October, and it was
3 with Inspector Dwyer and Detective Inspector Sweeney,
4 and you handed the 25-page statement to him that was
5 pre-prepared. That's at volume 2, page 510. We don't 11:43
6 need it on the screen, Mr. Kavanagh.
7
8 That statement that you made dealt with matters that
9 weren't part of the disciplinary issues, isn't that
10 right? 11:43
11 A. Yes. It's more or less again a chronology of events
12 there of my dealings with Baiba, and then the
13 subsequent events up to the service of the disciplinary
14 papers.
15 131 Q. Yes. But did it stray outside, strictly speaking, what 11:44
16 the disciplinary investigation were looking into,
17 because you thought it should have a wider focus, isn't
18 that right?
19 A. I thought all elements relating to the Gardaí, the
20 Garda handling of Baiba's case should have been 11:44
21 considered in the disciplinary matter.
22 132 Q. And you have been fairly consistent in that approach
23 throughout?
24 A. Yes.
25 133 Q. You had always said that nothing could be seen in 11:44
26 isolation and they should all be seen together?
27 A. That's it, yes.
28 134 Q. The only issue that arises there is that Inspector
29 Dwyer disputes the fact that it was indicated during

1 this, that this was in some way a protected disclosure,
2 or that it should have been regarded as a confidential
3 report, and he says it was merely a statement that was
4 taken for the purposes of the disciplinary
5 investigation. Would you accept that that was the 11:45
6 position as far as he was concerned?
7 A. The document I handed over to him could be seen as a
8 protected disclosure, yes.
9 135 Q. And then there's a memo of interview that was taken at
10 the time, and it was read over to you and you signed 11:45
11 it -- that's at page 954 of the material, if we just
12 have that up on the screen. There's not a lot in this.
13 The question:
14
15 "Can you confirm you were involved in the investigation 11:45
16 of the abduction of the children of Baiba Saulite?"
17
18 And then you say:
19
20 "As per my report that you have, which I propose to 11:45
21 sign."
22
23 And then in your report to make reference to a 12-page
24 report.
25 11:45
26 "Inspector Dwyer hands a copy of document to Sergeant
27 Hughes:
28 Can you confirm this is the document?"
29

1 That's the victim impact statement, is that correct?

2 A. That's correct.

3 136 Q. "It looks like it, we don't have the original for
4 comparison.

5 Q. Did you ever read the 12-page document in its
6 entirety? 11:46

7 A. No I never read the whole document at that time.

8 Q. Why did you photocopy this document?

9 A. We were assisting the State in drawing up a victim
10 impact report so we were not expecting Baiba to arrive 11:46
11 at the station with such a detailed document. So in
12 the meantime she was going away to obtain a GP report
13 and we would go through that document and that anything
14 from it that was relevant to accompany the GP's report
15 to help formulate a proposed victim impact report." 11:46

16
17 And then Inspector Dwyer read over the last paragraph
18 of the 12-page document to you.

19
20 "Asked Sergeant Hughes had he ever read that portion of 11:46
21 the document."

22
23 And you answer:

24
25 "The morning after Baiba was killed." 11:46

26
27 And then the report of Superintendent Walter O'Sullivan
28 was read over to Sergeant Hughes. That was a report
29 dated 2nd October 2008.

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"Q. Can you comment on this?

A. It was dealt with in my report. I was never invited to be part of the investigation team case conference. I never said that this would lead to professional difficulties for me. My report deals with the issue. The substantive information that is contained in my report was forwarded to Detective Inspector Mangan Store Street in mid December 2006."

11:47

11:47

And that was read over to you and you signed it. And that was the extent of the interviews, isn't that right?

A. That's correct.

137 Q. Were you asked any more questions in relation to your involvement in the Baiba Saulite matter by the disciplinary investigation team?

11:47

A. No.

138 Q. So if we just go back then to the 17th October, I think that your solicitor wrote Dr. Quigley enclosing a report of Dr. Michael Corry who had done a report on your behalf, is that right?

11:48

A. That's correct.

139 Q. And that's at page 444 of the material. I don't intend to go through this report, but if we put page 444 up on the screen. Right, we are having some difficulty. But anyway, look I think I will continue while Mr. Kavanagh is working on that.

11:48

1 You are familiar with the report -- I think all the
2 parties are -- it's at page 444, but he confirmed the
3 diagnosis of Post Traumatic Stress Disorder secondary
4 to the ongoing duress that you were experiencing in the
5 workplace. And he concludes his report:

11:49

6 "Having noted that Sergeant Hughes presents as a
7 sincere, hard-working policeman who has behaved
8 impeccably and as such welcomes a thorough
9 investigation."

10
11 He notes that:

11:49

12
13 "If he was to accept a medical discharge he would be
14 deprived of natural justice and would not have his name
15 cleared and would be forever stigmatised. It is my
16 opinion that it would not be in the interest of his
17 mental health to take a medical discharge, as such a
18 move would not in any shape or form address the very
19 issues that are at the source of his mental and
20 emotional turmoil.

11:49

11:50

21
22 Quite simply, a medical discharge would paradoxically
23 trigger a further deterioration in his mental well
24 being, the wounds of which he would carry unhealed to
25 his grave.

11:50

26
27 To conclude, in my opinion, Sergeant Hughes is capable
28 of returning to his job as an effective police officer
29 and it would not be appropriate to consider him for

1 retirement on medical grounds. His health issues are
2 resolvable with the appropriate intervention and
3 support."

4
5 Does that report reflect your feelings at the time as
6 well? 11:50

7 A. It did.

8 140 Q. Now, following on from receipt of that report
9 Dr. Quigley asked Dr. Griffin to review his findings in
10 the light of Dr. Griffin's report, and he wrote to him 11:51
11 on the 21st October -- that's at page 446. I don't
12 require it on the screen, Mr. Kavanagh. And then on
13 the 28th October Dr. Griffin suggests meeting you
14 again, and that isn't arranged until the new year, but
15 that letter from Dr. Griffin to Dr. Quigley is at page 11:51
16 447 of the material, and again I don't require it to be
17 put up on the screen.

18
19 Now, as indicated, you had made your disclosure to Mr.
20 McCarthy. And on the 14th October, he wrote to the 11:51
21 Garda Commissioner enclosing your allegations; and
22 that's at page 2654. I don't require that to be put on
23 the screen, but that's the date on which it was sent.
24 Almost immediately, the Garda Commissioner appoints
25 Assistant Commissioner Feehan, as he then was, to 11:52
26 conduct an investigation.

27
28 Now I think was there an initial meeting, sort of a
29 meet and greet meeting on the 18th November 2008, at

1 Bewley's Hotel Dublin Airport between yourself and
2 Superintendent Gabriel O'Gara and Inspector Peter
3 O'Boyle, is that right?

4 A. That's correct.

5 141 Q. Did you attend an alone or did you have somebody with 11:52
6 you?

7 A. No, I attended alone.

8 142 Q. And if we could just deal with that. As far as you
9 were concerned, what was it they were there to do?

10 A. I think they were just there as, like you say, meet and 11:53
11 greet and just to give an outline of the procedures
12 that they were going to adopt.

13 143 Q. Yes...

14 A. And to discuss which way to go about it, you know, and
15 probably listen to what I had to say and I'd listen to 11:53
16 what they had to say in relation to protocols.

17 144 Q. Right. This is the account given by Inspector O'Boyle
18 to the Tribunal -- it's at page 1014 of the material if
19 we could have that up on the screen. And if we scroll
20 down, Mr. Kavanagh, please, just a little over halfway 11:53
21 down he notes:

22

23 "I first met Sergeant Hughes on the 18th November 2008
24 with Superintendent Gabriel O'Gara at Bewley's Hotel
25 Dublin Airport. I subsequently made brief notes in my 11:54
26 journal in respect of this meeting."

27

28 A copy of which he attached.

29

1 "From these notes I recall that this was an
2 introductory meeting where we outlined our role in the
3 matter under investigation. During the meeting
4 Sergeant Hughes gave consent to allow access to
5 previous reports made by him to Detective 11:54
6 Superintendent Christie Mangan and to Inspector Fergus
7 Dwyer. I made a note that Sergeant Hughes outlined
8 that he had concerns that Assistant Commissioner Feehan
9 was leading the investigation as he believed that there
10 was a conflict of interest due to the involvement of 11:54
11 the assistant commissioner in the disciplinary
12 investigation.

13
14 He also outlined the fact that he had not received
15 visits from supervisory members while he was out sick 11:55
16 with stress and that he was now on half pay which was
17 causing financial concerns. I recall that the concerns
18 raised by Sergeant Hughes were brought to the attention
19 of Assistant Commissioner Feehan during a conference
20 shortly after this meeting." 11:55

21
22 So would you like to outline your concerns in relation
23 to Assistant Commissioner Feehan heading up the
24 investigation?

- 25 A. Yes. The proposed report I was going to furnish to the 11:55
26 confidential recipient investigation, which I did in
27 January, the following January, contained concerns and
28 complaints in relation to the conduct of the
29 disciplinary investigation. So from my point of view,

1 I just felt that there was conflict there if Assistant
2 Commissioner Feehan was going to be conducting the
3 investigation, more or less, that was pointing out what
4 I felt were irregularities in the disciplinary
5 investigation. 11:56

6 145 Q. When you made your complaint to the confidential
7 recipient, did you understand that there would be an
8 independent investigation of your complaints?

9 A. Yes, I thought it would be independent of the Gardaí.

10 146 Q. Who did you envisage might conduct that investigation? 11:56

11 A. I thought Mr. McCarthy's office would have conducted
12 the investigation and sought files and reports in the
13 same manner probably as GSOC does, you know.

14 147 Q. You understand now that that wasn't his function at the
15 time to do that? 11:56

16 A. I do, I learned that very quickly, yes.

17 148 Q. So when you were informed that there was an internal
18 investigation in An Garda Síochána, were you satisfied
19 with that at the time?

20 A. I became satisfied with it indeed to the extent that I 11:56
21 was happy that there was probably oversight by Brian
22 McCarthy anyway and I -- given that this was the only
23 facility available, I decided to partake it in then.

24 149 Q. But you still challenge the role of Assistant
25 Commissioner Feehan in heading up the inquiry, isn't
26 that right? 11:57

27 A. Well we looked for clarification on it there in
28 relation to possible conflict.

29 150 Q. If we can then move on, and this is the issue of

1 covering the Daily Star. I think on the 19th November
2 2008, you had a conversation with John Hennessy. would
3 you just tell us about that?

4 A. Yes. He contacted me by telephone and informed me that
5 there was an article appearing in the Daily Star 11:58
6 newspaper the following day, and that Michael O'Toole
7 was the journalist who had contacted John to ask him if
8 he had any contributions to make to the article he was
9 going to create. And John basically said to me that,
10 from his knowledge of what was going to be published, 11:58
11 it wouldn't -- I wouldn't fair in a good light at all.

12 151 Q. Was that the extent of the conversation that you had
13 with Mr. Hennessy at the time?

14 A. Subject to recollection of other matters. I'd need to
15 look at my notes again on that -- sorry of my 11:58
16 chronology on it.

17 152 Q. Now I think there was subsequently a report in the
18 Daily Star -- it's at page 539 of the material, it's on
19 the 20th November. Just looking... I thought that we
20 had a better copy of it. I am not going to read 11:59
21 through that because it is quite difficult, but we're
22 all familiar with the contents of it, is that right?

23 A. That's correct.

24 153 Q. And what was your main concern having read this
25 article? 11:59

26 A. Oh sorry, I beg your pardon, there is one
27 clarification. John did say to me that Michael O'Toole
28 had informed him that he got the information from high
29 up in the Garda Síochána. So that was my concern, that

1 somebody within An Garda Síochána was leaking
2 information to the press in relation to a matter of
3 which I had just recently gone to the confidential
4 recipient in respect of. And I was concerned that this 12:00
5 could be seen as a targeting of me for adopting that
6 process in the first place, and also to undermine my
7 position publicly.

8 154 Q. 8092, if we could have that up on the screen. Yeah,
9 that's a better quality of it. But we can see that it
10 is clearly a reference -- you're not named in the 12:00
11 article, isn't that right?

12 A. That's correct.

13 155 Q. If we just scroll down there. But it refers to
14 disciplinary proceedings against a member who had
15 failed to look at a victim impact report, isn't that 12:01
16 right, that's the thrust of it?

17 A. That's correct.

18 156 Q. And that he was being disciplined. Now I think that
19 arising from the publication of that article -- if we
20 have page 2450 up on the screen please, this is a 12:01
21 letter from your solicitor to the Garda Commissioner.
22 If we look down at the third paragraph it reads:
23

24 "Our client was alarmed read in the 20th November 2008
25 edition of The Star newspapers an article with the 12:02
26 heading 'cop never looked at tragic Baiba's warning',
27 the subheading was 'mum of wrote of threat to her life
28 days before her murder'. The headings and contents of
29 the article are hugely defamatory and allege gross

1 negligence on the part of our client which ultimately
2 led to the murder of Baiba Saulite. It can be seen
3 therein that the correspondent, Mr. Michael O'Toole,
4 quotes Garda sources for the article and the
5 information contained therein. Our client is alarmed 12:02
6 not only at the content of the interview but that Garda
7 sources are responsible for the source of the
8 information. We formally request that a full account
9 be provided to our office for the source of this
10 information as it was most certainly on any reading 12:03
11 provided by a member of An Garda Síochána under your
12 control and supervision. Our client formally complains
13 about the provision of information and the fact that
14 this provision serves to undermine our client's legal
15 rights in or about the preparation of his defence to 12:03
16 the disciplinary proceedings and the prosecution of his
17 own civil proceedings, which are pending. "

18
19 Now a response came back on the 18th December from the
20 Commissioner's office -- it's at page 2449 of the 12:03
21 material. The second paragraph, it notes:

22
23 "At the outset, in the absence of evidence to the
24 contrary, the Commissioner denies the allegation that
25 the source of the newspaper disclosure was a member of 12:04
26 An Garda Síochána under his control and supervision.

27
28 Notwithstanding the foregoing, the Commissioner has
29 directed an investigation into your client's complaint,

1 during the course of which he will be contacted and
2 offered an opportunity to assist and provide
3 evidence/information in support of his complaint."
4

5 And we will come to deal with what transpired in that 12:04
6 regard as we go through 2009 and into 2010. But in any
7 event, I think on the 4th December 2008, you made a
8 further report to the confidential recipient, isn't
9 that right? And we don't need to go into the contents
10 of that, it's at page 558-561 of the material. But you 12:04
11 brought new information to him, isn't that right?

12 A. Sorry, what date was that?

13 157 Q. 558-561 of the material.

14 A. I did. I know I corresponded with him on a number of
15 occasions there. 12:05

16 158 Q. Could we have page 558 up on the screen there? If we
17 can scroll down, you start off:

18
19 "Dear Brian.

20
21 Further to my correspondence to you of the 28th 12:05
22 November I wish to draw your attention please to a
23 matter that has presented and which I believe to be of
24 utmost importance, a matter which if substantiated will
25 have serious implications regarding the administration 12:06
26 of justice in the State.

27
28 You may recall from my correspondence with you that I
29 have since Bai ba Saulite's murder raised issues with

1 regard to what I believe to have been a systems failure
2 on behalf of senior Garda management, a failure which
3 ultimately led to Baiba Saulite being exposed to life
4 threatening danger. You may also recall that the press
5 release which issued from the Garda Press Office 12:06
6 essentially denied that Gardaí were aware of any threat
7 to Baiba's life before her murder.

8
9 I have been made aware of information which contradicts
10 the official account and will call into question the 12:06
11 actions adopted by senior management both prior to and
12 since Baiba's murder."

13
14 And then you go on to set out the information that you
15 had received, isn't that right? 12:06

16 A. That's correct.

17 159 Q. If we go to page 560 you say in that, you say:

18
19 "I have already contacted one of the whistleblower
20 team, Detective Inspector Peter O'Brien, regarding this 12:07
21 matter although I have not given him the full account
22 given the sensitivity of content. I am currently
23 arranging a meeting with him to discuss the matter
24 further."

25 12:07
26 okay? so that was a letter that you sent at that time.
27 Yes... if you just give me one moment. Yes, I think
28 that on the 8th December 2008, Inspector Dwyer phoned
29 you and requested a meeting, a further meeting, isn't

1 that right?

2 A. I think so, yes.

3 160 Q. And he recalls in his statement to the Tribunal that
4 you said that the matter should go through his
5 solicitors, is that right?

12:08

6 A. I don't have recollection of that, but I can check my
7 chronology.

8 161 Q. Do you have any issue with that --

9 A. No.

10 162 Q. -- that that is something that would you have said at
11 the time?

12:08

12 A. No.

13 163 Q. Then on the 9th December, the following day, Inspector
14 Dwyer wrote to your solicitor seeking a further
15 meeting. And that's at page 959 of the material,
16 please. You will see there he says:

12:09

17
18 "During the course of the aforementioned meeting
19 Sergeant Hughes submitted a 25-page report detailing
20 inter alia his dealings with Baiba Saulite. A number
21 of matters arising from the said report require
22 clarification. In this regard I wish to enquire if
23 Sergeant Hughes is available for further interview. I
24 spoke to him by phone yesterday on this matter and he
25 requested that I correspond with him through your
26 offices."

12:09

12:09

27
28 And then he gave a telephone number that he could be
29 contacted on.

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If we go to page 960 of the material then, on the 7th January he sends a reminder to Mr. Costello. Again he says:

12:10

"In this regard I again wish to enquire if Sergeant Hughes is available to meet the said matters."

And then if we go to page 961 of the material, this is on the 29th January, look at the second paragraph there, he says:

12:10

"As previously indicated I am attempting to ascertain if your client is available for further interview in respect of the disciplinary matters alleged against him. If there is no response forthcoming from you within the next 21 days it will be assumed that Sergeant Hughes does not wish to comment further on the disciplinary matters alleged against him."

12:10

12:10

So, those are the extent of correspondence at the time, but you're not being very responsive to the request for a further meeting, isn't that right?

A. I can't explain why. The correspondences obviously were there, I can't explain why there was a delay because my form was to actually respond straightaway to management at any time they requested attendance to any subject.

12:11

164 Q. Okay. So now we go back to your dealings with local

1 management. I think had you a meeting with
2 Superintendent Curran on the 17th December 2008, isn't
3 that right?

4 A. That's correct.

5 165 Q. If we could just have page 22 up on the screen, please. 12:11
6 Now if we look there at the second line, he says:

7
8 "I now want to refer back to December 2008 when I was
9 summoned for a welfare meeting with Superintendent Mark
10 Curran. I provided him with a report dated 17th 12:12
11 December 2008 which included that I had never refused
12 to meet with local management and that what had been
13 said about me, that I was refusing to meet with local
14 management, was untrue and an utter fabrication, and
15 that I had brought this to the attention of local 12:12
16 management."

17
18 And then you refer to Inspector Bill Hanrahan.

19
20 "I asked for the record to be corrected in that regard 12:12
21 but it has not been to date."

22
23 You then go on to deal with other aspects of the
24 meeting that you had with him; that you hadn't been in
25 contact; a supervisor hadn't contacted you; issues of 12:13
26 workplace bullying/harassment.

27
28 "Superintendent Curran stated that these matters
29 occurred before his time in the district."

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That was referring back to your earlier complaint, isn't that right?

A. I think so, yes.

166 Q. "And that it now was a matter between the legal profession and Garda authorities. I also raised an issue around my salary reduction which he said was nothing to do with him, that someone else was dealing with it. I mentioned the unsafe workplace. He said that if I returned to work there would be no intimidation or bullying and offered me a clerical position rather than operational. And I believe he was sincere in that." 12:13 12:13

okay, is that your recollection of the meeting that you had with him? 12:14

A. It is.

167 Q. If we have page 503 up on the screen, please. This was a document that you produced at the meeting and you gave to Superintendent Curran, isn't that right? 12:14

A. That's correct.

168 Q. We have the document. You've highlighted your concerns at that time, and you set out the extent of those concerns in relation to a number of matters, all the matters that you're raising now in relation to the disciplinary investigation, the work related stress issues, your pay issues, and all those are dealt with in that note that you made and gave to Superintendent Curran, isn't that right? 12:15

1 A. That's correct.

2 169 Q. You conclude in it at page 505 by saying:

3

4 "In the interim and due to the fact that my absence
5 from duty has not been properly addressed in my view, I 12:15

6 respectfully request that a recommendation be forwarded

7 at the earliest juncture, that I be restored to full

8 pay as appropriate pending complete investigation of

9 the entire situation which has led to my absence from

10 work. It is clear or should be clear from the medical 12:16

11 evidence available that my absence from work is due to

12 work related illness. The full investigation of all

13 matters pertaining to this report and the restoration

14 to full pay and allowances due would have the effect of

15 somewhat enhancing my situation from a welfare point of 12:16

16 view."

17

18 Now you have included a note that you made for your

19 solicitor in the material. I don't intend to open that

20 and go through that with you -- it's at page 506 -- and 12:16

21 it's a report of the meeting to Séan Costello.

22

23 If we have page 1094 up on the screen. This is a

24 report that was done by Superintendent Curran of that

25 meeting that he had with you. It's dated 23rd January 12:17

26 2009. The second paragraph says:

27

28 "A number of issues raised by Sergeant Hughes in the

29 attached communication, regular contact has been made

1 with Sergeant Hughes who continues to assert that he is
2 suffering from work related stress. To this end he
3 outlines a number of points where he believes that
4 Garda management has not responded to his satisfaction.
5 He refers to his injury on duty which he states has 12:17
6 never been investigated along with previous allegations
7 relating to bullying and harassment. He further states
8 that he intends to work at the earliest opportunity and
9 should some of the issues raised in this letter be
10 addressed." 12:18

11
12 And that's addressed to the chief superintendent.

13
14 It does appear that when you raise these matters and
15 raise matters with Superintendent Curran, that he 12:18
16 reports them up the line to his superiors, isn't that
17 right?

18 A. That seems to be the case.

19 170 Q. Is there anything else that you would like to highlight
20 in relation to that meeting that you had with 12:18
21 Superintendent Curran?

22 A. Just that Superintendent Curran, in advance of the
23 meeting, said that it was only to deal with welfare
24 issues only, and that was the context of my report then
25 to him. 12:18

26 171 Q. I suppose there's a problem there, isn't there, in the
27 sense that the superintendent was dealing with your
28 welfare and that was his primary concern?

29 A. Yes.

1 172 Q. The Feehan investigation into your confidential report
2 was confidential and they were about to embark on an
3 investigation in relation to that?
4 A. That's right.

5 173 Q. Dr. Quigley was dealing with your health issues and 12:19
6 getting advice from an independent psychiatrist and
7 receiving reports your psychiatrist and was advising on
8 the issue of whether work related stress was an injury
9 on duty. And the disciplinary investigation was also
10 ongoing at that time. So, Superintendent Curran 12:19
11 wouldn't have been privy to any of the contents of
12 those investigations and reports, they'd have rested
13 with HRM --
14 A. Mm-hmm.

15 174 Q. -- primarily, or the other strands and other 12:20
16 investigations, isn't that right?
17 A. Oh, I agree. Towards the end of this year and early
18 2009, I was getting more upbeat that matters were being
19 attended to through the various processes.

20 175 Q. But as far as Superintendent Curran was concerned, I 12:20
21 mean he was fairly powerless in that regard; all he
22 could do was report the matters up the line, as it
23 were, isn't that right?
24 A. Yes. And also, conduct an investigation into my
25 workplace absence. 12:20

26 176 Q. Well if we just look at the requirement to conduct an
27 investigation in relation to work related stress, and
28 it's something that you refer to on a number of
29 occasions and with frequency in relation to the failure

1 of management, and that this in some way constituted
2 targeting, and we'll see during the course of 2009 and
3 2010 there were repeated requests from HRM for an
4 investigation to be carried out locally, and the
5 parameters of that investigation weren't set out. I 12:21
6 mean what was there to actually inquire into?

7 A. By Superintendent Curran at the time?

8 177 Q. Yes. In terms of what would you anticipate would be
9 inquired into locally?

10 A. The matters that -- with respect to the matters that 12:21
11 were affecting me and the reasons why I was absent from
12 work.

13 178 Q. Well you went out from work related stress and you were
14 certified by Dr. Reilly at the outset?

15 A. Yes. 12:21

16 179 Q. And that had to do with the issues surrounding the
17 murder of Baiba Saulite, isn't that right?

18 A. That's correct.

19 180 Q. And it just wasn't one issue, there were a number of
20 issues arising out of that, and I will just group them 12:22
21 all together. But that was the catalyst for you going
22 out with work related stress?

23 A. Yes.

24 181 Q. There were other events occurred during the course of
25 the following years that fed into that and exasperated 12:22
26 it. I am sure that being under financial stress
27 created stress for you, and that was because you had
28 been reduced to half pay and then pension rate of pay,
29 is that right?

1 A. That's correct.

2 182 Q. There was the stress of the disciplinary proceedings,
3 which again could be said to emanate from work, but
4 that exasperated your position, is that right?

5 A. It did, yes. 12:23

6 183 Q. But in terms of dealing with local management, you'd
7 made it fairly clear at the very earliest opportunity
8 that your work related stress related to -- was caused
9 by the events surrounding the death of Baiba Saulite?

10 A. Yes. 12:23

11 184 Q. Isn't that right?

12 A. A number of events, yes.

13 185 Q. And they continuously reported up the line that this
14 was the cause of your work related stress. I am just
15 wondering, what further enquiry could have been made of 12:23
16 you locally by your superintendent?

17 A. Well I think -- and we have yet to get to them yet -- I
18 think the HRM pointedly set out exactly what the local
19 management should do and interview me as to the source
20 of my stress and obtain a full report in that regard. 12:23

21 186 Q. Yes. And we'll come to their response to that --

22 A. Yes.

23 187 Q. -- in due course, and hopefully deal with it in
24 somewhat short order. But they merely reported that
25 you said that your work related stress was as a result 12:24
26 of matters arising out of Baiba Saulite, is that right?

27 A. That's right.

28 188 Q. So it seems to have gone around in circles, where
29 management regarded reporting up the line that this is

1 what you were saying was the cause of the work related
2 stress, you reporting that to Dr. Quigley, and then
3 complaining that there was no investigation by local
4 management into that. So I am just wondering what
5 investigation do you envisage the local management 12:24
6 could have conducted in relation to that?

7 A. Yes. I accept they're reporting up that my work
8 related stress had to do with the Baiba Saulite
9 matters, but that was a general overview, and in
10 particular I wanted to -- I could have complained -- 12:24
11 sorry, been interviewed in relation to the particular
12 problems I had in relation to Baiba Saulite, the Baiba
13 Saulite matters.

14 189 Q. CHAIRMAN: Sorry? Say that again.

15 A. Sorry, the particular matters that were affecting me in 12:25
16 relation to the Baiba Saulite investigations -- the
17 systems failure.

18 190 Q. CHAIRMAN: I am not understanding what you are saying.

19 A. The systems failure in other words. My perceptions
20 that there had been -- 12:25

21 191 Q. CHAIRMAN: Surely you're not saying that they had to
22 investigate systems failures in order to find out what
23 was the cause of your problem?

24 A. No.

25 192 Q. CHAIRMAN: I mean, we have two things here: we've you 12:25
26 complaining --

27 A. Yes.

28 193 Q. CHAIRMAN: -- you say systems failure?

29 A. Yes.

1 194 Q. CHAIRMAN: Okay. And you're out of work with work
2 related stress?
3 A. Correct.
4 195 Q. CHAIRMAN: Dr. Reilly certifies that, and everybody
5 else agree was that subsequently. And then the 12:25
6 question is: was it an injury on duty? And we have
7 that debate, rightly or wrong, Dr. Corcoran -- is it
8 Dr. Corcoran? Am I wrong about that? Anyway, the
9 doctor himself is debating whether it is?
10 A. Yes. 12:26
11 196 Q. CHAIRMAN: And then he ultimately comes down and says
12 yes, the medical condition of work related stress that
13 is troubling this man, that is keeping him out of work,
14 is work related stress. And what's the event? It's
15 the circumstances concerning Baiba Saulite. So that's 12:26
16 what Mr. Murrinan is asking you. That's the
17 investigation; that's what they had to find out. But
18 if I am understanding, you're saying that there was an
19 obligation under 11.37 to investigate all the matters
20 that you were complaining about, namely the systems 12:26
21 failure, is that correct? Nothing less would actually
22 satisfy the requirements on the Gardaí?
23 A. Well if the local chief superintendent, Mr. Chairman --
24 197 Q. CHAIRMAN: Yeah --
25 A. -- had sat me down, or any inspector acting on his 12:27
26 behalf, and said right, we're going to sit you down
27 now, you're out with work related stress, would you
28 like to explain precisely what the elements of the work
29 related stress are?

1 198 Q. CHAIRMAN: And you would have said?
2 A. And I would have actually given them details there and
3 then.
4 199 Q. CHAIRMAN: All the stuff about the systems failure and
5 so on? 12:27
6 A. Failure in management and all that, yes, I would have
7 actually conveyed that to them.
8 200 Q. CHAIRMAN: And would he have had to investigate all
9 that?
10 A. No, no, just to convey it HRM as to these are the 12:27
11 matters that were keeping me out. The investigations
12 were --
13 201 Q. CHAIRMAN: Okay. So the problem is that nobody
14 actually recorded your concerns about systems failure,
15 is that right? 12:27
16 A. Yes. My worries and my concerns in that respect.
17 202 Q. CHAIRMAN: It wasn't enough to say this unfortunate man
18 is stricken with work related stress because of the
19 Baiba Saulite affair, so to speak?
20 A. Yes. 12:28
21 203 Q. CHAIRMAN: That wasn't sufficient?
22 A. Not as far as I was concerned. I felt that --
23 204 Q. CHAIRMAN: Well why did it matter to you? I mean it is
24 a question of medical. What's the -- look, 11.37, it's
25 simple: was the man attacked by a robber when he went 12:28
26 to apprehend him and left injured? Okay, what do we
27 are to investigate: whether the robbery took place,
28 whether the man was injured on that occasion?
29 A. Yes.

1 205 Q. CHAIRMAN: That's simple enough. With a psychiatric
2 element it's more difficult obviously, isn't that
3 right?
4 A. Sorry, I beg your pardon?
5 206 Q. CHAIRMAN: With a psychiatric element it's more 12:28
6 difficult?
7 A. I imagine it is, yes.
8 207 Q. CHAIRMAN: And we're talking about a psychiatric issue.
9 A. We're talking about --
10 208 Q. CHAIRMAN: Work related stress affecting a man to such 12:28
11 an extent -- or sorry, mental illness, if you like,
12 whatever, I don't know, I am not trying to use an
13 offensive term, not that mental illness is an offensive
14 term, I am not suggesting that, but it is a mental
15 condition -- work related stress, keeping a person out 12:29
16 of work, is a medical condition?
17 A. Yes.
18 209 Q. CHAIRMAN: Okay. And for that medical condition what
19 they wanted to know is: did that happen at work?
20 A. Yes. 12:29
21 210 Q. CHAIRMAN: Or as a result -- sorry, was that an injury
22 at work?
23 A. Yes.
24 211 Q. CHAIRMAN: And if they say yes, this unfortunate man
25 was investigating the abductions, successfully did 12:29
26 that, and he was concerned in the whole matter, and
27 that has had a terrible impact on him --
28 A. Yes.
29 212 Q. CHAIRMAN: -- wouldn't that be the investigation?

1 wouldn't that be a complete -- sorry, would that be a
2 complete investigation as far as 11.37 is concerned?
3 A. With respect, Mr. Chairman, I don't think so. I think
4 if management had approached me, I would have given
5 them probably something similar as I furnished to 12:30
6 Inspector Mangan but actually elaborating further as to
7 where I saw failures in management of serious matters
8 that affected me and, you know, my perceptions of how
9 things had transpired in relation to the murder of
10 Baiba Saulite. 12:30

11 213 Q. CHAIRMAN: Okay. And your contention -- just so we
12 know where we're going -- your contention is, rightly
13 or wrongly, I'm not saying yes or no, I just want to
14 understand, your contention is that the fact that they
15 didn't go into the circumstances in more detail with 12:30
16 you personally by sitting you down and saying what's
17 all this about, you say that represented a failure to
18 investigate, as they were required to do under 11.37,
19 and as the doctors recommended?

20 A. I think so. 12:31

21 214 Q. CHAIRMAN: Okay. Is that a fair way of putting that?
22 A. I think so.

23 CHAIRMAN: Okay. Thank you very much.

24 215 Q. MR. MARRINAN: Okay. So we will move on then to early
25 January 2009. I think on the 8th January, you saw 12:31
26 Dr. Griffin, isn't that right?

27 A. I think so, yes.

28 216 Q. And this was having been requested by Dr. Quigley to
29 review your case. His report is at page 1349. 1349,

1 thanks, Mr. Kavanagh. It's a short report, and I'll
2 just read through it here. He says:

3
4 "Following a long consultation with Sergeant Hughes I
5 do not think it would be right for him psychologically 12:32
6 to retire currently on medical grounds. He still feels
7 that there are issues that need to be investigated in
8 relation to the tragic events outlined in my previous
9 report. He is very distressed that he is on pension
10 pay, which, as I understand, is less than half of his 12:32
11 normal pay. He said that this is due to the fact that
12 authorities suggest that his absence from work is not
13 related to a work issue. In my opinion his absence
14 from work is definitely related to work issues. Also,
15 I don't think he is in a position psychologically to 12:32
16 return to work while this situation is not being
17 investigated. I really do feel that the expediting of
18 this investigation would help him greatly and he could
19 then make a decision in due course as to whether he
20 should return to work. I would then be happy to review 12:33
21 him."

22
23 So he's changed his view in relation to the matter and
24 it's a fairly sympathetic report, is that right?

25 A. That's correct. 12:33

26 217 Q. And as a result of that, Dr. Quigley writes to
27 Assistant Commissioner Nóirín O'Sullivan, as she then
28 was, in HRM. And that's at page 449 of the material.
29 He highlights -- if we go four lines down -- he advises

1 that:

2
3 "Sergeant Hughes considers that the issues relating to
4 the tragic events do require to be investigated.
5 Sergeant Hughes raised the issue and indicated that he 12:33
6 was very distressed with regard to the fact that he is
7 on pension rate of pay. He reported to Dr. Griffin
8 that this is due to the fact that the authorities
9 suggested his absence from work is not related to a
10 work issue. I can write to Dr. Griffin and clarify for 12:34
11 him that it is not so much that the issues at hand are
12 not related to work but that the issues at hand are not
13 considered in the ordinarily understood sense of the
14 word to constitute an injury on duty. Your view on
15 same would be most welcome. Dr. Griffin advises that 12:34
16 an early expediting of the investigation with regard to
17 the pay issues would help Sergeant Hughes greatly.
18 Accordingly, I would welcome an opportunity to case
19 conference this aspect of the case at the next case
20 conferencing schedule for the 22nd January." 12:34

21
22 A further letter is sent on the 26th January by
23 Dr. Quigley to HRM -- it's on the next page at page
24 4071. He says that he has reviewed the medical file --
25 sorry, this is the Assistant Commissioner HRM, it's 12:35
26 dated 26th January. He said:

27
28 "I have reviewed the medical file of Sergeant William
29 Hughes and indeed considered his case in detail at case

1 conference on the 22nd January. Please see my advices
2 of the 19th January. That the independent health
3 advise of Dr. Griffin has advised that Sergeant Hughes
4 would not be retired now on grounds of ill health.
5 Having considered matters in detail I would recommend 12:35
6 that Sergeant Hughes be considered fit for a trial of
7 light duties. Accordingly I recommend that local
8 management meet with Sergeant Hughes to put in place
9 arrangements for his resumption of light duties, in
10 particular noting Sergeant Hughes' contention that he 12:36
11 not be retired on grounds of ill health due to
12 permanent incapacity.
13
14 Early referral of the matter to this service should
15 occur if the member reports disabling symptoms 12:36
16 interfering with ability to perform his duties."
17
18 So there's considerable movement there on the medical
19 front at that stage, is that right?
20 A. That's correct. 12:36
21 218 Q. Could you just tell us, during this period of time were
22 you receiving any treatment for your work related
23 stress?
24 A. Like medical treatment?
25 219 Q. Yes. 12:36
26 A. Pharmacological treatment?
27 220 Q. Yes.
28 A. Not just visits to my GP?
29 221 Q. CHAIRMAN: Did you ever get anything, sergeant?

1 A. I think towards the High Court case there it was
2 recommended that I probably take some light
3 antidepressant, but I didn't actually take it.

4 222 Q. CHAIRMAN: You didn't take it?
5 A. No. 12:37

6 223 Q. CHAIRMAN: You weren't keen on anti --
7 A. I wasn't no.

8 224 Q. CHAIRMAN: But did you ever get counselling or
9 anything? I mean this Post Traumatic Stress Disorder
10 is a very troubling condition. 12:37

11 A. Yes.

12 225 Q. CHAIRMAN: Do you accept that that's your condition?
13 Sorry, do you think you've got a sort of chronic -- do
14 you think you have a chronic mental health issue?
15 A. No, I don't. 12:37

16 226 Q. CHAIRMAN: Yes...
17 A. And I really believe that resolution --

18 227 Q. CHAIRMAN: Do you understand? This must be puzzling to
19 you, reading all this?
20 A. Yes. And I was sort of -- I always kept myself 12:37
21 reasonably fit mentally and physically, you know, so I
22 don't think that -- when I saw the PTSD, the diagnosis
23 being made, I was a bit alarmed at that, you know. But
24 I am satisfied that if I was receiving proper reception
25 at work, it would have alleviated, greatly, my concerns 12:37
26 at the time. I was deeply distressed and worried about
27 the situation at work, you know.

28 228 Q. CHAIRMAN: But just suppose for the sake of argument
29 nothing happened, just suppose for the sake of argument

1 that nothing happened at work...

2 A. Yes.

3 229 Q. CHAIRMAN: Are you -- do you agree that you weren't
4 really able to go back to work? Do you agree with
5 that? 12:38

6 A. Sorry, if nothing happened at work?

7 230 Q. CHAIRMAN: Suppose nobody investigated anything, or
8 nobody -- the situation, as it happened in fact, when
9 you -- I mean, the investigations took place, you're
10 not happy with the investigations, there was Assistant 12:38
11 Commissioner Feehan's report into the confidential
12 recipient?

13 A. Yeah.

14 231 Q. CHAIRMAN: There was his report into the Daily Star
15 article, you know, those various reports. And they 12:38
16 concluded as they did; rightly or wrongly, that's what
17 they did. You don't agree with them?

18 A. Agree with?

19 232 Q. CHAIRMAN: with the conclusions of the Assistant
20 Commissioner Feehan's reports. 12:39

21 A. Well yeah, I have submitted some material there in
22 relation -- to the Tribunal in relation to that, yes.

23 233 Q. CHAIRMAN: Yes...

24 A. I think, fundamentally, there was just a complete
25 breakdown of trust of management, and my confidence had 12:39
26 eroded considerably.

27 234 Q. CHAIRMAN: Okay...

28 A. And you need -- as you're aware, you need a certain
29 level of confidence to actually perform as a

1 functioning policeman and I'd say by 2009, 2010 --

2 235 Q. CHAIRMAN: So the reality was, while you don't accept
3 that you have or had a mental -- I don't want to use a
4 mental illness but a psychological or psychiatric
5 condition, I am trying to find -- 12:39

6 A. Yes.

7 236 Q. CHAIRMAN: -- a sort of neutral word. While you don't
8 accept that, you do acknowledge that things had come to
9 a very serious state as between your mental attitude in
10 relation to the Gardaí? 12:40

11 A. I do, I do. And, as I said, if --

12 CHAIRMAN: Do you understand what I am sort of trying
13 to explore?

14 A. I do. And my confidence has very much suffered through
15 my experiences with the authorities. 12:40

16 237 Q. CHAIRMAN: Okay...

17 A. And it was hard to -- unless, you know, that I had
18 some -- if I saw things were improving in that regard,
19 I am sure my confidence would have built back up.

20 238 Q. CHAIRMAN: That might have been difficult. But one way 12:40
21 or the other, what I was wondering, as I looked at and
22 read the papers, was whether you had any treatment in
23 the way of counselling or group therapy, or this that
24 or the other, the sort of things that people would
25 think of in relation to -- 12:40

26 A. Yes...

27 239 Q. CHAIRMAN: -- you know, illness of that kind, Post
28 Traumatic Stress Disorder, you didn't have any of that?

29 A. No, I didn't no.

1 240 Q. CHAIRMAN: And just -- but you did have some for some
2 light time -- sorry, for some relatively brief time you
3 had some antidepressants that were fairly light?
4 A. That was in 2012, just prior to the High Court hearing.
5 241 Q. CHAIRMAN: I understand... 12:41
6 A. And it was just suggested by the doctor.
7 242 Q. CHAIRMAN: And that was relatively short-term, is that
8 right?
9 A. I didn't take them at all.
10 243 Q. CHAIRMAN: You didn't take them at all, well then it 12:41
11 was very short-term! All right, thanks very much.
12 Thank you.
13 A. Thank you.
14 244 Q. MR. MARRINAN: Just one other thing, Sergeant Hughes,
15 to perhaps assist you in trying to articulate your 12:41
16 concerns, as we're going through this in chronological
17 fashion, we're jumping from obviously one investigation
18 into another investigation, into the CMO and your
19 interactions with the CMO; HRM, separate again; the
20 disciplinary proceedings, separate again; and then the 12:41
21 report to the confidential recipient, separate again,
22 we have different personnel dealing with it, you've
23 complained that it is the same personnel in relation to
24 Chief Superintendent Feehan. But, as I understand your
25 case, and just to assist new this regard, your concern 12:42
26 is that these were all being dealt with separately and
27 they should really have been all under one umbrella and
28 somebody should have taken a hold of this and looked at
29 all your complaints together, is that it?

1 A. Well a constructive move like that would have been of
2 enormous benefit all right, yes.

3 245 Q. But there doesn't seem to have been any way that that
4 could have been done, given the structure of An Garda
5 Síochána and how matters are -- areas of responsibility 12:42
6 are delegated to different people, is that right?

7 A. Yes. That was my experience all right, yes.

8 246 Q. I mean Superintendent Curran -- I don't want to
9 highlight him too much -- but Superintendent Curran you
10 make a number of complaints against, but he was 12:42
11 restricted in what he could and couldn't do as the
12 district officer, is that right?

13 A. Yes. I suppose some more communication. He was
14 obviously sending reports, which we discovered on
15 discovery, but once I had been the source of those 12:43
16 reports, reported to an inspector, an inspector reports
17 to him and then he reports to the chief superintendent,
18 generally I wouldn't hear any more from that particular
19 line of enquiry.

20 247 Q. Yes... 12:43

21 A. And that was a source of concern for me too on an
22 ongoing basis.

23 248 Q. CHAIRMAN: Say that again, what was the source of
24 concern?

25 A. Once he'd sent his minute up to the chief 12:43
26 superintendent, for instance, I wouldn't hear any more
27 in relation to the issue I'd raised at all, you know,
28 and that caused me great concern.

29 249 Q. CHAIRMAN: So my understanding is that, really, your --

1 if I may just adapt slightly what Mr. Marrinan was
2 saying -- that your thing is: look, I was raising
3 what, to me, I am not diminishing them by saying that,
4 but what, to me, were very serious issues/concerns
5 about the policing of this situation, and nobody was 12:44
6 getting to grips, or got to grips with those serious
7 concerns. Ultimately we know Assistant Commissioner
8 Feehan addressed all the issues, addressed the issues
9 that you raised in the confidential commission, but
10 what you wanted was somebody to say what's behind all 12:44
11 this? what's up? what's behind? And you said, well,
12 coordination, lack of coordination, and that somebody
13 would investigate that. That's -- am I thinking that's
14 essentially -- that's at the core of what was --
15 A. Yeah, probably the communication lines were open a bit 12:44
16 nor. In other words, that the reports that I have seen
17 now -- well recently in relation to what Superintendent
18 Curran was doing, if I was getting feedback. But
19 compounding my problems was the fact that a
20 disciplinary process had started up when I knew in my 12:45
21 heart and soul that I hadn't done anything wrong in
22 relation to this.
23 250 Q. CHAIRMAN: Yes...
24 A. And this was another, sort of, obstacle to me actually
25 understanding what is going on at senior management 12:45
26 level. Are they deciding, you know, on a course to
27 target me and discredit me and the whole lot?
28 251 Q. CHAIRMAN: I follow...
29 A. Because, in my heart of hearts, I knew I hadn't done

1 anything wrong in relation to my investigations.

2 252 Q. CHAIRMAN: Okay. So, far from taking your complaints
3 seriously, you were in fact, as you saw it, getting it
4 in the neck?

5 A. Yes. 12:45

6 253 Q. CHAIRMAN: Unfairly?

7 A. Absolutely.

8 CHAIRMAN: Okay. I am just trying to get a picture.
9 And sorry, thanks, I just wanted to -- arising out what
10 Mr. Marrinan was asking you there -- putting it in a 12:45
11 nutshell.

12 A. Thank you, Mr. Chairman.

13 254 Q. MR. MARRINAN: Now I think on the 16th January,
14 Inspector Dwyer wrote to your solicitor. The letter is
15 at page 555 of the material. But he is indicating 12:46
16 referring to the meeting on the 29th October and the
17 25-page document, or report, that you had furnished.
18 And he says:

19

20 "As are you aware your client raised a number of issues 12:46
21 that do not come within the ambit of the disciplinary
22 investigation. In one particular case your client
23 states that he was prepared to let the matter rest.
24 However clarification is sought regarding the other
25 matters raised. In particular, I wish to ascertain if 12:46
26 your client wishes to make a formal complaint in
27 respect of the numerous allegations of bullying and
28 harassment and also in respect of his allegation of
29 misconduct made against a detective sergeant. "

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And that again is harping back to the earlier issues that aren't of concern to the Tribunal. But that's a further inquiry that was made.

And I think then on the same day your solicitor received a letter from Inspector Dwyer again, and this is at page 972, and this is in relation to the article in The Star newspaper. And he says in the second paragraph:

12:47

"Be advised that I am assisting Assistant Commissioner Michael Feehan in the investigation into the aforementioned complaint. Assistant Commissioner Feehan has been directed to contact your client to afford an opportunity to assist in the investigation and provide evidence/information in support of his complaint. In this regard I wish to request a meeting with your client at the earliest opportunity."

12:47

12:47

And then indicating that he can be contacted on his mobile number.

12:48

Now I don't think you responded at that time to that letter, isn't that right?

A. Yeah. I can't recall now what the time lapse was in the response.

12:48

255 Q. The response that is sent, and I will just skip forward in time to deal with this and deal with it in isolation, if we have page 973 up on the screen. This

1 is a letter from your solicitor, Séan Costello, to
2 Inspector Dwyer dated 24th March of 2009.

3
4 "With due respect to the allegation which we make
5 alleges that the information which appears to be the 12:49
6 basis of the article as pointed out in our letter can
7 only have been provided by a member of An Garda
8 Síochána and would appear that with due respect to
9 Assistant Commissioner Feehan that as he is in charge
10 of the said investigation that he is effectively 12:49
11 investigating his own members and that investigation
12 team. We require a full and independent inquiry and we
13 await hearing from you in this respect."

14
15 So again an issue is taken in relation to Inspector 12:50
16 Feehan heading up --

17 A. Chief Feehan, Assistant Commissioner Feehan, yes.

18 256 Q. -- that inquiry, Chief Superintendent, I think he had
19 become Assistant Commissioner, at that stage, Feehan,
20 heading up inquiry into the Daily Star, is that right? 12:50

21 A. That's right.

22 257 Q. Unknown to you, on the 28th January, the journalist who
23 wrote the article, Mick O'Toole, was interviewed and
24 declined to comment to the investigation team, and that
25 interview is at page 975 of the material. I don't 12:50
26 require it up on the screen. But you weren't aware at
27 that time that they had in fact approached Mick O'Toole
28 to make a statement, isn't that right?

29 A. That's correct.

1 258 Q. Now, later that month, at the end of the month, on the
2 29th January 2009, the decision was communicated to
3 your solicitor advising that the CMO had reversed his
4 decision in relation to whether you were fit for duty
5 and indicated that you were fit for light duties, and 12:51
6 that was the determination that was made, isn't that
7 right?

8 A. That's correct.

9 259 Q. That's at page 4075. Now if we then move into February
10 2009, I think you met with Inspector Dwyer, isn't that 12:51
11 right, in the presence of your solicitor?

12 A. That's correct.

13 260 Q. Just give me one moment. If we could have page 900 up
14 on the screen please. And we scroll down. This is a
15 statement of Detective Inspector Dwyer. If we look at 12:52
16 about eight lines up from the bottom there:

17

18 "A meeting was subsequently arranged for the 10th
19 February 2009 when I met with Sergeant Hughes and
20 Mr. Costello in the office of Séan Costello & Company 12:52
21 Solicitors. I sought clarification on a number of
22 points contained in Sergeant Hughes's statement that he
23 had provided previously. At no time in this meeting
24 did Sergeant Hughes or Mr. Costello refer to the
25 statement as a protected disclosure. At the same 12:53
26 meeting I informed Sergeant Hughes that his
27 dissatisfaction with the way a bullying and harassment
28 complaint made against him had been handled by
29 Assistant Commissioner Human Resource Management as

1 alluded to in his statement was a separate matter
2 unrelated to the disciplinary investigation. However
3 Sergeant Hughes requested that cognisance be taken of
4 these matters in the disciplinary investigation. The
5 meeting was lengthy and on numerous occasions I recall 12:53
6 Sergeant Hughes and his solicitor referring to matters
7 that allegedly took place in the R District which were
8 outside the ambit of the disciplinary investigation.
9 He says that the purpose of the meeting was to deal
10 with the disciplinary matter alleged against Sergeant 12:53
11 Hughes and in this regard to clarify matters relevant
12 to the alleged matters arising from Sergeant Hughes'
13 statement. On my return to Store Street I typed the
14 final version of my note detailing the clarification
15 provided by Sergeant Hughes on matters relevant to the 12:54
16 investigation. "

17
18 Do you have any comment to make on his account of the
19 meeting?

20 A. From my recollection it's accurate enough, yes. I'd 12:54
21 have to go back through my own chronology again to see
22 if there is anything arising. I don't think there is.

23 261 Q. Well you accept that it was lengthy; that there was an
24 issue in relation to whether or not what was in a lot
25 of the material that was contained in your 25-page 12:54
26 statement, he was pointing out, was irrelevant to the
27 disciplinary process, you believed that it should be
28 taken into account. He disagreed with you in that
29 regard, isn't that right?

1 A. That's correct.

2 262 Q. And there matters stayed. Now I think that -- yes -- I
3 think that Inspector Dwyer wrote to your solicitor,
4 Mr. Costello, on the 11th February following that
5 meeting, and that letter is at page 966 of the 12:55
6 material. In the second paragraph he says:

7
8 "Attached herewith is a copy of my notes detailing my
9 understanding of the clarification provided by Sergeant
10 Hughes on the queries I raised in relation to some of 12:56
11 the matters contained in his 25-page report."

12
13 That attachment is at page 962 and 963, but I don't
14 require that to be opened, Mr. Kavanagh.

15 12:56
16 He then goes on to say:

17
18 "With regard to some of the other matters contained in
19 the report of Sergeant Hughes, to wit the allegations
20 of bullying and harassment and the alleged misconduct 12:56
21 of a detective sergeant it is noted that Sergeant
22 Hughes expressed dissatisfaction with the way these
23 matters were handled by Assistant Commissioner HRM.
24 However it also be noted that your client believes that
25 cognisance be taken of these matters in the current 12:56
26 disciplinary investigation. As I recall you understood
27 to provide me all relevant material pertaining to these
28 matters, your concerns regarding Assistant Commissioner
29 Feehan's appointment to investigate the complaint made

1 by you in respect of the article that appeared in The
2 Star newspaper on Thursday, 30th November 2008, have
3 also been noted and will be brought to the attention of
4 the assistant commissioner."

12:57

5
6 I don't know if that would be a convenient time,
7 Chairman

8 CHAIRMAN: I think it would be, yeah. And of course
9 we're not concerned with any of those issues about a
10 prior, before anything like that, isn't that right? It 12:57
11 just happens to be referred to in the letter.

12 THE WITNESS: Correct.

13 CHAIRMAN: But just to make it clear, isn't that right,
14 Mr. Murrinan?

15 MR. MURRINAN: Yes.

12:57

16 CHAIRMAN: Just to be, sort of, clear in our minds.
17 We'll just to reassure Sergeant Hughes that we are not
18 getting into that.

19 THE WITNESS: Thank you.

20 CHAIRMAN: Okay. Thanks very much.

12:57

21
22 THE HEARING THEN ADJOURNED FOR LUNCH AND RESUMED AS
23 FOLLOWS:

24
25 CHAIRMAN: Good afternoon everybody.

14:01

26 MR. MURRINAN: Sergeant Hughes, thank you.

27 263 Q. CHAIRMAN: Thanks very much sergeant. It just occurred
28 to me, if you are uncomfortable at some stage, or feel
29 under too much pressure, just let me know.

1 A. I will.

2 CHAIRMAN: But you seem to have settled in and be, kind
3 of, quite able to deal with all the questions. Anyway,
4 just to mention that to you.

5 THE WITNESS: Thank you very much, Mr. Chairman. 14:01

6 CHAIRMAN: Okay.

7 264 Q. MR. MARRINAN: Now if we can just move on then, I think
8 that on the 12th February 2009, Brian McCarthy wrote to
9 the Commissioner asking for an update in relation to
10 the investigation. That's at page 2694. I don't 14:02

11 require it on the screen, Mr. Kavanagh. And on the
12 13th February, the Commissioner wrote back to Mr.
13 McCarthy with an update in relation to the
14 investigation -- and that's at page 2685 -- which again
15 I don't require, but just to note those events. I am 14:02
16 sure that Mr. McCarthy was keeping you updated in
17 relation to any developments, was he?

18 A. Yes. I'd be getting short correspondences from him
19 saying that he's contacted the Commissioner.

20 265 Q. Then on the 24th February, you wrote to Mr. McCarthy, 14:02
21 and we might just have this up on the screen, it's at
22 page 7181 of the material. Yes. You'll see in the
23 second paragraph there:

24
25 "You will see from my reply to Inspector O'Boyle that I 14:03
26 have raised a number of concerns at the direction of
27 some of the queries raised.

28

29 I wish to inform you that I have received telephone

1 calls from at least three Garda colleagues who have
2 expressed concern at the manner in which some questions
3 have similarly been posed to them, in particular each
4 has commented that the questions seem to be set in such
5 a way as to elicit a desired reply in a yes/no fashion. 14:03

6
7 Please refer to the questions as set out in the
8 correspondence received."

9
10 That's received by you, isn't that right? 14:04

11
12 "I have taken issue with regard to what I perceive to
13 be the matters of irrelevance in some of those
14 questions, in particular the issue as to whether junior
15 ranking members made contact with or were contacted by 14:04
16 senior Garda management up to and including chief
17 superintendent, in the investigation of serious crimes.
18 This procedure would be unprecedented and indeed
19 contrary to regulation. You will also see that the
20 questions merely apply to Garda management in the 14:04
21 Dublin Metropolitan Region, Northern Division, to the
22 exclusion of other divisions in which some of the
23 serious crimes were committed.

24
25 I also have taken issue with what I perceive to be 14:04
26 entirely speculative replies which are sought from
27 members arising from questions concerning, as to
28 whether the making of a particular entry on the Pulse
29 system of a particular incident could have prevented

1 the murder of Baiba Saulite.

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A. That's correct.

25

266

26

Q. And had you drawn Superintendent O'Gara or Inspector O'Boyle's attention to that problem?

27

28

29

A. I think on the 20th February 2009, I submitted a report to Inspector O'Boyle, and I think it covers most of what is in this correspondence here.

14:05

14:05

14:05

14:05

14:06

1 267 Q. Yes. So then if we just move on to the 18th February,
2 or back to the 18th February, should I say, and a
3 conversation that you had with Superintendent Curran.
4 Now again you don't refer to this in your statement to
5 the Tribunal investigators. If we look at 14:07
6 Superintendent Curran's report in relation to this --
7 it's at page 1193 of the material. It's a report dated
8 18th February 2009 and it's to his chief
9 superintendent, and it concerns 'Sick Report' and he
10 says: 14:07

11
12 "With reference to above, I have spoken to Sergeant
13 Hughes regarding this matter. I first communicated
14 with him on the 9th February and then on this date, the
15 18th February 2009. On the first occasion he stated 14:07
16 that before he responded he wanted to consult with his
17 solicitor. On this date I read over the contents of
18 Assistant Commissioner O'Sullivan's minutes once again.
19 He informed me that he had been told by the consultant
20 psychiatrist to whom he was referred by the Chief 14:07
21 Medical Officer had advised him not to return to work.
22 He stated that this psychiatrist indicated that he
23 would highlight the fact that Sergeant Hughes' absence
24 was entirely due to his injury on duty.

25 14:08
26 He wishes to get clarification from the Chief Medical
27 Officer on this point."

28
29 Now that letter is referring to the contents of

1 Assistant Commissioner O'Sullivan's minute which
2 referred to you going back to work, is that right?

3 A. I have a very vague recollection of that transaction.

4 268 Q. Yes. Well, the thrust of this is that he discussed
5 going back to work with you on the 18th February of 14:08
6 2009, and the directions that have been given by the
7 Chief Medical Officer that you would merely do light
8 duties, and he has drawn that to your attention. And
9 you're indicating to him that you can't go back to work
10 at that time and you haven't been certified as fit for 14:09
11 duty, isn't that right?

12 A. That's what it says there, yes.

13 269 Q. And does that reflect the position and your attitude at
14 that moment in time?

15 A. I'll have to revisit my chronology on that, but it's -- 14:09
16 I didn't return to work until later that year, so
17 obviously it did -- it does, sorry.

18 270 Q. If we have 2052 up on the screen. This is
19 Superintendent Curran's statement to the Tribunal, and
20 if we scroll down and halfway through the first 14:09
21 paragraph there he says:
22
23 "As stated in the report --"
24
25 which I've just opened. 14:09
26
27 " -- he informed me that he had been told by the
28 consultant psychiatrist to whom he was referred by the
29 CMO had advised him not to return work. He stated that

1 the psychiatrist indicated that he would highlight the
2 fact that Sergeant Hughes' absence was entirely due to
3 his injury on duty, which in fact he did. I have a
4 vague recollection of this interaction with Sergeant
5 Hughes but I have a sense that Sergeant Hughes was
6 comforted by this new medical advice." 14:10

7
8 That might reflect your position at the time, is that
9 right --

10 A. At the time, yes. 14:10

11 271 Q. -- there was a change. Now if we just move on then in
12 relation to the discipline matter. There's a number --
13 correspondence through the month of April of 2009, that
14 I don't intend to open, between your solicitor and
15 Inspector Dwyer, dealing with the issue of whether or 14:10
16 not your previous complaint in relation to bullying and
17 harassment and how that was dealt with back in 2004
18 should form part of the discipline investigation. And
19 that correspondence had a number of attachments and
20 letters went back and forth in that regard. It doesn't 14:11
21 seem to me that a lot turns on that in the complaint
22 that you're now making to the Tribunal, so we'll just
23 pass over that.

24
25 And the next is that an issue arises in relation to you 14:11
26 being out of work, and if we have page 4107 up on the
27 screen, please. Yes. This is a letter sent by Dr.
28 Richard Quigley to Assistant Commissioner O'Sullivan.
29 He states:

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"As indicated on the 16th March I wrote to his general practitioner..."

-- that's yours --

14:12

"... to obtain a confidential medical updated report. I also wrote to doctor John Griffin for his further views in light of the then position. I have not had a reply at this time. I think it is likely to be unhelpful in terms of occupational rehabilitation to discontinue sick pay in the present circumstances while awaiting further medical letters from his GP and from the independent mental health adviser, as it would in my view diminish the chances of a successful return to work. I will advise further when the new medical information is to hand."

14:12

14:12

If we go over to page 4115 of the material. The date on this is unclear but it's a letter from Assistant Commissioner O'Sullivan to Chief Superintendent DMR North Division. He points out:

14:13

"As you are aware the Chief Medical Officer on the 29th January 2009 advised that Garda Hughes was fit for light duty."

14:13

You should now enquire of the member his reason for not returning to duty as directed and he should be invited

1 to make any submissions he wishes regarding his failure
2 to resume duty. He should be given five days from date
3 of notification to submit any submissions.

4
5 The member should also be advised that consideration 14:13
6 will be given to removing him/her from the payroll in
7 the absence of a valid reason for his/her noncompliance
8 with the direction to return to duty."

9
10 Then if we go over -- turn to page 4118 of the 14:14
11 material, this is a report from Inspector Hanrahan to
12 you.

13
14 "With reference to the above, I am to notify you that
15 the Assistant Commissioner HRM has informed me to 14:14
16 advise you that you were fit for light duties as
17 instructed by the Chief Medical Officer on the 29th
18 January 2009.

19
20 I am to ask you why you have not done so as directed. 14:14
21 I am to advise you that you should make your
22 submissions within five days of this notification.

23
24 I am also to inform you that consideration will be
25 given to removing you from the payroll in the absence 14:15
26 of a valid reason for noncompliance of the
27 Commissioner's direction."

28
29 So you recall receiving that, is that right, from

1 Inspector Hanrahan?

2 A. I think I do, yes.

3 272 Q. Yes. Now, I think that a meeting was arranged between
4 the two of you, is that right?

5 A. That's correct.

14:15

6 273 Q. And you prepared a note for that meeting, which was to
7 take place on the same day of the report, and it is
8 page 4112 of the material. If we scroll down there you
9 see that you refer to a telephone conversation on the
10 25th March. At the second paragraph, you say:

14:16

11

12 "At the outset I wish to draw your attention to the
13 report I submitted to Superintendent Curran on the 17th
14 December 2008 in Coolock District Office. That report
15 clearly set out the circumstances where I felt that a
16 return to duty was not an option for me at that time.
17 I wish to report that I have not since been formally
18 approached by Garda management in respect of the
19 matters raised in that correspondence.

14:16

20

21 In the interim I have received further medical opinion,
22 both from my own specialist and that appointed by the
23 Chief Medical Officer, which clearly agrees that a
24 resumption of duty would not be possible for me until
25 the many serious issues which brought about my absence
26 in the first place have been addressed by Garda
27 management.

14:16

28

29 I wish to state further that the medical opinion

1 offered by the specialist appointed by the CMO and my
2 own specialist has also stated an opinion that my
3 illness is as a result of injury on duty."
4

5 The last paragraph says:

14:17

6
7 "I have, through my solicitor, sought copies of all
8 relevant medical reports pertaining to my illness. I
9 respectfully request that Garda management defer the
10 issue of my resuming duty until my legal
11 representatives have had an opportunity to pursue those
12 reports please."
13

14:17

14 And then subsequently there's a report that was
15 prepared by Inspector Hanrahan -- it's at page 4114 --
16 where he says that he met with you and discussed the
17 correspondence, which is the previous letter that I
18 just opened.

14:17

19
20 "He has asked me to convey to senior management the
21 worry of his being removed from the payroll. This will
22 cause serious hardship for both himself and his family.
23 He has requested that this does not happen."
24

14:18

25 Then I think your solicitor wrote, on the 30th April
26 2009, to Assistant Commissioner O'Sullivan, and if we
27 have page 4124 up on the screen. If you scroll down to
28 the second last paragraph, I won't open the rest of the
29 letter, but it deals with the issue of pay and the role

14:18

1 of the Chief Medical Officer. It says:

2

3 "We would be obliged to know your position with regard
4 to this and how a decision has been made to reduce our
5 client to pension rate of pay. All medical evidence 14:19
6 which is to hand clearly states that our client's
7 absence from duty is a result of injury on duty. It
8 has been verbally communicated to our client by
9 Dr. John Griffin. We again insist on his report."

10

11 And obviously looking for a copy of his report.

12

13 And then, on the 7th May -- at page 4125, please --
14 there's a response to that from Assistant Commissioner
15 O'Sullivan referring to the letter and indicating that 14:19
16 the matter is receiving attention and she will resort
17 in early course.

18

19 were you ever actually completely taken off the
20 payroll? 14:20

21 A. No.

22 274 Q. No. But there was the threat of it at that juncture,
23 is that right?

24 A. There seemed to be a move in that direction, yes.

25 275 Q. And at the heart of that, was it the fact that you 14:20
26 actually hadn't supplied sick certificates from your
27 doctor?

28 A. No. I continually supplied those sick certificates on
29 a monthly basis throughout my illness absences.

1 276 Q. Right, okay. So then if we move on and we end up coming
2 back to the Daily Star investigation and events that
3 touch on that. On the 29th April 2009, Inspector Dwyer
4 wrote to your solicitor asking for a meeting so that a
5 formal statement could be taken from you in relation to 14:21
6 the Daily Star. That's at page 974 of the material, if
7 we can have that up on the screen. Do you see that?
8 A. I do.
9 277 Q. That was a received by your solicitor, is that right?
10 A. That's right. 14:21
11 278 Q. He says:
12
13 "Accordingly I now request a meeting with your client
14 at the earliest opportunity. Should your client wish
15 to meet me to assist in the investigation I can be 14:21
16 contacted..."
17
18 And he gave his mobile number
19
20 "... at any time." 14:22
21
22 Now there was no response to that, and if we can have
23 page 2488 of the material. This is a further letter on
24 the 29th May, and you'll see there in the second
25 paragraph, first of all he refers to earlier 14:22
26 correspondence, but:
27
28 "As stated at our recent meeting I wish to obtain a
29 formal statement of complaint from your client

1 detailing his specific allegations. In this regard I
2 now request a meeting with your client at the earliest
3 opportunity."

4
5 And again he gives his mobile number. Now it appears 14:22
6 that there was no response to either of those letters,
7 from you or your solicitors.

8 A. I can't explain that.

9 279 Q. Pardon?

10 A. I can't explain why there was no response. Usually we 14:22
11 promptly responded to correspondence received.

12 280 Q. We'll come to it in due course, but I mean at a
13 subsequent meeting your solicitor acknowledged that he
14 had received the correspondence, isn't that right?

15 A. Okay, yes. Well... 14:23

16 281 Q. Now the following month, on the 21st May, you again
17 attended at the CMO, and that's because of a referral
18 to the CMO because you were then out sick, isn't that
19 right?

20 A. That's correct. 14:23

21 282 Q. And if we just look at a report from Dr. Quigley at
22 page 4128 of the material. 4128, Mr. Kavanagh, thank
23 you. If we scroll down. This is dated the 2nd June.
24 He says:

25
26 "I am in receipt of a medical letter from Dr. John 14:24
27 Griffin in relation to Sergeant Hughes."
28

29 This is the report that I opened earlier.

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"He reports that this is still hanging over him and that he has no idea when this is going to end or where the investigation is at present. He states that he has had to re-mortgage his home substantially and is going to have to do this again. He is finding it very difficult from the financial point of view to keep his head above water, so to speak. Dr. Griffin states that he really does feel that unless and until the whole issue is brought to a conclusion by the authorities Sergeant Hughes will continue to suffer significantly. Dr. Griffin wonders whether there is any way that this process could be moved forward more quickly than at present.

14:24
14:24

In these circumstances, I would be much obliged to updated and advised with regard to the disciplinary process on Sergeant Hughes. Dr. Griffin has acted as an independent mental health adviser and the above advice received is that unless and until this matter is brought to conclusion he will continue to be unfit for work."

14:25
14:25

Now, coincidentally, Inspector -- or Assistant Commissioner Feehan, as he then was, actually did a report of the disciplinary investigation and it's dated the next day, the 3rd June 2009. And this is addressed to Assistant Commissioner McHugh and it's at page 924 -- sorry, it starts at page 907 of the material but

14:26

1 if we just look at the conclusion at page 924. We're
2 familiar with the contents of the report --

3 A. Yes indeed.

4 283 Q. -- and you are, and there's no need to visit them at
5 this moment in time. But the conclusions are that:

14:26

6
7 "This investigation has not established that the member
8 concerned was aware of the existence of a real and
9 immediate risk to the life of Baiba Saulite. On the
10 20th October 2006 Sergeant Hughes apprised his district
11 officer of his concerns for Ms. Saulite, however there
12 was nothing to indicate that her life was under threat.
13 Sergeant Hughes denies having read the victim impact
14 report wherein she actually states that she feared for
15 her life and there is no evidence to hand that would
16 indicate otherwise. Even if he had read the report in
17 full it is unlikely that the contents could be
18 interpreted as a real and immediate risk to the life of
19 Ms. Baiba Saulite."

14:26

14:27

14:27

20
21 So, in that regard certainly Assistant Commissioner
22 Feehan is exonerating you in relation to any wrongdoing
23 that would give rise to disciplinary proceedings?

24 A. That's correct.

25 284 Q. Now we'll see that there's actually a letter -- this
26 hadn't been communicated to you at that time -- but
27 there's a letter sent by Assistant Commissioner Louise
28 Harkin, who is assistant commissioner in the strategy,
29 training and professional standards unit, and she sends

14:27

1 this to Assistant Commissioner McHugh on the 5th June
2 of 2009. And if we could have page 2371 up on the
3 screen. The second paragraph there says:

4
5 "Sergeant Hughes is current non-effective in excess of 14:28
6 750 days and the Chief Medical Officer has recently
7 reviewed Sergeant Hughes' file. He has requested an
8 update with regard to the disciplinary process. The
9 Chief Medical Officer stated that the disciplinary
10 process is hanging over Sergeant Hughes and he is 14:29
11 unaware of the current status of the investigation.

12
13 With this in mind I request that the disciplinary
14 investigation is concluded as a matter of urgency."

15
16 So it would appear that the authorities are pressing
17 for this matter to be concluded, isn't that right?

18 A. That's right.

19 285 Q. Now, two months later, Assistant Commissioner McHugh
20 writes to Chief Superintendent Phillips, it would be, 14:29
21 and this is at page 2373 of the material. And we'll
22 see there that he sets out the history of the
23 disciplinary proceedings, and in the last paragraph he
24 says:

25
26 "The completed file was forwarded to this office on the
27 3rd June 2009. Having considered the file with the
28 investigating officer carefully I am satisfied there is
29 no breach of discipline by Sergeant Hughes. In 14:30

1 accordance with Regulation 10(2)(a) of the Regulations
2 I have decided to discontinue the proceedings against
3 Sergeant Hughes."

4
5 I think that you were then subsequently advised of that 14:30
6 in a letter that was sent to you -- it's at page 556 of
7 the material?

8 A. That's correct.

9 286 Q. And it was sent on the same day. That's a poor copy of
10 it but, nevertheless, it is just simply confirming his 14:31
11 order to discontinue but it is addressed to you, is
12 that right?

13 A. That's correct.

14 287 Q. Now that concluded the disciplinary proceedings. So,
15 that must have been a considerable weight off your mind 14:31
16 at the time?

17 A. Absolutely huge relief from that letter.

18 288 Q. Can you just -- if you'd like to deal with it now in
19 terms of giving an overview and a submission to the
20 Chairman in relation to how you say that the 14:31
21 institution, the continuation and the conclusion of the
22 disciplinary proceedings amounted to targeting of you?

23 A. Yes. If we can refer to Chief Superintendent Feehan's
24 summing up, his report to Assistant Commissioner, where
25 he says that I hadn't read the documents so I wouldn't 14:31
26 be in breach of discipline. I am just summing up here.
27 And that even if I had read it, it wouldn't constitute
28 breach of discipline. I think that's basically what
29 he's saying. And I feel that that conclusion could

1 have been arrived at two years earlier, prior to the
2 institution of the disciplinary process, without having
3 to go that formal route. And it took two years to
4 actually come to that determination, based on
5 information they already had.

14:32

6 289 Q. But do you say that the disciplinary proceedings and
7 the use of the regulations was deliberately done to
8 target you because you had made a disclosure in the
9 first instance to Superintendent Curran, as you say you
10 made a disclosure to him?

14:33

11 A. It was the next in the sequence of events following my
12 meeting with Superintendent Curran in 2007, April 2007.

13 290 Q. And is it your case that this was done to target you
14 because you were raising issues in relation to the
15 systems failure?

14:33

16 A. Well if we look at -- and I know we're not dealing with
17 systems failure in this tribunal here, but there was
18 only one strand of one member's -- or sorry, two
19 members' dealings with Baiba that was the focus of
20 attention in respect of any disciplinary proceedings,
21 and I was aware that there was huge failings in
22 relation to several of the matters pertaining to Baiba
23 and John Hennessy prior to her murder which weren't
24 subject that introspection.

14:33

25 291 Q. Now, if we could have page 806 up on the screen. This
26 is the statement of Assistant Commissioner McHugh. And
27 if we scroll down and see there, on the 21st July he
28 points out that he decided that he would discontinue
29 the proceedings. He goes on to say:

14:34

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"There was absolutely no question that I was preferring a breach of discipline against Sergeant Hughes in that notice nor was a breach of discipline ever preferred against Sergeant Hughes. When I discontinued the proceedings on receipt of the investigation file he was completely exonerated in the matter with absolutely no blemish on his character or history. There is absolutely no basis of fact for Sergeant Hughes to suggest, as he has done in his statement, that I instituted the proceedings 'to target, shut me up, keep me quiet, clip my wings and targeting through cover up' . . ."

14:34

14:34

That is a quote from your statement

14:35

"... and I most certainly did not convey or reflect that position to Sergeant Hughes' solicitor, as he states."

14:35

So you still maintain your position in relation to the disciplinary process, is that right?

A. Yes. I believe the disciplinary process shouldn't -- and I'm a great respecter of the discipline code, but I think the discipline action in this case here was unwarranted in the circumstances when all particulars were taken into account in relation to all other matters.

14:35

292 Q. Yes. Okay. So if we move forward then --

1 293 Q. CHAIRMAN: Does it not follow that Assistant
2 Commissioner McHugh had to know about your complaints
3 to Superintendent Curran?
4 A. Em...

5 294 Q. CHAIRMAN: For you to be right, for this to be 14:36
6 targeting, he had to know about the conversation that
7 you say you had with Superintendent Curran?
8 A. That would be correct, Mr. Chairman.

9 295 Q. CHAIRMAN: Yes. And if he didn't know about that, it
10 couldn't be targeting? 14:36
11 A. The --

12 296 Q. CHAIRMAN: I mean it might be unfair, it might be
13 unreasonable, it might be unjustified, I am not
14 quarrelling with that, and that can be a matter of
15 debate, if you like, after. But it can't be related to 14:36
16 the protected disclosure if he didn't know about it?
17 A. Well, even the disciplinary process in its own -- in
18 isolation of my conversations with any of the local
19 officers, in itself, was actually a targeting exercise
20 in that it was based purely on my interactions with 14:36
21 Baiba Saulite.

22 297 Q. CHAIRMAN: Absolutely...
23 A. And there were several other aspects.

24 298 Q. CHAIRMAN: You say in the whole thing that was --
25 A. Yes. 14:36

26 299 Q. CHAIRMAN: I understand all of that. Okay. And I
27 don't want to be unfair to you, and it can be -- this
28 can be argued out at a later stage --
29 A. Yes.

1 300 Q. CHAIRMAN: -- do you know what I mean?
2 A. Yes.

3 301 Q. CHAIRMAN: But there is an obvious point, and if
4 Assistant Commissioner McHugh didn't know about what
5 you had told Superintendent Curran, then he couldn't 14:37
6 have been targeting because of the protected
7 disclosure; are you understanding me?
8 A. Yes.

9 302 Q. CHAIRMAN: If he didn't know about the protected
10 disclosure, or the disclosure of any kind, if he didn't 14:37
11 know about it, he can't have been responding to it?
12 A. Yes. The matters that I brought up with -- he based
13 his disciplinary action based, really, on Inspector
14 Mangan's contribution, and in that there I had raised
15 issues in relation to possible breakdowns in 14:37
16 communications in the Baiba Saulite case. So, from
17 that perspective, rather than examining all the issues
18 affected by Baiba Saulite and then examining all the
19 members' activities in relation to Baiba Saulite --

20 303 Q. CHAIRMAN: Okay... 14:38
21 A. -- they just selected one strand.

22 304 Q. CHAIRMAN: I just wanted to alert you to that. I
23 understand that you say the continuation of the
24 proceedings represented, I understand that, and so on.
25 A. Yes. 14:38

26 305 Q. CHAIRMAN: But I just wanted to alert you to that
27 issue...
28 A. Sure.

29 306 Q. CHAIRMAN: And as much to alert your own legal team

1 because obviously that is a thought that we have to
2 look at, okay?

3 A. Thank you, Mr. Chairman.

4 CHAIRMAN: So you don't have to kind of completely deal
5 with it, okay. 14:38

6 A. Thank you, Mr. Chairman.

7 307 Q. MR. MARRINAN: Just maybe before we just move on from
8 that, because in the early stages, when you were
9 complaining about these matters, you used the word that
10 you were being scapegoated? 14:38

11 A. In relation to the disciplinary, is it?

12 308 Q. Well in relation to the whole Baiba Saulite
13 investigation, the fact-finding investigation that was
14 initially carried out, the focus on you and Garda
15 Nyhan, the unnecessary focus, as you saw it, on the 14:39
16 victim impact report to the exclusion of investigating
17 other members of An Garda Síochána who had interactions
18 with Baiba Saulite and possibly had information to
19 give?

20 A. That'd be very fair. 14:39

21 309 Q. Hmm?

22 A. That's a very fair analysis.

23 310 Q. Yes. And so, before there was any issue of you coming
24 forward and making a claim of a systems failure, you
25 felt that there was unnecessary attention on you and 14:39
26 that you were, in the biblical sense, being scapegoated
27 for the sins of others, isn't that right?

28 A. Yes, pretty much.

29 311 Q. So as part of that, it seems to me that the case that

1 you are making is that this initial focus on you, the
2 manner in which you were -- you felt ostracised and not
3 included in the murder investigation, that you felt
4 almost a foreboding of things to happen in the future,
5 do you understand? 14:40

6 A. That would be correct.

7 312 Q. Is that the sense that I am getting from the evidence
8 that you have given and the accounts that you have
9 given prior to coming to the Tribunal?

10 A. Yes indeed. And, as I stated, my distinct impression 14:40
11 on the night of the murder and the following day was
12 that I was the only person raising these issues, and
13 that was a concern to me, that nobody else seemed to be
14 concerned about the possible systems failure. So as
15 and from then, and I agree with you, with your analysis 14:41
16 there.

17 313 Q. And then that feeling of being scapegoated continues
18 on, and in 2012, in fact, when you get documentation in
19 relation to the report that was submitted by Detective
20 Inspector Mangan where he, in his initial report, seems 14:41
21 to exonerate yourself and Garda Nyhan of any
22 wrongdoing, you didn't become aware of that until 2012,
23 isn't that right?

24 A. That's correct.

25 314 Q. And then the report of Chief Superintendent Feehan, who 14:41
26 says that this matter has to be looked at further, and
27 then ultimately the decision that was made by Assistant
28 Commissioner McHugh to have an inquiry under the
29 discipline investigations. But, at the time you felt

1 the disciplinary papers, and I believe very much that
2 the two matters were connected.

3 320 Q. Yes. But if you were wrong about that, I mean if it
4 was the case that this decision was made in isolation
5 and that Assistant Commissioner McHugh knew nothing 14:44
6 from Superintendent Curran, and that you were wrong
7 about that and it was just simply part of the process
8 and this matter had to be looked into further, well
9 then it would be a case of scapegoating, on your
10 account. And I am just wondering, you see it isn't 14:44
11 until 2008 that you go to the confidential recipient,
12 and you have explained the circumstances that you did
13 that in September 2008, but that would be the first
14 time then that you'd officially made a complaint of a
15 systems failure and you'd put pen to paper and written 14:44
16 about it, isn't that right?

17 A. Apart from supplying the reports to the medical people
18 and to the welfare officer, that would be the first
19 time I actually submitted it and I felt comfortable
20 submitting such serious allegations in writing to the 14:45
21 authorities.

22 321 Q. Yes. Okay. So anyway, so we're clear about your
23 position in relation to where you stand on all those
24 issues, is that right?

25 A. Yes, indeed. 14:45

26 322 Q. Now I think on the 20th October of 2009, you have a
27 further review with Dr. Griffin, isn't that right? And
28 if we have page 1354 up on the screen, please. This is
29 his report of his meeting with you at that time. And

1 if we look at the second paragraph there he says:

2

3 "Sergeant Hughes is extremely relieved that the
4 disciplinary procedure has been dropped. However he
5 repeated to me a number of times during the
6 consultation that the ongoing investigation has still
7 not been resolved and he is very concerned about this.

14:45

8

9 However he says that he has no option now but to return
10 to work because he is in deep financial trouble."

14:46

11

12 Then the last paragraph:

13

14 "I would suggest that he is now fit for light duties,
15 but I don't think he would be fit for full policing
16 duties just yet. Perhaps you might like to review him
17 prior to returning to work as per your final
18 sentence..."

14:46

19

20 Does that reflect your mood at the time --

14:46

21 A. Yes it does.

22 323 Q. -- and the decision that you'd arrived at; namely, to
23 return to work? And then if we have page 4186 up on
24 the screen, please. This is a report from Dr. Quigley
25 to Assistant Commissioner Fanning, who is now Assistant
26 Commissioner in HRM. It's a report of the report that
27 he's received. If you look at the last paragraph
28 there:

14:46

29

1 "In light of the length of sick leave it would be
2 necessary that Sergeant Hughes receives the necessary
3 updating in relation to changes in procedure and
4 changes in legislation during the interval of sickness
5 absence. It would also be relevant that he be afforded 14:47
6 work in a location separate from his previous station
7 in light of the difficulties of the last two and a half
8 years approximately. Accordingly I recommend that
9 management meet with Sergeant Hughes to put in place
10 arrangements for him to resume to light administrative 14:47
11 duties in a context where he can be afforded a safe
12 working environment. Sergeant Hughes is assessed as
13 capable of negotiating with management work
14 arrangements that would be conducive with a return to
15 work. " 14:48

16
17 And presumably you were happy with that state of
18 affairs, is that right?

19 A. To return to duty, yes, on light duties.

20 324 Q. Hmm? 14:48

21 A. To return to work on light duties, yes.

22 325 Q. Now I think did you have a meeting with Superintendent
23 Curran on the 14th December?

24 A. That's correct.

25 326 Q. If we just have page 1196 up on the screen, please. 14:48
26 Scroll down. This is a report that was sent by
27 Superintendent Mark Curran in relation to that meeting.

28
29 "On today's date I met with Sergeant Hughes and

1 discussed with him the advices of the Chief Medical
2 Officer regarding his return to work. The following is
3 an account of this meeting:
4 - Sergeant Hughes stated that he is willing to return
5 to work immediately based on the recommendations of the 14:49
6 CMO; Sergeant Hughes has requested that he be
7 transferred from the R District with a preference for
8 Raheny. He is making this request as he feels that any
9 return to the R District could result in
10 confrontation." 14:49
11
12 Was that your position at the time?
13 A. No, I don't recall using the word 'confrontation'.
14 327 Q. No, but were you requesting a transfer?
15 A. Yes, I requested a transfer to Raheny station, if 14:50
16 possible.
17 328 Q. And why was that?
18 A. I just felt I needed to move from the, what we call the
19 'R' District -- Coolock, Swords, Malahide -- and make a
20 fresh start in another district. 14:50
21 329 Q. "Sergeant Hughes requested that he be facilitated with
22 an administrative post in order to eliminate any
23 potential physical violence."
24 Presumably that's from a member of the public.
25 A. A member of the public. Operational -- I don't think I 14:50
26 said that, I think operational duties rather, full
27 operational duties rather than physical violence.
28 330 Q. I understand.
29 "Sergeant Hughes stated that if he cannot be

1 facilitated with a transfer he will return to work in
2 the R District but due to the history of his illness he
3 feels a transfer would assist his reintegration into
4 the workplace. "

14:50

5
6 So it's clear there that you are not making it a
7 precondition of returning to work that you get a
8 transfer, is that right?

9 A. Absolutely. And just a comment there, the bullet
10 points, it appears I think, in my view, that this is
11 nearly demands I'm making, but this would have been
12 just a general conversation with Superintendent Curran
13 to try and, you know, we'd be talking together in
14 relation to what would be best for myself. But there
15 were no preconditions or demands made at the time, I
16 wouldn't do that.

14:51

14:51

17 331 Q. If we just turn to page 1060 -- this is Superintendent
18 Curran's statement to the Tribunal. 1060,
19 Mr. Kavanagh. Right, okay. So if we just scroll up a
20 little bit there. There we are. He said:

14:53

21
22 "I met Sergeant Hughes who stated that he wished to be
23 transferred from the Coolock District to Raheny
24 District as he believed that working in the Coolock
25 District could result in confrontation. My
26 recollection in this matter was that in response to his
27 request for Raheny Garda Station, which I had prompted,
28 arising from a request in previous conversations, when
29 I had recently become aware of a staff office position

14:53

1 in the Raheny District, and had informed him of the
2 possibility of that vacancy."

3
4 Do you recall an earlier conversation with
5 Superintendent Curran where he had sort of prompted you 14:53
6 that that might be the appropriate move for you?

7 A. No, I don't recall that conversation in relation to a
8 vacancy at Raheny.

9 332 Q. He then goes on to say:

10
11 "I later discovered that this position had been filled 14:54
12 prior to our meeting unbeknownst to me. On updating
13 Sergeant Hughes with news of this development he
14 elected to perform the role in the staff office Coolock
15 Garda Station. This was to be performed in plain 14:54
16 clothes at his request and was in line with the
17 instructions of the CMO. It was a non-operational role
18 and not viewed as being arduous or stressful. I was
19 happy to offer him this position in accordance with his
20 wishes, that he would reintegrate into the force. He 14:54
21 accepted my offer of this transitional role. He made
22 no other request of me at the time of accepting this
23 offer. I believe that I assured him that he could come
24 to me personally if any matters arose for him."

25
26 Do you dispute any of that?

27 A. No, I do not.

28 333 Q. It would appear that Superintendent Curran certainly
29 was trying to accommodate you as best he could in the

1 circumstances and paying particular regard to your
2 needs, would you accept that?

3 A. At the time, yes.

4 CHAIRMAN: Sorry what did you say? What was your
5 answer to that?

14:55

6 A. Sorry, I beg your pardon? Yeah, at that juncture I
7 believe --

8 334 Q. CHAIRMAN: Does that mean that at some other juncture
9 he wasn't?

10 A. Well I've already said --

14:55

11 335 Q. CHAIRMAN: Because that's what the implication of your
12 answer is.

13 A. I've commented here in relation to the feedback I was
14 getting from management in relation to matters as
15 reporting in the previous few years. Superintendent
16 Curran was in charge at the time and I wasn't getting
17 the feedback to reports that I was making over the
18 previous few years.

14:55

19 336 Q. CHAIRMAN: And you hold him responsible for failing to
20 give you feedback, is that right?

14:56

21 A. Well I think I should have got feedback in relation to
22 the serious matters that I was reporting. But in
23 relation --

24 337 Q. CHAIRMAN: Sorry, the serious matters now, we're back
25 to the systems failure?

14:56

26 A. Yes, indeed. And his -- my being interviewed while I
27 was on sick leave.

28 338 Q. CHAIRMAN: This is the April --

29 A. Throughout my sick leave absence there, I felt that I

1 wasn't interviewed formally in relation to my absence
2 from the workplace.

3 CHAIRMAN: Right. Okay.

4 339 Q. MR. MARRINAN: Okay then, if we could just, finally on
5 this issue of your return to work at that time, if we 14:56
6 have page 4262 up on the screen. This is Chief
7 Superintendent Phillips writing to the Assistant
8 Commissioner Human Resource Management and referring to
9 the report that I just opened from Superintendent
10 Curran of his meeting with you. We see in the second 14:57
11 paragraph there, he says:

12
13 "Sergeant Hughes has indicated his willingness to
14 return to work which is to be welcomed. He has however
15 set a number of preconditions." 14:57

16
17 That's the way he seems to have read the report that he
18 had received. He, then, in the fourth paragraph, said:

19
20 "These preconditions to the member's return to work are 14:57
21 wholly unacceptable. I would have Sergeant Hughes
22 return to work in the R District and his transfer would
23 subsequently taken under active advisement. There can
24 no be question of him returning to an administrative
25 post. I will of course be guided by your directions. 14:57
26 However I feel at this stage Sergeant Hughes' return to
27 work should be without precondition."

28
29 Now there's a note on the side, it's a handwritten

1 note, I think it may well be Assistant Commissioner
2 Fanning. You see there that he has noted:

3
4 "Discussed with Chief Superintendent Phillips in light
5 of views of the CMO Sergeant Hughes will be allocated 14:58
6 to the staff office, Coolock and transfer will be
7 considered later."

8
9 You see that. So, in any event, on the 21st December,
10 you return to work in the staff office, is that right? 14:58

11 A. That's correct.

12 340 Q. I think that you were out from work on the 21st January
13 and went back to work on the 26th January but that
14 related to a chest infection that you were suffering
15 from at that time, is that right? 14:59

16 A. Yes, indeed.

17 341 Q. If we move forward then to the 9th March, and if we can
18 have page 4299 up on the screen. And if we scroll
19 down, yes, just there, we'll see that this is an e-mail
20 sent from Superintendent Curran to the chief 14:59
21 superintendent. He says:

22
23 "With reference to the above, Sergeant Liam Hughes is
24 presently employed in the staff office Coolock
25 performing light duties. This is in accordance with 14:59
26 the instruction of the CMO.

27
28 It is requested that Sergeant Hughes be transferred
29 from Swords to Coolock with immediate effect to appear

1 in the next personal bulletin."

2

3 So it appears that Superintendent Curran was making
4 arrangements for a transfer, isn't that right?

5 A. That's correct.

15:00

6 342 Q. And you were happy with that at that time?

7 A. At the time I was happy, yes.

8 343 Q. And then we move through to May of 2010, 19th May, I
9 think it was, that you received a letter from Brian
10 McCarthy outlining the result in relation to the Feehan
11 investigation, is that right? 15:00

12 A. That's correct.

13 344 Q. That letter is at page 555. If we just scroll down.
14 No, that's not the letter, I am sorry. I will just
15 check the page number, I have got the wrong page
16 number. It is 557, I beg your pardon. Thank you.
17 You'll see there in the second paragraph:

15:01

18

19 "The Garda Commissioner has informed me that he is now
20 in receipt of the investigation file from Assistant
21 Commissioner Michael Feehan on this matter. The
22 Commissioner states that the seriousness with which
23 Garda authorities viewed these allegations is reflected
24 in the depth and thoroughness of the investigation.
25 All Garda management personnel, together with all Garda
26 members, identified as having contact with any or all
27 of the principal parties in this matter have been
28 interviewed and all existing documentation pertaining
29 to the issues raised has also been pursued. 15:02

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The Commissioner states that as a result of the investigation Assistant Commissioner Feehan is satisfied that all the various allegations are without foundation and that the Commissioner agrees with the finding and does not propose to take any further action in this regard. 15:02

The Commissioner has also informed me that certain Human Resource Management issues at Swords Garda Station are now being addressed separately. 15:02

And that's signed off by Mr. McCarthy. Obviously you were unhappy with the result of the investigation, is that right? 15:03

A. Yes, I was.

345 Q. And I think that you wrote to Brian McCarthy, if we have page 7174 up on the screen, this is a letter you sent him on the 1st July of that year. Referring to his letter of the 19th May, you say: 15:03

"Frankly I am disappointed with the outcome of this investigation. At this point I would like to see a copy of the investigation file with a list of all statements take then the course of the investigation." 15:03

You then go on to say:

"I feel the persons making decisions in relation to

1 such matters should be utterly independent. In this
2 respect Assistant Commissioner Feehan, when a chief
3 superintendent at Store Street station, was nominated
4 to investigate allegations of discipline from me
5 arising from the death of Baiba Saulite. That is not a 15:04
6 personal attack by any means on Assistant Commissioner
7 Feehan, but as a first principle I believe that any
8 investigator should have come to this investigation
9 without any prior knowledge of the parties' input.

10
11 Finally I would be obliged to know whether or not you
12 have referred this matter to the Minister under the
13 Act."

14
15 So you're expressing your dissatisfaction, and your 15:04
16 dissatisfaction at that stage, without sight of the
17 file, principally related to Assistant Commissioner
18 Feehan having a role in relation to -- or leading the
19 investigation, is that right?

20 A. That's correct. 15:04

21 346 Q. I think if we have page 7176 of the material, just for
22 completeness sake. I think that Brian McCarthy replied
23 to your letter, and in the second paragraph he says:

24
25 "The legal advice available to me states that there is 15:05
26 nothing in the regulations governing my office to
27 indicate that a confidential reporter has a right to
28 see the report on which the Garda Commissioner based
29 his decision to take no further action in a particular

1 case.

2

3 I note what you say in relation to the appointment of
4 the investigating officer in this case. I am of the
5 view that such appointments are matters for the Garda 15:05
6 Commi ssi oner to deci de.
7

8 In response to your final query, I have not referred
9 the matter to the Minister under regulations as I am of
10 the view that referral to the Commi ssi oner under 15:05
11 Regulation 7 was the appropriate course of action. My
12 letter to you on the 16th October refers."
13

14 And he signs that.

15 15:05

16 So that's where matters rested. During the course of
17 the Feehan investigation were you kept updated in
18 relation to how the investigation was progressing by
19 Assistant Commissioner Feehan or any of his team?

20 A. No, the last contact I had with the confidential 15:06
21 recipient investigation was on the 20th February 2009.

22 347 Q. Right. So this result, as it came on the 19th May
23 2010, was out of the blue, as it were?

24 A. Yes, indeed.

25 348 Q. Now I think on the 29th June had you a meeting again 15:06
26 with Superintendent Curran, is that right?

27 A. That's correct.

28 349 Q. And we just might look at this. If we have page 1191
29 up on the screen. This was an e-mail from you to

1 Superintendent Curran setting out workplace concerns
2 that you had at that time, isn't that right?

3 A. That's correct.

4 350 Q. If you just scroll up there, you say:

5
6 "I wish to seek clarification please as to what 15:07
7 entitlements I have in relation to claiming allowances.
8 I returned to work on light duties basis in December
9 2009 and was allocated the staff office at Coolock
10 station. My allocated hours are nine to five Monday to 15:07
11 Friday. I understand that I may be entitled to claim
12 some form of clerical allowances but I am unsure in
13 that regard."

14
15 Then you go on to say: 15:08

16
17 "Please be informed that I am deeply unhappy in my
18 current position. I have received no job description
19 despite having asked for same on my return to work. I
20 am unsure of what is required of me in my current 15:08
21 position. I have received little or no instruction as
22 to what exactly my duties involve.

23
24 I wish to also report that since returning to work the
25 matters which caused my protracted absence in the first 15:08
26 place have not been resolved by Garda management. I
27 sincerely believe that there are serious matters which
28 remain unaddressed.

29

1 I wish to request a consultation with the assistant
2 Chief Medical Officer at the earliest opportunity
3 please as there are urgent matters that I feel need to
4 be addressed with regard to my medical condition."

15:09

6 Now that's sent by you on the 29th June. You said
7 earlier on that Superintendent Curran had indicated
8 that you could go to him at any time and discuss any
9 problems that you had. Had you attempted to do so
10 before you sent this e-mail at the end of June?

15:09

11 A. No. I was -- in -- at the same time the confidential
12 recipient investigation was still going, so I was
13 hopeful that there would be some developments from
14 that, and obviously when I received the news that, you
15 know, that the conclusions that were reached there, the
16 matters then started to come to the fore in relation to
17 non-resolution of previous matters. The job I had was
18 sergeant in an office. There was a guard there already
19 doing those functions in relation to distribution of
20 stationary et cetera, so --

15:09

15:10

21 351 Q. Why didn't you go immediately to Superintendent Curran
22 and alert him to the problems that you were having in
23 that regard?

24 A. Well this is where I am doing it here, you know. I was
25 quite content to return to work and return to full pay,
26 and, as far as I was concerned, the disciplinary matter
27 had finished. But after a few months working in the
28 staff office I just decided to send him that e-mail on
29 that particular day, that, you know I was feeling a bit

15:10

1 low about the situation and I would like to have a
2 consultation with the CMO in relation to matters, and
3 just my... it was my view at that time that the matters
4 that had caused my absence in the first place in the
5 targeting, discrediting -- or targeting and bullying 15:10
6 had not been properly resolved by management. So, at
7 that juncture on that particular date that's how I
8 felt.

9 352 Q. If we go back over the page to 1190, this is a report
10 that was sent by Superintendent Curran to Chief 15:11
11 Superintendent Phillips and he says:

12
13 "With reference to the above, on receipt of this e-mail
14 I arranged a meeting with Sergeant Hughes in my office
15 on the 29th June. Sergeant Hughes requested that 15:11
16 Sergeant Michael Gormley (AGSI representative) be
17 present at this meeting. Each of the four main points
18 as raised in the report were discussed at length. The
19 discussion outline and responsibilities are contained
20 hereunder." 15:11

21
22 I am just wondering, I mean was this not unnecessarily
23 confrontational at that time?

24 A. Oh no, it was not, no.

25 353 Q. Superintendent Curran, on your return to work, had made 15:11
26 it fairly clear to you that he was open to trying to
27 accommodate you in any way that he could, and I got a
28 sense from your earlier meeting, and from your evidence
29 in relation to it, that you thought he was genuine in

1 his efforts to try and accommodate you?

2 A. Oh yes.

3 354 Q. Yes. And he clearly indicated to you that the door was
4 open if you had any problems?

5 A. Yes, and I met him on a regular basis in Coolock 15:12
6 station.

7 355 Q. And you didn't tell him about your problems?

8 A. No. As I said, at the time I wrote this here that is
9 the way I was feeling at that time. And, you know,
10 after all my previous experience in making reports to 15:12
11 management and being back at work on full pay, et
12 cetera, and the discipline dropped, I was giving myself
13 a sort of breather, you know, for those few months.

14 356 Q. Yes. If we just -- I am not going to go through each
15 of these, I am going to deal with the headings. Number 15:12
16 1 there is "Entitlement Regarding Allowances", and
17 number 2 is your current position, and number 3 this
18 what you are referring to now:

19

20 "Matters Not Addressed" 15:13
21

22 If we scroll down. Number 3 there:

23

24 "He stated that the Garda Commissioner is well aware of
25 what the issues are that he refers to." 15:13
26

27 And then number 4:

28

29 "Sergeant Hughes requested an appointment with the

1 Chief Medical Officer. "

2

3

He then goes on to state:

4

5

"I have had numerous conversations with Sergeant Hughes 15:13
regarding his role in the staff office. I am aware
that Inspector Donal Waters has likewise had
considerable contact with him. "

6

7

Is that right?

15:14

8

A. Well we were working in the same station so we'd have
general conversations with each other in passing and
even calling in for a coffee into the office, you know.

9

357

Q. "No issues such as those mentioned above were raised.
Sergeant Hughes did appear to be irritated at times 15:14
during the meeting in a way that I have not witnessed
since his return to light duties in December. I
informed him that should he have any issues whatsoever
that he could contact me or any of the inspectors as is
the normal situation in Coolock where there is an open 15:14
door policy. As agreed with him on this date I intend
to meet him on a weekly basis to further support his
integration into the workplace. "

10

11

Does that reflect the position at that time?

15:14

12

A. It does indeed.

13

358

Q. Yes. And your irritation, is that in relation to the
bigger picture?

14

15

A. Yes, indeed.

1 359 Q. Okay. Now, Superintendent Curran says that he spoke
2 with Chief Superintendent Phillips in relation to the
3 issue of allowances and he spoke personally to him to
4 try and give you -- accommodate you with weekend duty.
5 And that Chief Superintendent Phillips, in a statement 15:15
6 to the Tribunal, confirms that, and Superintendent
7 Curran says that he advised you that you would be
8 accommodated with weekends?
9 A. Just a Sunday.

10 360 Q. Hmm? 15:16
11 A. Just the Sunday work.

12 361 Q. Sunday work?
13 A. Yes.

14 362 Q. Right, okay. Is there anything you would like to say,
15 anything more you'd like to say about your interaction 15:16
16 at that time with Superintendent Curran?
17 A. No, not at this juncture, thank you.

18 363 Q. On the 21st July, Dr. Quigley wrote a letter to
19 Assistant Commissioner Fanning -- this is at page 4331
20 of the material. He says: 15:17
21
22 "I am in receipt of a letter from Sergeant Hughes's
23 general practitioner which describes anxiety and
24 uneasiness in relation to his current work situation.
25 In the circumstances I consider that it would be 15:17
26 appropriate to arrange a review for Sergeant Hughes at
27 this service. An appointment is arranged for the 19th
28 August."
29

1 Then he says:

2
3 "Prior to this appointment I request to be supplied
4 with a unit report in relation to his work since
5 resumption. This should be under the usual headings. 15:17
6 Namely, work performance, any coping difficulties in
7 work, efforts to resolve difficulties, relationships
8 with peers, superiors and subordinates, any other
9 matters of a non-medical nature which appear to be
10 interfering with work performance." 15:17

11
12 And on the 30th July 2010, at page 4332 of the
13 material, we see that those requests are communicated
14 by Assistant Commissioner Fanning to the chief
15 superintendent in the district. 15:18

16
17 If we could have now page 979 back up on the screen.
18 We're now back to the Daily Star investigation. And
19 this is a letter to Séan Costello, your solicitor.
20 Second paragraph -- it is dated 22nd July 2010: 15:19

21
22 "I wish to advise you that I have been directed by
23 Deputy Commissioner Operations to correspond with you
24 to afford your client one final opportunity to make a
25 written statement of complaint in respect of the 15:19
26 aforementioned newspaper article."

27
28 And then if we have 2561 up on the screen, we'll see
29 that your solicitor wrote back on the 10th August, and

1 it reads:

2
3 "We do have your letter of the 29th April 2009. In
4 that letter you stated that Assistant Commissioner
5 Feehan had been directed to contact our client for an 15:20
6 opportunity to assist in the investigation and provide
7 evidence/information in support of his complaint. Our
8 client has at all times stated that he wishes this
9 complaint to be fully investigated and he is happy to
10 give a statement at any time. We do not have your 15:20
11 letter of the 29th May."

12
13 And there is a letter sent -- page 2562 -- by Inspector
14 Dwyer to your solicitor, confirming that you'd be
15 contacted within the next 14 days. 15:20

16
17 So if we just move back then to a local issue. I think
18 on the 17th August, a report was sent in by Inspector
19 Donal Waters -- it's at page 4336 of the material.
20 It's entitled "Sick Report". This appears to be as a 15:21
21 result of the request that I referred to earlier on by
22 the Assistant CMO

23
24 "With reference to the above and attached
25 correspondence I wish to report as follows: 15:22

- 26
27 1. Sergeant Liam Hughes is currently employed in the
28 Staff Sergeants office Coolock Garda Station.
29 2. See attached form.

1 3. Sergeant Hughes has been facilitated with regular
2 duties, 9:00am to 5pm daily, and this appears to be a
3 benefit to the member.
4 4. This also appears to be good.
5 5. The member regularly meets with Chief 15:22
6 Superintendent Mark Curran (who is currently on annual
7 leave). "
8
9 So on the 19th August then, you met with the CMO again,
10 isn't that right? 15:22
11 A. Yes.
12 364 Q. And his report is at page 6342 of the material. I beg
13 your pardon, it is 4342, I beg your pardon. Now this
14 is quite a lengthy report and I don't intend to go
15 through it, but if we look at paragraph number 2 there, 15:23
16 he states:
17
18 "On my assessment there remains a considerable sense of
19 grievance on Sergeant Hughes' part. He continues in a
20 post that he regards as undemanding to the level of 15:24
21 skills and training that he holds. He reports he
22 remains on basic pay without access to the usual
23 allowances of an appointment that he might otherwise
24 hold. During the course of a prolonged interview with
25 Sergeant Hughes I formed the opinion that he does not 15:24
26 have the current resilience for frontline policing
27 duties and as such he falls in the fitness category of
28 fit for light duties. When asked he was unable to
29 identify which alternative work duties would be

1 satisfactory to him, though his GP's letter raised
2 concerns in relation to his work environment."

3
4 It then goes on to say:

5
6 "Sergeant Hughes continues to consider that it was
7 wrong and that he was charged and held accountable in
8 the manner alleged in the original disciplinary
9 charges. It appears that this is a grievance held by
10 Sergeant Hughes which he feels has not been addressed
11 by the organisation."

15:25

15:25

12
13 If we then go on to the following page, he says:

14
15 "It is Sergeant Hughes' assertion that his prolonged
16 period of sickness absence as recorded on the B5 file
17 of 948 days, ending on the 21st December 2009, relates
18 to his psychological reaction to disciplinary charge.
19 This is not entirely congruent with the earlier reports
20 of Dr. John Griffin, who had acted as independent
21 mental health adviser. Management could, if deemed
22 appropriate, review matters and consider if this period
23 of sickness absence related to disciplinary charges
24 which were subsequently dismissed as to whether
25 recovery of the loss of salary during this period is
26 appropriate or otherwise."

15:25

15:25

15:26

27
28 And then the final paragraph says:
29

1 "I will arrange an appointment with an independent
2 adviser to this service, Dr. Pat Devitt, in order to
3 further assess his fitness for duty and the possible
4 causality of his prolonged sick leave."

15:26

6 So that's the position. You put forward a case now
7 that at that time your prolonged absence was
8 deliberately attributable to the disciplinary
9 proceedings that were brought against you and the
10 stress that you were under arising from that, isn't
11 that right?

15:26

12 A. Well I would have conveyed that, and probably other
13 matters, to the CMO there in relation to how I was
14 feeling at that time. But that would be in line there
15 that I always felt that the disciplinary investigation,
16 as it was, in the form it was taken, should not have
17 been taken.

15:27

18 365 Q. I think that an appointment was made for the 16th
19 September 2010 with Dr. Devitt, is that right?

20 A. That's correct.

15:27

21 366 Q. And I think that a letter was sent to Dr. Devitt by
22 Dr. Brendan McCormack, who is a clinical -- who is a
23 consultant psychiatrist. It's at page 1389. This
24 letter was sent on your behalf to Dr. Devitt, isn't
25 that right?

15:27

26 A. That's correct.

27 367 Q. You see there, it's actually addressed to -- this is
28 page 1386, please. You will see:

29

1 "I am writing to you at the request of Sergeant Hughes
2 who I understand has an appointment with you in the
3 near future."

4
5 He says:

15:28

6
7 "In summary he was traumatised by events surrounding a
8 murder around the end of 2006 and subsequent alleged
9 bullying and isolation by colleagues. His main
10 complaints regarding Garda management of the case which
11 he says have not been properly investigated, he has
12 also said he has been exonerated in June 2009 in a
13 disciplinary hearing which had arisen out of complaints
14 made about him in 2007 relating to the same case. He
15 feels that the whole episode has been an abuse of power
16 by those in authority in the Gardaí and he feels let
17 down."

15:28

15:29

18
19 It then goes on to say:

20
21 "He has become obsessed with trying to seek justice and
22 this has dominated his life since the events at the end
23 of 2006."

15:29

24
25 Do you agree with that assessment that was made at the
26 time?

15:29

27 A. Probably the word 'obsessed', rather 'determined' I'd
28 have rather he used rather than 'obsessed'.

29 CHAIRMAN: Sorry, say again.

1 A. Sorry, rather than the word 'obsessed', I would have
2 referred if he used the word 'determined' --
3 determined.

4 368 Q. MR. MARRINAN: But in any event --

5 CHAIRMAN: But that was his view anyway?

15:29

6 A. Yes, that was his view.

7 CHAIRMAN: He thought you had become obsessed.

8 369 Q. MR. MARRINAN: And then there's a report, at page 456
9 of the material, from Dr. Patrick Devitt who saw you,
10 and if we turn to page 457, these were his conclusions
11 at that time.

15:30

12
13 "1. As a result of disciplinary measures against him,
14 perceptions of bullying, harassment, isolation and
15 other matters relating to the conduct of An Garda
16 Síochána Sergeant Hughes suffered emotional trauma.

15:30

17
18 2. He experienced such Post Traumatic Stress Disorder
19 symptoms as intrusive recollections, avoidance and
20 anxiety.

15:30

21
22 3. In addition, in order to alleviate his anxiety
23 Sergeant Hughes began to drink heavily for the period
24 when he was out on sick leave."

25 15:30

26 Is that right?

27 A. No. Not consistently, just periodically, not for the
28 entire sick leave.

29 370 Q. Right.

1 A. No.

2 371 Q. "4. His sick leave was directly due to the emotional
3 trauma he suffered at his place of work.

4
5 5. Currently Sergeant Hughes because he is still 15:31
6 consumed with every aspect of his case and is
7 distrustful of An Garda Síochána and still exceedingly
8 angry must be regarded as mentally unfit to resume
9 regular Garda duties.

10
11 6. However he is mentally fit to continue his current 15:31
12 Garda duties on a full-time basis.

13
14 7. There is a reasonable possibility that if matters
15 can be resolved Sergeant Hughes' mental state will 15:31
16 further improve allowing him to resume full Garda
17 duties."

18
19 So that was the view that was formed at that time.

20
21 Now there are a number of internal communications that 15:31
22 you will have become aware of that relate to the issue
23 of injury on duty, and they were between the CMO and
24 Assistant Commissioner Fanning, and they were in the
25 month of September going into October of 2010. That's 15:32
26 really a matter for other witnesses who will be giving
27 evidence at the Tribunal, and unless you wish to say
28 something about those communications I don't intend to
29 open them with you, all right?

1 A. That's grand.

2 372 Q. Are you happy enough with that?

3 A. I am happy enough with that, yes.

4 373 Q. No doubt, your counsel will be cross-examining the
5 various witnesses on those communications. 15:32
6

7 Now I think then you were three days off work, from the
8 22nd to the 25th September 2010, with work related
9 stress, isn't that right?

10 A. That's correct. 15:33

11 374 Q. And a direction issued from Chief Superintendent
12 Phillips at 4360 of the material. This is a direction:
13

14 "You should now interview this member in order to
15 establish the source of the member's stress and if it 15:33
16 is suggested as being work related a full investigation
17 should be carried out."
18

19 Do you see that?

20 A. I see that. 15:33

21 375 Q. And I suppose the point that you would wish to hammer
22 home in that regard is that this is a direction that's
23 given on the 30th September 2010, and a direction along
24 those lines should have been given back in 2006 when
25 you first went out with work related stress, is that 15:34
26 right?

27 A. That's correct.

28 376 Q. Yes. Then if we have page 4363 up on the screen. This
29 is I think an e-mail from Superintendent Curran where

1 he says that he spoke to you in relation to work
2 related stress as directed by HRM. And"... will come
3 back to me on Wednesday following consultation with a
4 solicitor."

15:35

5
6 Do you recall that?

7 A. I don't recall that, sorry.

8 377 Q. There's a further opinion, then, that's given by
9 Dr. Quigley in relation to the issue of work related
10 stress, and this is page 4365, the final paragraph.
11 The rest of the letter can be explored later on with
12 other witnesses and with Dr. Quigley himself, but the
13 final paragraph on page 4365:

15:35

14
15 "One further issue that has arisen in correspondence is
16 that Sergeant Hughes has indicated through his general
17 practitioner that he has not been offered any
18 retraining for his return to work after a lengthy
19 absence."

15:35

20
21 Is that, strictly speaking, right?

15:36

22 A. Well I think the Assistant CMO, on his recommendations
23 before my return to work, said that I should be
24 provided with retraining and brought up-to-date in
25 relation to legislation and regulations that were
26 introduced during my absence. That was just -- that's
27 the position as it was when that letter was written.

15:36

28 378 Q. Okay. If we could then move on to, and return to, the
29 Daily Star and the meeting that you had in that regard.

1 This was on the 4th October 2010. I think that you met
2 Detective Inspector Fergus Dwyer in connection with
3 that article, and again this was in the offices of Séan
4 Costello solicitors, is that right?

5 A. I can't recall the location at the moment. 15:37

6 379 Q. Again you had prepared a statement before you arrived
7 and you gave it to Detective Inspector Dwyer, is that
8 right?

9 A. That's correct. Actually that meeting was in Garda
10 Headquarters. 15:37

11 380 Q. Oh was it? I beg your pardon.

12 A. Yes.

13 381 Q. And this is page 535 of the material. I am not going
14 to open the entire letter but it is your complaint in
15 relation to the article, and you point out: 15:38

16
17 "The initial complaint was forwarded by my solicitor to
18 the Garda Commissioner on the 10th December 2008,
19 following an acknowledgment from Garda management that
20 the matter was to be made subject to an investigation. 15:38

21 I requested that my complaint be made subject of an
22 independent investigation. On the 30th July 2010 my
23 solicitor received written notification from
24 Superintendent Fergus Dwyer requesting a written
25 statement of complaint from me concerning the 15:38
26 aforementioned newspaper article. Superintendent Dwyer
27 in his correspondence offered one final opportunity for
28 me to make a written statement of complaint. Since
29 making the formal complaint on the 10th September 2008

1 I have been at all times available to assist Garda
2 management in any investigation into the above matter
3 and to provide any evidence or information in my
4 possession to support my complaint. The correspondence
5 from Superintendent Dwyer on the 30th July 2010 and 15:39
6 subsequent telephone conversations represent the first
7 formal request I have received from Garda management to
8 make a statement regarding this matter."
9

10 That's not, strictly speaking, right, is it? 15:39

11 A. I'd have to look at the chronology again. When I made
12 that statement there, I obviously did consult with the
13 chronology, but if I can have it overnight there, I'll
14 come back to you on the correctness or otherwise of my
15 chronology on that and the correctness of my statement 15:39
16 in that regard.

17 382 Q. Yeah. It's just that I have opened two letters that
18 were sent back in 2009 where there was an effort made
19 to interview you and it was written to -- the letters
20 were sent to your solicitor? 15:40

21 A. Yes.

22 383 Q. And I understand at this meeting that your solicitor
23 confirmed that he had received those letters, is that
24 right?

25 A. Yes. He's confirmed he's received the letters, yes. 15:40

26 384 Q. But your solicitor made the case that you should have
27 been contacted directly?

28 A. No, no. I am referring to the correspondences there
29 from the solicitor and the subsequent telephone calls.

1 I would consider when it says my solicitor was
2 contacted, that's me being contacted effectively.

3 385 Q. Yes, indeed. And I think that certainly Superintendent
4 Dwyer was of the view that two letters had been sent to
5 your solicitor -- 15:41

6 A. Yes.

7 386 Q. -- asking you to attend for interview. He had heard
8 nothing back. He was then confronted with a situation
9 where your solicitor was making a case that these
10 should have been sent directly to you as opposed to him 15:41
11 and that he then said, and pointed out, that in fact
12 you had previously requested that matters would go
13 through your solicitor?

14 A. That's correct. I think the two items of
15 correspondence that Superintendent Dwyer is referring 15:41
16 to, I think he got an acknowledgment to say we got one
17 but we hadn't -- didn't have sight of the second one.

18 387 Q. All right, well you didn't respond to the one that you
19 got then?

20 A. Yes, indeed. 15:42

21 388 Q. Okay. I mean one of your complaints to the Tribunal is
22 that there was a delay in taking a statement from you
23 and the whole process took too long, isn't that right?

24 A. That's correct.

25 389 Q. I wonder when, on reflection now, looking at 15:42
26 Superintendent Dwyer's statement and his report in
27 relation to what actually transpired, whether that's a
28 matter that you really want to pursue in the
29 circumstances?

1 A. Yes. From my experience within the Garda Síochána
2 investigating matters, if a complaint is made by a
3 complainant, the complainant is the first port of call
4 in relation to obtaining a statement before you proceed
5 further. In this case it seems to be that inquiries 15:42
6 were carried out with the journalist first, prior to me
7 being interviewed. And I think the investigation began
8 in January 2009, was it?

9 390 Q. Yes.

10 A. January 2009, and, really, the first efforts that 15:42
11 should have been made by the investigation team was to
12 interview the injured party as such -- that would be
13 me -- and to establish exactly the complaint I was
14 making.

15 391 Q. But that's not -- that's not really an answer to what I 15:43
16 am pointing out to you. You had been offered the
17 opportunity to make a statement in 2009?

18 A. Oh yes.

19 392 Q. Two letters have been sent to your solicitor...

20 A. Yes. 15:43

21 393 Q. Asking you to attend and to make a statement of
22 complaint. Now, regardless of whether you were first
23 to make the statement or whether you were second or
24 third, that's really irrelevant, you were offered the
25 opportunity to make a statement? 15:43

26 A. Yes.

27 394 Q. And for whatever reason, maybe your solicitor didn't
28 communicate that to you at the time, but it appears
29 that an effort was made by Superintendent Dwyer to

1 interview you, and the complaint that you make to the
2 Tribunal is that you weren't offered an opportunity to
3 be interviewed and that you weren't interviewed until
4 2010. And I am just wondering, when you look at the
5 documentation and you see that you were in fact offered 15:44
6 the opportunity, in 2009, to make a statement, and,
7 through no fault of Superintendent Dwyer, that didn't
8 come about, whether or not you are now pursuing that
9 allegation against Superintendent Dwyer?

10 A. Would you mind if I just examine my chronology of the 15:44
11 steps taken in relation -- the ones that I have
12 recorded, the basis on which I made the complaint to
13 the Tribunal? I'd need time, probably this evening,
14 and come back to you tomorrow on that --

15 395 Q. Yes, of course. 15:44

16 A. -- please.

17 396 Q. You will see, it would appear that Superintendent Dwyer
18 had written twice?

19 A. Yes.

20 397 Q. And he got no response. And that's what I would really 15:44
21 like you to concentrate on.

22 A. Sure, I will do that. I will have a look at that this
23 evening and maybe come back to you tomorrow on that, if
24 that's okay?

25 398 Q. Yes, certainly. Just it might assist you if we look at 15:45
26 Superintendent Dwyer's report in relation to this
27 matter, and it's at page 988 of the material. If we
28 scroll down there -- this is dated 19th October -- and
29 we will see that it's addressed to Assistant

1 Commissioner Feehan, and he points out that:

2
3 "Superintendent Dwyer, accompanied by Detective
4 Sergeant Mark Waters, Fitzgibbon Street, met with
5 Sergeant Hughes on the 12th October by prior 15:46
6 arrangement. As previously reported the meeting had
7 been deferred a number of times at the request of
8 Sergeant Hughes. At the meeting the member was
9 accompanied by his solicitor, Séan Costello. Sergeant
10 Hughes handed Superintendent Dwyer a pre-prepared 15:46
11 statement which he signed in the superintendent's
12 present. The member was unable to provide any
13 information on the identity of the alleged Garda source
14 referred to in the newspaper article.

15
16 Two issues arise from the statement provided by
17 Sergeant Hughes. The member states that the
18 correspondence from Superintendent Dwyer of the 30th
19 July 2010 and subsequent telephone conversations
20 represent the first formal request I have received from 15:46
21 Garda management to make a statement regarding this
22 matter."

23
24 Then he goes on:

25
26 "Whilst Mr. Costello acknowledged that his office
27 received correspondence from Superintendent Dwyer
28 seeking to interview his client he contended the
29 superintendent should have made direct contact with his

1 client anyway. Superintendent Dwyer explained to
2 Mr. Costello that Sergeant Hughes, who is the
3 complainant in this case, had requested that any
4 approach to him was to be made through Mr. Costello and
5 that his client's wishes were simply being respected. 15:47
6 However Mr. Costello argued that his client's wishes
7 should have been ignored and a direct approach made."
8
9 Now was that the position that was adopted by
10 Mr. Costello at that meeting? 15:47
11 A. Again I'll have to check my chronology on it.
12 399 Q. CHAIRMAN: would you have a note of that meeting?
13 A. I have my own record.
14 400 Q. CHAIRMAN: Is that going to help you?
15 A. I have my own records in relation to what I saw 15:47
16 transpired in relation to the Star newspaper article
17 from start to finish. I'll have to actually look at it
18 to see.
19 401 Q. CHAIRMAN: Okay.
20 A. I'm sure -- 15:48
21 402 Q. CHAIRMAN: I don't want to be difficult, but if you had
22 notes I think you should have sent them to us because
23 we asked you to make discovery of all relevant
24 documents. I don't want to make things difficult for
25 you, so we should have whatever notes you made, if you 15:48
26 did make notes.
27 A. This would be an ongoing --
28 403 Q. CHAIRMAN: Do you understand?
29 A. Yes.

1 404 Q. CHAIRMAN: I mean, like I am not trying to make life
2 difficult for you, but it is a simple enough
3 question --

4 A. Yes.

5 405 Q. CHAIRMAN: -- as to whether you were at the meeting and 15:48
6 Mr. Costello said he should have contacted you
7 directly. I mean is that not something you'd remember?
8 A. I don't recall that, that line of conversation.

9 406 Q. CHAIRMAN: The discussion when the superintendent said
10 "hold on, we were told not to contact him, to contract 15:48
11 him through you" --
12 A. Yes.

13 407 Q. CHAIRMAN: And the solicitor is saying "ah, you should
14 have gone to him anyway."
15 A. Yes. It sounds confusing. 15:48

16 408 Q. CHAIRMAN: I mean, listen, it's not the end of the
17 world --
18 A. Yes.

19 409 Q. CHAIRMAN: It isn't the biggest issue that we have to
20 resolve here -- 15:49
21 A. Yes indeed.

22 410 Q. CHAIRMAN: Do you know what I mean? So it's a small
23 enough matter but --

24 411 Q. MR. MARRINAN: And it's not a big issue. I mean the
25 reality, it would appear that you genuinely believed, 15:49
26 because you put in a statement saying --
27 A. Yes.

28 412 Q. -- I wasn't contacted, right?
29 A. Yes.

1 413 Q. So it appears that Mr. Costello may have slipped
2 newspaper so far as he didn't send you on the letters
3 that came from the Feehan inquiry?
4 CHAIRMAN: It could be that somebody made a mistake.
5 A. From the Star inquiry, yes. 15:49
6 414 Q. MR. MARRINAN: That would appear to be the situation?
7 A. Yes.
8 415 Q. And you became aware of that at the meeting, and your
9 solicitor responded by saying well, you know you should
10 have contacted him directly anyway and disregarded what 15:49
11 he had to say. Do you not recall that?
12 A. No.
13 416 Q. Does it not stand out in your mind?
14 A. No, it doesn't stand out at all, that the matter, you
15 know, it doesn't. 15:49
16 417 Q. Okay.
17 A. But I will look at what I have and see can I assist the
18 Tribunal further on that.
19 CHAIRMAN: And don't think it's that big an issue, do
20 you know what it I mean? 15:50
21 A. Right.
22 418 Q. CHAIRMAN: Since it arises, we are pursuing it. And it
23 does seem a little bit unfair, I have to say, to the
24 superintendent to say ah-ha you didn't contact him --
25 A. It does. 15:50
26 419 Q. CHAIRMAN: So he couldn't win whatever he did. But so
27 what, if you know what I mean, in the end of the day?
28 A. I hope the material I have will clarify the issue.
29 CHAIRMAN: That's good.

1 A. Thank you, Mr. Chairman.

2 420 Q. MR. MARRINAN: Then he goes on to say:

3

4 "The second matter arising from Sergeant Hughes'
5 statement is the indication that Mr. John Hennessy, 15:50
6 solicitor for Baiba Saulite had prior knowledge of the
7 newspaper article and informed Sergeant Hughes of the
8 contents of proposed article the night prior to its
9 publication. "

10

11 And obviously the Feehan inquiry into this matter
12 wasn't aware of that before they saw your statement and
13 what you had to say in that regard.

14

15 "Arrangements are currently being put in place to 15:51
16 interview Mr. Hennessy. A copy of Sergeant Hughes'
17 statement is attached. "

18

19 And then he says:

20

21 "On the 14th October Mr. Costello corresponded with 15:51
22 Superintendent Dwyer requesting a copy of his client's
23 statement and seeking an undertaking that he would be
24 informed of the outcome of the investigation. He has
25 been provided with a copy of the statement and informed
26 that Assistant Commissioner Feehan has been made aware
27 of his request to be apprised of the findings of the
28 investigation. "

29

1 we know that arising out of that Mr. Hennessy was
2 interviewed by Detective Sergeant Mark Waters and a
3 statement taken from him -- it's at page 990 of the
4 material -- and he recounts there his conversation --
5 he's a witness and he will be called in due course to 15:52
6 give evidence in relation to it. But, as a result of
7 what he said, subsequently then the Guards returned to
8 take a statement from Mick O'Toole, and they did that
9 on the 21st January 2011, arising out of the contents
10 of Mr. Hennessy's statement. But Mr. O'Toole declined 15:52
11 to make a statement. That's as far as matters stand.
12 I had hoped to be able to conclude that aspect of it by
13 four o'clock today but you want the time to have a look
14 at whatever documents you have.
15 CHAIRMAN: We can come back to that briefly tomorrow. 15:53
16 MR. MARRINAN: Yes. I don't know whether this would be
17 an appropriate time, Chairman?
18 CHAIRMAN: Okay.
19 MR. MARRINAN: We're making good progress.
20 CHAIRMAN: If you want to check up on that, Sergeant. 15:53
21 THE WITNESS: Yes, Chairman.
22 CHAIRMAN: But bearing in mind that it's of interest
23 because it's recorded in the documents, but it's not
24 the end of the world okay.
25 THE WITNESS: Yes indeed, Mr. Chairman, thank you very 15:53
26 much.
27 CHAIRMAN: Okay. So what's the situation then,
28 Mr. MARRINAN. You think we should break at this point?
29 MR. MARRINAN: Yes.

1 CHAIRMAN: Very good. Yes, very good, we'll do that.
2 So we will say 10:30 in the morning? Everybody happy
3 with that? Any other orders or...?
4

5 MR. MARRINAN: No.

6 CHAIRMAN: Thank you very much. Lovely.
7

8 THE HEARING THEN ADJOURNED TO FRIDAY, 4TH FEBRUARY 2022
9 AT 10:30AM
10
11
12
13
14
15
16
17
18
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