

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 FRIDAY, 4TH FEBRUARY 2022 - DAY 161

161

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

APPEARANCES

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FORMER PRESIDENT OF THE COURT OF
APPEAL

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MR. PATRICK MARRINAN SC
MS. SINÉAD McGRATH BL

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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 any interested party in this
matter be at liberty to apply on the giving of 2 days
notice in writing to the tribunal.

I N D E X

W I T N E S S

P A G E

SERGEANT WILLIAM HUGHES

DIRECTLY EXAMINED BY MR. MARRINAN 6

1 THE HEARING RESUMED ON FRIDAY, 4TH FEBRUARY 2022 AS
2 FOLLOWS:

3
4 SERGEANT WILLIAM HUGHES CONTINUED TO BE DIRECTLY
5 EXAMINED BY MR. MARRINAN AS FOLLOWS:

10:26

6
7 CHAIRMAN: Good morning. Thanks, sergeant.

8 1 Q. MR. MARRINAN: Yes. Sergeant Hughes, you will recall
9 that yesterday afternoon I was asking you about The
10 Daily Star investigation and the meeting that you had
11 with Inspector Dwyer and the issue of whether or not he
12 had written to your solicitor and that those letters
13 had gone unresponded. Are you happy to deal with that
14 now or would you like to defer it?

10:31

15 A. Yes, hopefully I can deal with it.

10:31

16 2 Q. You are happy to deal with it?

17 A. Hopefully I can deal with it, yes.

18 3 Q. What would you like to say about it? You know, there
19 is the criticism there that was in the statement that
20 you provided to Inspector Dwyer criticising them for
21 not contacting you and that you were available to make
22 a statement and no statement was taken from you, so
23 what do you say to that?

10:31

24 A. Yes, I don't recall, I think Inspector Dwyer said that
25 I made an agreement with him at the earliest juncture
26 that the matter should be processed through my
27 solicitor, I don't have any recollection of that. But,
28 in any event, when I made that statement to the
29 Tribunal, from my perspective as an investigator

10:31

1 myself, the first step in any investigation is to
2 interview the person who is complaining. As it turned
3 out, the first formal request I got, I think, to make a
4 statement was in April, which is some months after the
5 initial complaint was made. When I made my statement 10:32
6 to Fergus -- Inspector Dwyer in I think December, I
7 cited that as being the delay.

8 4 Q. CHAIRMAN: What's the answer Sergeant Hughes? Are you
9 still maintaining the criticism or do you accept that
10 Inspector Dwyer was in fact in contact with your 10:32
11 solicitor?

12 A. I do, Mr. Chairman, and I can't -- there was some
13 breakdown in communication in mid-year, which I can't
14 account for at the moment.

15 5 Q. CHAIRMAN: Breakdown in communications between whom? 10:33
16 A. Yes. He said he sent a particular letter, and I think
17 Sean Costello replied that he didn't receive that
18 letter. So, that delayed the process a bit further.

19 6 Q. CHAIRMAN: There is a letter that you solicitor
20 accepted he received, that he did receive? 10:33
21 A. Sorry, Mr. Chairman?

22 7 Q. CHAIRMAN: Mr. Marrinan, was asking you, because he
23 gave you the chance to check it out overnight if you
24 wanted to, whether your criticism of Inspector Dwyer
25 for failure to contact you stood, or whether you were 10:33
26 abandoning it, that's a simple question.

27 A. Having reflected overnight, Mr. Chairman, the statement
28 I made then in December probably didn't reflect the
29 sequence of events during the year correctly.

1 8 Q. CHAIRMAN: So I'm taking that as saying -- now, that
2 was -- that was not a fair criticism of Inspector Dwyer
3 A. well, the statement I made was --
4 9 Q. CHAIRMAN: I mean, this isn't hard stuff.
5 A. No. 10:34
6 10 Q. CHAIRMAN: It's not even that important. But there is
7 no need for --
8 A. I'll accept that.
9 11 Q. CHAIRMAN: Sorry, just listen to me for a second.
10 There is no need for quibbling or technicalities about 10:34
11 it. It's a simple matter. There was a letter went to
12 your solicitor. He says there were two letters that
13 went to your solicitor. The solicitor says he didn't
14 receive one of them. Okay, so he got one of them, does
15 that mean -- anyway, Sergeant Hughes, give me a break. 10:34
16 A. I'll accept that is the position, Mr. Chairman.
17 12 Q. CHAIRMAN: Tell me straight, yes or no?
18 A. Yes.
19 13 Q. CHAIRMAN: And as I say, it's not vital one way or the
20 other but it seems irresistible. I mean the answer -- 10:34
21 everybody in the room knows the answer to the question.
22 So I'm not trying to give you a hard time, believe me.
23 Okay.
24 A. Yes, Mr. Chairman.
25 CHAIRMAN: Thanks very much. Okay, Mr. Murrinan. 10:34
26 Thanks very much.
27 14 Q. MR. MARRINAN: Okay. we'll move on from that, and if
28 we could have page 1175 up on the screen, please. This
29 is a letter that was written by Assistant Commissioner

1 Fintan Fanning to the chief superintendent in Ballymun,
2 and we see there it's headed "Sick Report" and it
3 refers to your absence from the 22nd September 2010,
4 and that it was stress related. And he says:

5
6 "You should now interview this member in order to
7 establish the source of the member's stress and if it
8 is suggested as being work related a full investigation
9 should be carried out.

10
11 Ensure that the member is advised of the Welfare
12 Service and any other support that is deemed
13 necessary. "

14
15 And then: "Report in early course. "

16
17 Now, following on from that, you had a meeting with
18 Superintendent Mark Curran on the 5th October. Do you
19 recall that?

20 A. Not just at the moment.

21 15 Q. Again, it's a meeting that you haven't referred to in
22 your -- in any of the documentation that you sent to
23 the Tribunal, or during the course of your interview.
24 But perhaps we'll look at the report from
25 Superintendent Curran in relation to that meeting, and
26 it's at page 1177, if you scroll down, the date of the
27 report is the 19th October 2010.

28
29 It's reads:

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"Sick Report.

With reference to the above and previous correspondence relating to this matter, I am to report that I met Sergeant Hughes at Coolock station on the 5th October 2010. I read over the contents of the minute from Assistant Commissioner HRM dated 27/09/10. "

That's the document that I just opened.

A. I recall that now, yes.

16 Q. So says he read that over to you.

"This minute related to the need for an investigation into the 'Source of the member's stress and if it is work related a full investigation is to be carried out'. The period in question was between the 22/09/10 and the 26/09/10.

Sergeant Hughes stated that he wished to consult a solicitor before responding but stated that it was his own medical doctor who certified this period as being work stress related. "

Do you recall that --

A. I recall this meeting now, yes.

17 Q. But do you recall indicating that you wanted to consult with your solicitor?

A. I don't have a recollection of it, but it could be

1 something I would have said to him all right, okay.

2 18 Q. Em, he says:

3

4 "On the 12th October 2010 Sergeant Hughes supplied a
5 report (attached) where he stated that the sick leave
6 is 'Directly connected to my previous and protracted
7 absences since December 2006' .

10:38

8

9 This particular issue is to the best of my knowledge
10 currently with Assistant Commissioner HRM. I also
11 understand that Sergeant Hughes has brought a case
12 before the High Court regarding the issue of "injury on
13 duty" against the Garda Commissioner. This appears to
14 be a medical-legal issue."

10:38

15

10:38

16 Then he goes on to say:

17

18 "Sergeant Hughes's welfare issues have been the matter
19 of previous reports. I continue to liaise with
20 Sergeant Hughes regarding his current role in the staff
21 office at Coolock Garda Station. This position which
22 he has held since returning to the workforce in
23 December 2009 was created with the purpose of
24 facilitating his return and integrating him with the
25 Coolock team (this position will be assigned to a
26 civilian staff member in the future)."

10:39

10:39

27

28 And then finally he says:

29

1 "In my communication with Sergeant Hughes his general
2 unhappiness relates to his longstanding issues. I do
3 not get a sense from him that he is unhappy performing
4 the duties currently assigned to him. I request a
5 direction on whether the minute from Assistant
6 Commissioner HRM can be supplied to him."

10:39

7
8 So, he has got this minute sent to him by his chief
9 superintendent, it's come down from the HRM, to conduct
10 an investigation into relation to the work related
11 stress, and he has complied with that and he has gone
12 and he has gone to speak to you about it. You are
13 indicating to him that you'd like to speak to your
14 solicitor, but he is referring then to the earlier
15 report of the 10th October where you say that this --
16 your period of absence for this period, in September,
17 relates back to your earlier complaints and issues in
18 relation to the -- arising out of the murder of Baiba
19 Saulite, do you see that?

10:40

10:40

20 A. That would be correct. And I think I provided them
21 with a report then a couple of days later.

10:40

22 19 Q. Now, if we could have page 1180, and we'll look at that
23 report that you sent to him. You say:

24
25 "I refer to our meeting at your office on the 5th
26 October and am required to address the issue of my
27 absence on sick leave from the 22nd September to 4th
28 September 2010."

10:41

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If we just move down to the third paragraph:

"At our meeting on the 5th October 2010, you produced and read over to me the contents of a two-page document which apparently originated from HRM. The file related to the above three-day absence on sick leave. To my recollection, the file requested that I be formally be interviewed regarding the said absence to establish the circumstances of the "work related stress," to investigate those circumstances and to help me avail of the Garda Welfare facility. I requested a copy of the file from HRM but this was refused.

I wish to respectfully advise you that the above three-day absence on sick leave is directly connected to my previous and protracted absences on sick leave since December 2006. As previously advised, I continue to be deeply unhappy in my place of work. The serious matters which have caused my continual illness have previously been reported to Garda management.

Please refer to my report to your office on the 27th June. I understand that you forwarded a report in that regard to Garda management following our meeting on that date. I have not heard of any developments regarding that report since."

Then you go on to say:

1 "I stated I have been --
2 CHAIRMAN: Sorry, where are you? I am not following
3 the -- oh sorry, thank you very much.
4 MR. MARRINAN: "As stated, I have been absent on
5 protracted sick leave with work related stress on two 10:42
6 previous occasions since December 2006. I was not
7 formally interviewed by Garda management concerning
8 those absences. I was not asked to submit a report to
9 Garda management concerning those absences either while
10 on sick leave or on resumption of duty on both 10:43
11 occasions. Local management did not similarly seek to
12 advise me on the availability or otherwise of the Garda
13 welfare service. In fact, I made contact with the
14 Garda welfare service during that time on my own
15 initiative. 10:43
16
17 I wish to state that I am surprised, but encouraged,
18 that the above three-day absence has now been made the
19 subject of scrutiny as is the case but am greatly
20 disappointed as to why this procedure was not adopted 10:43
21 on the previous occasions referred to.
22
23 I have always been available to assist Garda management
24 in any effort or initiative that may move my situation
25 on. For the past number of years I have been 10:44
26 endeavouring to have the matters which have affected,
27 and continue to affect, my health addressed by Garda
28 management. The serious issues, as far as I am
29 concerned, have not been addressed by Garda management.

1
2 The situation with regard to my current health
3 situation and recovery prospects has been the subject
4 of a further recent review with the Assistant
5 Commissioner CMO along with an appointed medical 10:44
6 specialist at Garda Headquarters. I am reluctant to
7 give specific details in this report with regard to
8 these medical consultations least to say that the
9 continued failure as I see it to properly and
10 professionally address the reported issues is having an 10:44
11 increasingly negative effect on my health and
12 well being. "

13
14 So, that was your response at the time. And it comes
15 back to what we were discussing yesterday in terms of 10:45
16 your expectation of what an investigation by management
17 into your work related stress would involve, and the
18 position that -- as stated by you yesterday, that you
19 saw it as being a larger investigation as opposed to
20 merely an investigation into the cause of your stress. 10:45
21 I mean the whole purpose of this investigation into
22 stress is to be in a position to advise the chief
23 superintendent, and also advise the CMO, and then a
24 decision is arrived at, taking the CMO's advices into
25 account, and also the investigation in relation to the 10:46
26 work related stress.

27
28 Now, you complain in this report that this wasn't done
29 in 2006, and at an earlier juncture, and you are

1 correct in that regard.

2 A. That's correct.

3 20 Q. And you're correct in regard to the failure to comply
4 with the Garda Code in relation to contacting you when
5 you were out sick, and also conducting an interview 10:46
6 with you on your return to work.

7 A. That's correct.

8 21 Q. And there is no doubt about that. But, here is an
9 opportunity, as it were, to put matters right and to
10 say yes, you had this obligation, which I have 10:46
11 identified previously in correspondence, but you have
12 this obligation to formally interview me in relation to
13 the cause of my work related stress. And
14 Superintendent Curran does seek to interview you in
15 relation to it, formally or otherwise, and you say, no, 10:47
16 I am reluctant to discuss this because this is a matter
17 between me and my CMO, but I have referred to this
18 previously, and it all relates back to events that
19 occurred in 2006 and my various complaints since. Do
20 you see? So, I am just wondering -- I mean, what do 10:47
21 you expect Superintendent Curran to be able to report
22 to his chief superintendent as to the cause of your
23 work related stress?

24 A. The part in the correspondence there "I am reluctant to
25 give specific details", that was in relation to the 10:47
26 medical issues.

27 22 Q. Yes?

28 A. The matters which I wanted to report to Superintendent
29 Curran were non-medical issues that the HRM simply did

1 not have full details of to make decisions in
2 relation -- on that basis.

3 23 Q. well, the non-medical issues were the disciplinary
4 proceedings, isn't that right?

5 CHAIRMAN: Sorry, what were the non-medical issues? 10:48

6 A. The non-medical issues were that following the murder I
7 had serious concerns that there was -- there had been a
8 breakdown in communications between the various
9 branches involving Baiba Saulite and John Hennessy and
10 the various divisions, and there was information there 10:48
11 in the domain of the Gardaí before she died, that if it
12 was relayed to me -- that wasn't relayed to me and as a
13 result of that I felt that I was at a fierce
14 disadvantage to advise Baiba in relation to possibly
15 her safety or the way forward. I felt that I was 10:48
16 isolated in these matters. I felt that by raising
17 these issues, that I was isolated in the workplace and
18 then targeted through the disciplinary process, the
19 fact-finding process, the disciplinary process. And
20 indeed, in 2008 and '09 when I went to the confidential 10:49
21 recipient I furnished an extensive report setting out
22 full details of the non-medical issues, and I specified
23 in that report that if this particular enquiry, the
24 confidential recipient process, could not deal with
25 the -- some of the issues there in relation to the 10:49
26 non-medical issues, I specifically requested that the
27 issues be sent to the relevant department for
28 attention. And at my meeting with Superintendent
29 Curran in 2010, to which this document refers, I was

1 conscious that Garda management at the highest level
2 had received full details from me in relation to the
3 non-medical issues that were affecting me under the
4 cloak of the confidential recipient process.

5 24 Q. CHAIRMAN: That's it? 10:50

6 A. And just to clarify again, all the issues that were
7 affecting me were contained in the report to the
8 confidential recipient in January 2009 and February --
9 sorry, January 2009 and February 2009.

10 25 Q. CHAIRMAN: Sergeant, do you understand that the 10:50
11 question that the authority -- authorities had to
12 address was: was this an injury on duty? Do you
13 understand that that was what --

14 A. I do.

15 26 Q. CHAIRMAN: That was what they had to do. So 11.37, 10:50
16 Code 11.37 requires an investigation, and the
17 investigation is directed to whether the injury that
18 the person is suffering from - the condition or
19 whatever it is - was an injury on duty, do you
20 understand that? 10:50

21 A. Yes.

22 27 Q. CHAIRMAN: So Superintendent Curran's job was to find
23 out, as best he could, was this an injury on duty. It
24 wasn't to find out whether there were deficiencies in
25 the protection of Baiba Saulite. That was nothing to 10:51
26 do with his task under 11.37. But if I'm
27 understanding, you are saying my health condition -- I
28 am speaking -- that your health condition was dependent
29 on an inquiry into the deficiencies of policing prior

1 the murder of Baiba Saulite, is that right?

2 A. Not exactly, Mr. Chairman. As I stated, the full

3 details of the matters that were affecting me --

4 28 Q. CHAIRMAN: Those matters were affecting.

5 A. -- were reported already to senior Garda management at 10:51

6 the highest level --

7 29 Q. CHAIRMAN: Absolutely, those matters were affecting

8 you. But what he wanted to know, was this an injury on

9 duty. And it would seem, on the face of it, eventually

10 they came to the conclusion yes, it was an injury on 10:51

11 duty, we better report -- return this man to full pay.

12 That was what was eventually decided.

13 A. Sorry, Mr. Chairman, are you saying that Superintendent

14 Curran was actually to establish whether this was an

15 injury on duty in this correspondence? 10:52

16 30 Q. CHAIRMAN: The inquiry, the purpose of the inquiry was

17 to establish whether it was an injury on duty. That

18 was all.

19 A. I think it was to establish the source of my stress.

20 31 Q. CHAIRMAN: Yeah, with a view to deciding was it an 10:52

21 injury on duty.

22 A. I don't think Superintendent Curran --

23 32 Q. CHAIRMAN: I mean, you are insisting at all times that

24 nothing less than an investigation into the

25 deficiencies of policing would satisfy you. You say 10:52

26 that was the cause of your stress.

27 A. Not precisely, Mr. Chairman, with respect.

28 33 Q. CHAIRMAN: Yes, all right, correct me away.

29 A. The reports I have made to the senior management

1 clearly point out where the source of my stress was
2 prior to my meeting with Superintendent Curran on this
3 occasion.

4 34 Q. CHAIRMAN: And what's wrong with what I say, when you
5 say -- when I described the source of your stress as 10:53
6 the deficiencies of policing in regard to Baiba
7 Saulite?

8 A. Well, not just the deficiencies in policing, but the
9 targeting of me and isolation of me following my
10 raising those issues with management following the 10:53
11 murder.

12 35 Q. CHAIRMAN: Okay. And that's what we're investigating
13 here obviously, and so on, okay.

14 A. Thank you.

15 MR. MARRINAN: Now, if we could just -- 10:53

16 36 Q. CHAIRMAN: Well sorry, can you understand, that your
17 complaints about the deficiencies in policing were not
18 a matter for Superintendent Curran in regard to injury
19 on duty under 11.37? Do you agree with that? Do you
20 understand that? 10:53

21 A. I am afraid, Mr. Chairman, all the issues affecting me
22 and my workplace absences there are got to do with the
23 deficiencies of policing and the response of Garda
24 management afterwards when I raised those issues in
25 relation to alleged deficiencies in policing. 10:53

26 37 Q. CHAIRMAN: But if somebody said his concerns are to do
27 with deficiencies, or alleged deficiencies in policing
28 and he is suffering stress as a result of that?

29 A. No, the deficiencies in policing, but by me raising

1 those deficiencies then, it was the actions of
2 management afterwards that -- where leads to my
3 illnesses.

4 38 Q. CHAIRMAN: A question: when you were engaging in this
5 correspondence, did you run it by anybody? I mean, 10:54
6 they look very lawyerly, these letters, did you write
7 them yourself?

8 A. Sorry, it looks very?

9 39 Q. CHAIRMAN: The correspondence that you have here, it
10 looks very lawyerly, did you check it out with anybody? 10:54

11 A. That would be my form of writing. That would be my
12 normal form of writing.

13 40 Q. CHAIRMAN: I follow. Sorry, it's just curiosity.
14 There is nothing sinister and there would be nothing
15 wrong with doing it and there would be nothing wrong 10:54
16 with not doing it.

17 A. If you are asking Seán Costello --

18 41 Q. CHAIRMAN: I wasn't particularly, no, no, and I don't
19 want to get into -- you are perfectly entitled to
20 consult anybody you like. I thought that there was a 10:55
21 lawyerly tone to the correspondence and I wondered had
22 you done it entirely on your own bat or had you
23 consulted anybody else. Mr. Costello has nothing --

24 A. That's mine own supposition, Judge.

25 CHAIRMAN: Thank you very much. I don't know whether 10:55
26 you take a bow as a result of that or you regard it as
27 a criticism, I don't know which. Anyway, thanks very
28 much.

29 A. Thanks very much, Mr. Chairman.

1 42 Q. MR. MARRINAN: If we could have page 4374 on the
2 screen, please. Now, the Tribunal appears to be
3 missing some documentation in relation to a further
4 meeting, yourself or Superintendent Curran hadn't
5 referred to this in the statements, and it's just to 10:55
6 clarify the position for the Tribunal.

7
8 This was an e-mail sent by you to Superintendent Curran
9 and it's dated the 15th October 2010. You see there:
10 10:56
11 "I refer you to please to my meeting with you at your
12 office on the 14th October 2010..."

13
14 Was there another meeting that you had with
15 Superintendent Curran? 10:56

16 A. I don't recollect that particular --

17 43 Q. You might be able to just shed some light on this.
18 We'll go through it briefly, but --

19
20 "As you are aware, the above meeting was arranged by 10:56
21 you on the 13th October to discuss contents of
22 correspondence which has apparently issued from the
23 office of the Commissioner concerning my situation. At
24 the meeting you read over the contents of that
25 correspondence. The correspondence was apparently 10:56
26 dated 13th September --"

27
28 Now this would appear to be referring to the meeting on
29 the 5th October, but we'll just go on.

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-- and was apparently signed by Assistant Commissioner HRM. I asked if I could be furnished with a copy of the correspondence but you stated that this would not be accepted to at that time.

10:57

As far as my record of the above meeting is concerned, the correspondence contained references to inquiries made by the Assistant CMO to Assistant Commissioner HRM as to whether it was felt that the disciplinary procedures invoked had exacerbated my illness.

10:57

Now, that wasn't discussed and is not in the documentation that we have, but you seem to have been aware of it at the time.

10:57

"It was apparently stated in the correspondence that my absence on sick leave was not exasperated by the disciplinary proceedings. There was apparently some reference to the issue of recouping of pay along with some reference to my continued "light duty" position and an instruction for local management to discuss matters with me."

10:57

You then go on to say:

10:57

"I am anxious to work with Garda management to move my situation forward but please be informed that at this juncture I am unclear as to what matters I am required

1 to actually address following yesterday's meeting. It
2 is my understanding that the above meeting was
3 postponed pending clarification being received by your
4 office as to whether I am entitled to receive a copy of
5 the above said correspondence and that you would 10:58
6 contact me either today or Monday next in this regard."
7

8 Does that jog your memory in relation to that meeting?

9 A. It does.

10 44 Q. Could you just tell us what transpired at that meeting? 10:58

11 A. The difficulty I had was that Superintendent Curran, at
12 the meeting, had a document from HRM, and when I
13 requested a copy of it, he insisted on reading the
14 content over to me and asking me for my observations in
15 relation to it. I simply asked him could I see a copy 10:58
16 of the document there and, you know, work with him
17 there in relation to formulating a reply. So, towards
18 the end of the meeting I wasn't exactly sure what was
19 contained, or what information HRM were exactly looking
20 for and I was requesting a copy just for full 10:59
21 clarification on it.

22 45 Q. If we just go forward then. There was apparently --
23 again this isn't referenced by anybody in the
24 statements but it's in documentation to the Tribunal
25 that's been disclosed. If we could have page 4404 on 10:59
26 the screen, please -- 4401 it is. This is another
27 e-mail from you to Superintendent Curran. It's dated
28 the 11th November of 2010. And it refers to a meeting
29 at the district office on the 9th November 2010. Do

1 it's not entirely a matter for you, but there is a
2 letter that appears at 4385 of the material, that's
3 sent by Assistant Commissioner Fanning to the Chief
4 Medical Officer, Dr. Donal Collins, and it's dated the
5 20th October. It says:

11:01

6
7 "I refer to the above and to your minute dated 28th
8 September 2010 and the conundrum that you now find
9 yourself in vis-a-vis the categorisation of Sergeant
10 Hughes's injuries and whether they are or are not
11 associated with injury on duty.

11:02

12
13 I am also to inform you that at a recent management
14 meeting where the Chief Medical Officer was present and
15 the Pension Regulations were taken into account, it was
16 established that it was a matter for the Chief Medical
17 Officer to adjudicate as to what is or is not an injury
18 on duty.

11:02

19
20 This should be done in the context of all available
21 information to hand and unfortunately it must be done
22 in the absence of any clear case law in this
23 jurisdiction. Therefore, I suggest to you that a case
24 conference needs to be held as soon as possible to
25 resolve the matter that you have highlighted so that a
26 definitive and clear direction can be given. Given
27 that the change in your opinion will have serious
28 consequences for pay and judicial proceedings that are
29 currently ongoing this matter as to be dealt with as a

11:02

11:02

1 matter of urgency."

2
3 So it would appear, unbeknownst to you, there was an
4 issue there that needed to be resolved as between the
5 Assistant Commissioner and the Chief Medical Officer in 11:03
6 relation to the categorisation of your injury, or
7 whether it was an injury on duty. You were unaware of
8 that at the time, is that right?

9 A. That's right.

10 49 Q. If we just move onto the response. It came from 11:03
11 Dr. Quigley, and it's at page 4397 of the material.
12 And this is a letter dated the 28th October 2010. Now,
13 I am not going to open it all, but if we scroll down
14 the page, you will see the last paragraph on that page:

15 11:04
16 "Your second letter of the 20th October 2010 raises the
17 issue of categorisation of Sergeant Hughes's medical
18 condition as to whether it is considered associated
19 with injury on duty. I note that you indicate that it
20 has been established that it is a matter for the Chief 11:04
21 Medical Officer to adjudicate as to what is or what is
22 not an injury on duty. This is not the position of the
23 Chief Medical Officer as communicated recently to me."

24
25 If you go over: 11:04

26
27 "He has stated to me that the issue of injury on duty
28 shall be determined at the meeting where management
29 legal representatives meet with the Chief Medical

1 Officer or his representative on these issues."

2

3 Now, you have seen this documentation, is that right?

4 A. That's correct.

5 50 Q. And you'll see that from that documentation, that there 11:05
6 was a difference between the Chief Medical Officer, the
7 Assistant Chief Medical Officer and HRM as to whose
8 responsibility it was to categorise your illness, isn't
9 that correct?

10 A. That's correct. 11:05

11 51 Q. That seems to be, on the face of it, a genuine
12 disagreement between them, regardless of who is right
13 or wrong, this wasn't in some sense a manufactured
14 situation, sure it wasn't?

15 A. Obviously there was disagreement between the two 11:05
16 parties all right, yes.

17 52 Q. And the delay in determining this, would you accept
18 wasn't in any sense done deliberately, from reviewing
19 the papers to in some way target you or to discredit
20 you? 11:06

21 A. Well, I think, with respect to the personnel involved,
22 their determination or ultimate determination was a
23 matter for themselves as to whether it was an injury on
24 duty or not, but in the meantime I was suffering at
25 substantially reduced pay and I think that maybe if the 11:06
26 -- at the time they decided, well, let's restore the
27 member to full pay till we make a full determination on
28 this, because I was actually seriously inconvenienced
29 as a result, while this correspondence was going back

1 and forward in relation to my pay.

2 53 Q. Yeah. But all I'm saying is that this correspondence,
3 it appears to be, on the face of it, a genuine debate
4 as to whose responsibility it was to determine the
5 11.37? 11:07

6 A. It seems to be there, yes.

7 54 Q. Yes, it does.

8 A. It seems to be.

9 55 Q. So what I am just saying to you, it doesn't appear to
10 be manufactured? 11:07

11 A. No, it doesn't, no.

12 56 Q. We can move on from that. Sorry, if you just give me
13 one moment.

14

15 To compound that situation, we have another letter, at 11:07
16 page 4407. This is a letter dated the 3rd December
17 2010, and it's from Assistant Commissioner Fanning to
18 Dr. Donal Collins, the Chief Medical Officer. And he
19 refers to a "case conference held in the office of the
20 Assistant Commissioner Human Resource Management on the 11:08
21 12th November 2010".

22

23 It says:

24

25 "Subject to a copy of the investigation into Sergeant 11:08
26 Hughes's stress related work absence carried out by his
27 local management, the participants of the case
28 conference concurred with the assessment of the
29 Assistant Chief Medical Officer on the 6th March 2008

1 (i.e. "I cannot conclude that these work related events
2 constitute formal injury on duty").

3
4 Accordingly I have written to Sergeant Hughes' local
5 management and I have requested a copy of all 11:09
6 investigations carried out into the member's work
7 related stress. This report will be forwarded to your
8 office on receipt of same."

9
10 So now the matter is -- has been referred back to local 11:09
11 management, you see that?

12 A. I see that.

13 57 Q. And I think because of -- because you had civil
14 proceedings in existence at the time, I think a
15 direction issued from the head of Legal Affairs that 11:09
16 there was to be no direct contact with you or your
17 solicitor dealing with these matters from the 25th
18 November 2010 -- that's at page 4408 of the papers --
19 we don't need to open it or have it on screen,
20 Mr. Kavanagh. 11:10

21
22 Now, I think that, on the 3rd January, you were
23 certified as suffering from work related stress by your
24 GP, isn't that right?

25 A. That's correct. 11:10

26 58 Q. And you didn't actually go out on that date because you
27 had a meeting with Superintendent Curran on the 4th
28 January 2011. Do you recall that meeting?

29 A. Yes, I have a recollection of the meeting.

1 59 Q. And will you just tell us what your recollection is in
2 relation to that and what you believe it was about?
3 A. I think that Superintendent Curran was discussing
4 matters not related to the issues we're talking about
5 here today, about the work related stress and the 11:11
6 investigation, but he was talking about general
7 matters. And he was just enquiring as to whether I'd
8 be fit to return to normal police duties, and such --
9 general conversation, he wasn't directing me to go back
10 or anything like that, he was just asking me of my own 11:11
11 opinion in relation to returning to normal police
12 duties. And I have to say on that particular occasion
13 I was feeling pretty low at that meeting, and following
14 the meeting then I decided to go sick. I think I
15 actually reported sick after that meeting rather than 11:11
16 before it.

17 60 Q. Okay. If we just have page 1198 up on the screen.
18 This is a report send by Superintendent Curran to his
19 chief superintendent, dated the 29th July 2007, but
20 this is -- it refers back to this meeting which he 11:12
21 doesn't appear to have reported on at the time,
22 certainly it wasn't disclosed to us, but here is the --
23 if we scroll down there, you'll see that in the third
24 paragraph he says:
25
26 "Sergeant Hughes and I had a conversation on the 4th
27 January 2011 in my office. A short time after this
28 conversation took place Sergeant Hughes reported sick
29 for duty. This conversation related to the retraining 11:12

1 required in order for him to be prepared for
2 operational duties. Sergeant Hughes had undergone a
3 certain amount of training regarding administration
4 issues. I told him that I believed that further
5 training was required. He indicated that he had little 11:12
6 desire to undergo further training for his greater
7 integration into the operational role. He appeared to
8 be anxious and mildly upset at this prospect. "

9
10 Do you recall that? 11:13

11 A. That's -- yes, I do recall that, yes.

12 61 Q. "I spoke to Sergeant Hughes later that day by telephone
13 and he informed me that his sick report was a medical
14 issue that he would discuss with his doctor. "

15 11:13
16 we'll just use this report to refer to another
17 conversation that you had with him on the 14th February
18 2011. This is when you were still -- you were out sick
19 at this stage, isn't that right?

20 A. That's correct. 11:13

21 62 Q. He says:

22
23 "I again spoke to Sergeant Hughes by telephone on the
24 14th February 2011 in respect of his sick leave. He
25 stated that there were many issues outstanding which 11:13
26 prevented him from returning to work. As in many
27 previous conversations I assured him of my full support
28 in assisting him in returning to a full operational
29 role. "

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Did he offer you that support and indicate to you that he'd give you whatever support he could?

A. I recall the telephone call on the 4th January. I don't have any recollection of that, the 14th February 2011. 11:14

63 Q. You don't have any issue there --

A. No, I don't have any issue there.

64 Q. -- of his reporting of that?

A. No. 11:14

65 Q. You'd be inclined to accept it?

A. Absolutely, yes.

66 Q. So, if we just move forward, then, to the -- or it's back a week from that conversation -- to the 7th February 2011, and this is -- yes, if we look at page -- sorry, just give me one moment. Yes, if we look at page 2641 of the material, please. If we scroll down. This is a letter from Assistant Commissioner Feehan. And it relates to The Daily Star Newspaper article, and in the second paragraph he says: 11:14

"As you are aware, I was tasked with investigating the issues raised by you on behalf of your above named client concerning the newspaper article entitled "Cop never looked at tragic Bai ba's warning" which appeared in The Star Newspaper on Thursday, 30th November 2008. 11:16

I wish to inform you that I can find no evidence to substantiate your client's assertion that the

1 information contained in this said article was provided
2 by a member of An Garda Síochána.

3
4 I have informed Seán Costello & Co Solicitors directly
5 regarding the outcome of this investigation." 11:16

6
7 So, obviously there was a letter then sent the same day
8 to your solicitor. That's at page 2640. It was
9 initially a report in relation to this matter from
10 Assistant Commissioner, as he then was, Feehan, on the 11:17
11 23/1/2010, and this is at page 2497 of the material.
12 And this was in circumstances where you hadn't been
13 interviewed at that juncture, where he does an analysis
14 of the article. And at page 2503, at his conclusion he
15 says. 11:17

16
17 "With the exception of the reference to the instigation
18 of formal disciplinary proceedings against "a garda
19 based in north Dublin" Mr. O'Toole's article contains
20 nothing that appears to have already been in the public 11:18
21 domain. Notwithstanding the fact that Sergeant Hughes
22 has failed to assist in my inquiries into the matter
23 raised by Mr. Costello, I can find no basis to his
24 contention that the article written by Michael O'Toole,
25 which appeared in The Star Newspaper on the 20/11/08, 11:18
26 was "hugely defamatory and alleges gross negligence on
27 the part of our client which ultimately led to the
28 murder of Bai ba". "
29

1 That's a quote from your solicitor.

2
3 You'll have seen that that was correspondence, which I
4 don't intend to go through or to open, but there was
5 extensive correspondence between Deputy Commissioner 11:18
6 Martin Callinan and Assistant Commissioner Feehan in
7 terms of that report, and it was arising out of that
8 correspondence that they decided to go back to you and
9 offer you the one final opportunity, as we opened
10 yesterday and the letter that was sent to you, or to 11:19
11 your solicitor, one final opportunity for you to
12 participate, which you took up and you did make a
13 statement. And then in consequence of you making that
14 statement, another issue was identified that wasn't
15 examined earlier on by Assistant Commissioner Feehan, 11:19
16 and that was the issue of the conversation between John
17 Hennessy and Mick O'Toole, you are aware of that?

18 A. That's correct, yes.

19 67 Q. And then they interviewed John Hennessy and they took a
20 statement from John Hennessy and they also sought to 11:19
21 interview Mick O'Toole but he declined to answer any
22 questions. So subsequently then Assistant Commissioner
23 Feehan reported again, and there was nothing further --
24 no further information, and his report was effectively
25 the same. 11:20
26

27 Now, you cite this as one of your complaints to the
28 Tribunal, and you say that this amounted to targeting
29 of you in some way. Will you explain to the Chairman

1 how you believe you were targeted in this instance and
2 what you believe that the investigation team should
3 have done over and above what they did do?

4 A. Yes, indeed, Mr. Chairman. The article itself, I
5 believe, clearly pointed to me in my dealings with 11:20
6 Baiba Saulite, and the information I had received from
7 Mr. Hennessy was that it came from a member of the
8 Garda Síochána of high rank. And it's a matter of
9 record that we reported this to the Commissioner for
10 investigation, and as I have alluded to earlier, I 11:21
11 would have thought that I would have been interviewed
12 within a week or two of the --my reporting of this to
13 the Garda Commissioner when it was confirmed that they
14 were going to investigate it. I think it's unfortunate
15 that in the conclusion there, they are saying that 11:21
16 there is -- that Sergeant Hughes has failed to assist
17 in the inquiries. I would never fail to assist in
18 Garda inquiries from management in relation to any
19 matter. I think it's just an unfortunate sequence of
20 events between us objecting to particular protocols and 11:21
21 clarifications coming back on the protocols, that there
22 was delays in actually getting this investigation off
23 the ground. I think it's unfortunate that if I had
24 provided a statement within a week or two, or three
25 weeks of the initial complaint that John Hennessy would 11:21
26 have been interviewed more expeditiously and indeed
27 there would have been a conclusion brought to the
28 investigation at a very early stage.

29 68 Q. well, you'll see that there was intervention by a

1 Deputy Commissioner Martin Callinan at the time where
2 he thought that, you know, this issue with you, that
3 you should be approached directly to see if you did
4 wish to assist, because on the face of it, and we have
5 been through this earlier on this morning and you have 11:22
6 said what you had to say in relation to that and the
7 effort that was made to contact you, but I mean they
8 did pursue it, and they gave you the opportunity. You
9 made your statement, and then arising out of the
10 statement, they carried out what inquiries they could, 11:22
11 speaking to Mr. Hennessy, and then running into a brick
12 wall with Mr. O'Toole, isn't that right?

13 A. That's the unfortunate situation, that the journalist
14 wouldn't disclose his source.

15 69 Q. But how are they to be faulted? 11:22

16 A. Em, I think -- not taking on the mantle of the
17 investigators, but obviously there had been telephone
18 communications between Michael O'Toole and a senior --
19 allegedly a senior officer within the organisation, and
20 I was just wondering, there is no reference in the 11:23
21 investigation to following up on telephone records
22 there between a journalist and possibly a senior
23 ranking member of the Garda Síochána. That's just one
24 observation I have to make in relation to the
25 investigation. 11:23

26 70 Q. So, you are suggesting that they should have got the
27 telephone records of Mick O'Toole, who is a journalist,
28 and examined those and tried to establish whether or
29 not he had been in contact with any senior member of An

1 Garda Síochána, is that right?

2 A. I think that would have been helpful, to pursue that
3 line of inquiry in the investigation.

4 71 Q. CHAIRMAN: Do you think that would have been reasonable
5 or legitimate or legal, to tap his phone -- to get his 11:24
6 records to see everybody he was in contact? Are we
7 serious about this?

8 A. Not to tap his phone.

9 72 Q. CHAIRMAN: Sorry, not to tap his phone. Are we
10 seriously suggesting that the Guards should have sought 11:24
11 to obtain his telephone records for everybody he
12 contacted?

13 A. Em, Mr. Chairman, I just think from the outset, we'd
14 have to assess whether the leak to the press was an
15 offence in itself, and if it was an offence and a 11:24
16 criminal offence at that, I think there are avenues for
17 the Gardaí to follow in relation to that. Now I stand
18 corrected, but I would have thought that would be my
19 observation --

20 73 Q. CHAIRMAN: Sorry, in reasonable terms, Mr. Marrinan is 11:24
21 saying: what criticism do you make, if any, of Chief
22 Superintendent Feehan, or Assistant Commissioner
23 Feehan, whichever, his investigation into The Daily
24 Star episode? And you said delay. Okay. You said you
25 should have been interviewed, you said, earlier. 11:25

26 A. Yes.

27 74 Q. CHAIRMAN: All right. That's one point. Now, are you
28 seriously suggesting that in the circumstances that
29 actually obtained at the time, they should have --

1 because I'm sceptical, I have to say, at the suggestion
2 that it would have been reasonable of the Guards to
3 seek Mr. O'Toole's telephone records, which would have
4 shown everybody he was in contact - if they got them -
5 everybody he was in contact with, and then they'd 11:25
6 filter through them all to see if there was any garda,
7 always on the assumption that the information came to
8 him by phone. What about speaking, meeting, using a
9 phone that was different - what is it, a burner phone
10 or whatever it is - or was he doing a French connection 11:26
11 type of thing where the inspector checked everybody's
12 phone, all the ministers and everybody else, as he
13 explained afterwards.

14 A. I fully accept what you are saying.

15 75 Q. CHAIRMAN: There is a limit -- 11:26

16 A. There is a limit to what they can do, all right.

17 76 Q. CHAIRMAN: Okay. So, do we come back then to say,
18 look, he could have busied himself more efficiently at
19 an earlier stage and more specific he should have
20 interviewed you at an earlier stage 11:26

21 A. Perhaps, maybe -- sorry, the journalist's phone maybe
22 is not an option, but certainly the official telephones
23 that were available to the investigation. Now, that
24 would open up, you know, who do you interview and --
25 but I'm just saying it was an observation that I 11:26
26 thought maybe could have been considered as part of the
27 investigation if they were looking for --

28 77 Q. CHAIRMAN: I mean, it's a difficult -- let's face it,
29 Gardaí, there are leaks from the Garda, let's face it.

1 There are leaks from the Metropolitan Police?

2 A. Yes.

3 78 Q. CHAIRMAN: There are leaks from this, that and the
4 other. Everybody leaks from everywhere it seems. I
5 mean it's a difficulty. It's very unfortunate if you 11:27
6 are the victim, so to speak, of the article, isn't that
7 right?

8 A. Yes.

9 79 Q. CHAIRMAN: Look, if you want to maintain the position
10 about the investigation that's -- as I say, I am, 11:27
11 frankly, sceptical, if you suggest that the telephone,
12 I think that's a pretty radical suggestion and I think
13 there would be serious sort of legal issues about
14 privacy to say the least.

15 A. Sure. Sure, I accept that, Mr. Chairman. 11:27

16 80 Q. CHAIRMAN: So anyway, you say if they interviewed you
17 before they would have been alerted to Mr. Hennessy's
18 information and the whole chain would have been a bit
19 tighter, and you never know what might have happened.

20 A. That's correct, Mr. Chairman. 11:28

21 CHAIRMAN: Okay.

22 MR. MARRINAN: Chief Superintendent Feehan will be
23 giving evidence, so we'll see what he has to say in
24 relation to that, the explanations he has for it, if he
25 has any. 11:28

26 81 Q. I think you were next then reviewed by the Assistant
27 Chief Medical Officer on the 24th February of 2011.
28 And his report, dated the 2nd March 2011, is at page
29 452 of the material. This is to Assistant Commissioner

1 Fanning.

2 If we -- we won't go over old ground that was covered
3 in the first part of that letter, but if we turn over
4 the page to 453, this is the update position in regards
5 to you. 11:29

6
7 "At this time Sergeant Hughes continues to report
8 adverse psychological symptoms which interfere with his
9 quality of life on a daily basis and to affect his
10 sense of wellbeing to the extent that he is currently 11:29
11 unfit for work. On my assessment I was unable to
12 identify sources of stress or anxiety that were not
13 related to his work circumstances. Further it appeared
14 in consultation that the issue of concern no longer
15 related to proximity to the death of a member of the 11:29
16 public, nor to reported death threats to the member or
17 his colleague, but rather to Sergeant Hughes's
18 perceptions that he has been bullied, harassed,
19 isolated and he asserts intimidated in work.

20 11:29
21 I note your letter of the 3/12/2010 to the Chief
22 Medical Officer indicating that a letter has been sent
23 to local management and requested a copy of all
24 investigations carried out in relation to the members
25 work related stress. " 11:30

26
27 Does that reflect the situation at that time?

28 A. Probably at that time, yes, I was very concerned about
29 the situation at work, you know, the -- my work related

1 stress matters in work.

2 82 Q. CHAIRMAN: Tell me a little more about that. At this
3 stage what he is saying is, okay, there were serious
4 problems and he is not ignoring them and they are
5 probably to continuing to some greater -- tell me about 11:30
6 the work related -- sorry, about the issues for you at
7 work?

8 A. The issues, I felt as per my report to the confidential
9 recipient, still had not been resolved, and they are
10 enumerated quite clearly in the confidential 11:31
11 recipient's investigations.

12 83 Q. CHAIRMAN: Number one, your complaints about what I
13 have described as protection pre-murder, the policing,
14 the quality of the policing before the murder, those
15 concerns were still in existence? 11:31

16 A. Yes, indeed. In the confidential recipient report,
17 which hasn't been opened yet, but I have enumerated
18 numerous areas whereby I felt I had been isolated,
19 intimidated, bullied and harassed, but in particular in
20 relation to me not being listened to by Garda 11:31
21 management in relation to my serious concerns arising
22 out of the murder of Baiba Saulite. And then
23 imposition --

24 84 Q. CHAIRMAN: Okay, we know about that. Those serious --
25 sorry, I just want to get them clear in my mind. Those 11:31
26 serious concerns, number one.

27 A. Yes. And then, the two-year, as I saw it, the
28 scapegoating of me by the Garda authorities in the
29 discipline matter which I regarded as extremely

1 serious.

2 85 Q. CHAIRMAN: Something of a phony disciplinary thing as
3 far as you were concerned?

4 A. well, what I am saying is, my work was actually
5 concentrated on, rather than obvious failures that I 11:32
6 saw.

7 86 Q. CHAIRMAN: No, no, I understand that, but just to put
8 it in a nutshell --

9 A. Yes.

10 87 Q. CHAIRMAN: -- the unreasonable, I'll call it phony 11:32
11 disciplinary process

12 A. Unreasonable and entirely unnecessary is my view. Yes.

13 88 Q. CHAIRMAN: I understand, absolutely. So the
14 disciplinary process is another one, okay?

15 A. Yes. The lack of response, as I saw it, as a result of 11:32
16 my extensive communications with the confidential
17 recipient process, I hadn't been approached again by
18 Garda management in relation to -- I hadn't been
19 approached, in other words, in relation to all my
20 complaints. They did not come and see me in relation 11:32
21 to it or give me my updates in the meantime or at the
22 end --

23 89 Q. CHAIRMAN: Just go slowly now for a moment. Because
24 you are going through a number of things and I want to
25 make sure that we have them. 11:33
26

27 So there were the serious concerns that hadn't been
28 addressed, a continuing problem, that was number one.

29 A. Yes.

1 90 Q. CHAIRMAN: There was the disciplinary process that had
2 hung over you for as long as it did for two years that
3 was worrying you and came to nothing, and you say
4 shouldn't have ever started, okay.

5 A. Yes. 11:33

6 91 Q. CHAIRMAN: Now, number three, you say the investigation
7 into the confidential recipient complaint?

8 A. The confidential recipient process received the most
9 serious allegations that could be made, really, from a
10 member of the Garda Síochána, in relation to matters 11:33
11 pertaining to Baiba, and also my treatment as a result
12 of raising the issues of a systems failure. And I
13 think that -- I think there's four or five serious
14 issues within that confidential recipient investigation
15 that I had alerted the authorities to, but I had 11:34
16 received no feedback other than saying that there
17 without foundation.

18 92 Q. CHAIRMAN: So the confidential recipient -- I'm sorry
19 to be tedious about this, but it's as well to get it
20 right. 11:34

21 A. Sure.

22 93 Q. CHAIRMAN: There is the confidential recipient process,
23 and first of all, you say that investigation conducted
24 by Assistant Commissioner Feehan should have, and
25 didn't, address the serious concerns that you had been 11:34
26 expressing all along about the policing issues in
27 connection with the murder of Baiba Saulite, that's the
28 first point it should have done. And it didn't.

29 A. And also --

1 94 Q. CHAIRMAN: The next thing it should have done was to
2 address the way you had been treated subsequent to
3 those events, including the allegedly phony
4 disciplinary process, is that right?
5 A. Right, yes. 11:35

6 95 Q. CHAIRMAN: Now, anything else it should have addressed?
7 A. I think the confidential recipient investigation also
8 was asked to look into the press release that was
9 issued as a result of the murder of Baiba Saulite --

10 96 Q. CHAIRMAN: But we know they did investigate -- oh, the 11:35
11 press release, I am sorry, the press release, I am
12 sorry, of course.
13 A. And also, Mr. Chairman --

14 97 Q. CHAIRMAN: And you say it didn't look into the press
15 release? 11:35
16 A. Well, all I got back was 'your clients are without
17 foundation', just a paragraph saying your clients are
18 found to be without foundation --

19 98 Q. CHAIRMAN: But as far as you're concerned, it should
20 have, and didn't or may not have, addressed the press 11:35
21 release?
22 A. Yes.

23 99 Q. CHAIRMAN: Your complaint is about the press release.
24 A. Yes, Mr. Chairman.
25 CHAIRMAN: Okay. 11:36
26 A. And also in relation to bullying, harassment,
27 intimidation and isolation in the workplace that was
28 contained in the confidential recipient process as
29 well.

1 100 Q. CHAIRMAN: And just remind me, the bullying and
2 harassment, who was bullying and harassing you?
3 A. Well I have it clearly set out in the confidential
4 recipient, but I believe that as a result of the Baiba
5 Saulite murder and me raising these concerns in the 11:36
6 workplace, I was bullied and harassed by -- through the
7 discipline process, through the members in authority --
8 101 Q. CHAIRMAN: Now, bullying and -- I understand your
9 complaint that says I shouldn't have been subjected to
10 the disciplinary process, but isn't there a Garda 11:36
11 bullying and harassment code, a specific policy? There
12 is, trust me. And bullying and harassment are
13 specifically defined. But you say you were bullied and
14 harassed. Now, by whom and when and where?
15 A. Well, if I can finish -- bullying, harassment, 11:37
16 isolation in the workplace.
17 102 Q. CHAIRMAN: We'll take them in turn. We'll take
18 bullying, then we'll take harassment, then we'll take
19 isolation
20 A. Well the bullying goes back, I believe, to the 11:37
21 instigation --
22 103 Q. CHAIRMAN: I'm not being difficult about it.
23 A. No, no.
24 104 Q. CHAIRMAN: I mean this is your complaint, and I want to
25 make sure that I have everything in order. So, 11:37
26 bullying. Who bullied you?
27 A. Yes, I believe I was bullied by the implementation of
28 the disciplinary process.
29 105 Q. CHAIRMAN: Very good. Who bullied you?

1 A. Assistant Commissioner Al McHugh and Chief
2 Superintendent Feehan.

3 106 Q. CHAIRMAN: Bullied you?
4 A. Well, I reckoned that they were singling out my work
5 as -- 11:37

6 107 Q. CHAIRMAN: No, but you are saying -- sorry, are you
7 saying they bullied you?
8 A. Yes, I found it very intimidating and bullying, yes.

9 108 Q. CHAIRMAN: Okay. You say -- and you don't resile from
10 that, you say they bullied me? 11:38
11 A. Through that process.

12 109 Q. CHAIRMAN: Okay. So, harassment?
13 A. The harassment would be the same, that in other words,
14 that my --

15 110 Q. CHAIRMAN: Okay. 11:38
16 A. My word, my assertions, my complaints, my -- what I'm
17 raising in relation to very serious matters were not
18 being listened to.

19 111 Q. CHAIRMAN: The way you were treated constituted
20 harassment -- 11:38
21 A. Yes

22 112 Q. CHAIRMAN: -- by?
23 A. Local management, senior management, they were all
24 aware.

25 113 Q. CHAIRMAN: Local management being who? 11:38
26 A. Well, the local management at the time when I began to
27 raise these issues was Inspector Waters and then
28 subsequently Superintendent Curran. Through --

29 114 Q. CHAIRMAN: Superintendent Curran harassed you?

1 A. In not listening to what I had to say in relation to
2 systems failure. And these are -- these are the most
3 serious complaints a member of the Garda Síochána can
4 probably make, and I felt I was being isolated and --
5 in other words, I wasn't being interviewed -- 11:39

6 115 Q. CHAIRMAN: I want to be specific.

7 A. Yes.

8 116 Q. CHAIRMAN: So, in what way did Superintendent Curran,
9 who was there for most of the time, in what way did he
10 harass you? I mean we have had the correspondence. 11:39

11 A. Superintendent Curran --

12 117 Q. CHAIRMAN: And frankly, it doesn't sound like he was
13 harassing you, but if you say he was harassing you,
14 that's obviously something to be investigated. But,
15 it's a little surprising, I have to say. 11:39

16 A. Yes, the -- I was never interviewed, formally
17 interviewed, as we know, in relation to Code 11. There
18 was a duty and obligation on Superintendent Curran and
19 Chief Superintendent Phillips to actually conduct those
20 investigations following which they may have received 11:39
21 extensive reports I subsequently submitted to the
22 medical personnel, to the welfare officers. But my
23 distinct impression was that management just simply
24 didn't want to hear from me in relation to these
25 serious matters. And if any meetings then with local 11:39
26 inspectors or, you know, they would take their own
27 notes --

28 118 Q. CHAIRMAN: Okay. So do you still say that, sort of,
29 Inspector Waters harassed you. How did he harass you?

1 A. Well, I met him shortly after the murder and I told him
2 I had serious concerns in relation to events
3 surrounding the murder, and he told me to report it to
4 Michael McDowell, who was the Minister for Justice at
5 the time. And I felt that was just not a proper 11:40
6 response from a supervisor in relation to a serious
7 matter, you know. And I felt harassed as a result, you
8 know. Maybe harassed in that category of harassment,
9 but I just -- and as I said -- I set out these
10 allegations within the confidential recipient process 11:40
11 and I was never asked to clarify or withdraw those
12 remarks. They were never further investigated in the
13 confidential recipient process, and I would have been
14 probably in a better position then to provide
15 categorical descriptions of the bullying, harassment 11:40
16 and isolation to that team at the time.

17 119 Q. CHAIRMAN: I just want to be clear, because obviously
18 these officers will be giving evidence.

19 A. Yes indeed.

20 120 Q. CHAIRMAN: And it will be important to know what 11:41
21 exactly you are saying about them. And it's a chance
22 -- I mean if you want to alter your position, that's
23 perfectly legitimate, and if you don't want to alter
24 your position, that's equally perfectly legitimate.
25 But I just -- I'm going through the list of items that 11:41
26 you say were affecting you, and you said about the
27 serious concerns. You said the disciplinary process.
28 You said the confidential recipient. And in regard to
29 the confidential recipient, there was the treatment of

1 your serious complaints and there was the treatment of
2 you personally, and there was the press release, for
3 example, investigation, and you said bullying and
4 harassment, and you identified what the bullying was:
5 The bullying was Assistant Commissioner McHugh and 11:42
6 Chief Superintendent, later Assistant Commissioner,
7 Feehan, they are the ones accused of bullying;
8 harassment, you said, was Superintendent Curran, and
9 before him, Inspector Waters. So you maintain those
10 positions, that was harassment by Superintendent 11:42
11 Curran?

12 A. And again we're going back over the disciplinary
13 process I considered harassment as well in --

14 121 Q. CHAIRMAN: Say again.

15 A. The disciplinary process being instigated in the form 11:42
16 it did, I considered that to be harassment.

17 122 Q. CHAIRMAN: Very good.

18 A. The failure -- the lack of -- the pure lack of response
19 from management in relation to matters I was raising, I
20 felt to be isolation. 11:42

21 123 Q. CHAIRMAN: Now, where was the isolation?

22 A. Well, when I am making serious complaints and I'm not
23 being responded to, you feel isolated then you know.
24 That, where do you go next?

25 124 Q. CHAIRMAN: So do you think anybody isolated you or was 11:43
26 that just a feeling on your part because of lack of
27 response?

28 A. Yeah, the lack of response to the serious matters I was
29 raising, I felt I was being isolated in the workplace.

1 125 Q. CHAIRMAN: My understanding of isolation in the
2 workplace is people ignoring me, people turning their
3 back on me, people closing a door on me, people not
4 inviting me for a cup of coffee or people disappearing
5 when I arrived. I mean, isolation is isolation. So 11:43
6 are you saying that happened?

7 A. No, I am saying, Mr. Chairman, that the isolation, the
8 most important aspect of the isolation was that I was
9 making the most serious complaints and I wasn't being
10 listened to by Garda management. 11:43

11 126 Q. CHAIRMAN: Okay. If I'm understanding, we have the
12 disciplinary process -- we know what you say about that
13 and you say it was unfair and all the rest of it. And
14 if I'm understanding, almost everything else comes down
15 to the serious complaints that you were making about 11:44
16 deficiencies of policing prior to the murder of Baiba
17 Saulite, almost everything comes down to that, is that
18 right?

19 A. And then along with that, was the fact that I had gone
20 sick and I wasn't being properly interviewed. 11:44

21 127 Q. CHAIRMAN: Sorry, I should have said that.

22 A. Yes.

23 128 Q. CHAIRMAN: And the injury on duty question, that you
24 say whatever the technicalities of it, that it left
25 you -- it was very unfair to you in its effect? 11:44

26 A. Yes, indeed, Mr. Chairman.

27 CHAIRMAN: Okay. Thanks very much. Now, I am sorry,
28 Mr. Marrinan, but that gave me an opportunity to
29 clarify and summarise my understanding of where we're

1 going and what's to be explored with other witnesses.
2 Thanks very much.

3 129 Q. MR. MARRINAN: Now, I think that Dr. Quigley determined
4 that you were unfit for work at that time, and he
5 referred you back to Dr. Devitt for psychiatric 11:45
6 examination again, isn't that right?

7 A. That's correct.

8 130 Q. Now. I think that that was arranged for the 10th March
9 of 2011. And if we have page 458 up on the screen.
10 This was a letter that you -- a report that you had 11:45
11 prepared for Dr. Devitt, and it goes from 458-461, and
12 it sets out your concerns at that time and where you
13 identify the issues that are of concern to you. And,
14 the Chairman has gone over those with you, but they are
15 effectively what you have indicated to the Chairman 11:46
16 there as your concerns at that time, isn't that right?

17 A. That's correct.

18 131 Q. There is one additional one there, if we look at page
19 460 of the material, at the third paragraph down you
20 say: 11:46
21

22 "In addition, Garda management saw fit to return me to
23 the workplace where I had cause to make serious
24 allegations in respect of certain members of local
25 management. I found dealing with these individuals in 11:46
26 the circumstances to be extremely stressful."

27

28 That seems to be an additional one. We dealt with that
29 yesterday where you indicated to Superintendent Curran

1 that you'd like a transfer, and then it was indicated
2 that you wouldn't get a transfer, that you'd have to go
3 back to work and then apply for a transfer, isn't that
4 right?

5 A. It was just decided there and then I wouldn't get a 11:46
6 transfer, so...

7 132 Q. Could you just tell us, I mean when you were back at
8 work had you any issues with your colleagues of your
9 own rank and below?

10 A. No, no. 11:47

11 133 Q. I mean you weren't isolated in the workplace by any of
12 them, were you?

13 A. No.

14 134 Q. CHAIRMAN: Sorry, who were the members of local
15 management that you had to make complaints about? 11:47

16 A. Sorry?

17 135 Q. CHAIRMAN: "In addition Garda management sought..." who
18 are the members of local management that you had to
19 make serious allegations about?

20 A. Well, we're going back to the allegations I made in the 11:47
21 confidential recipient process would have included
22 local, members of the local management at Coolock Garda
23 Station --

24 136 Q. CHAIRMAN: Sorry, hold on a second. This is a your
25 document. "Garda management saw fit to return me to a 11:47
26 workplace where I had cause to make serious allegations
27 in respect of certain members of local management."
28 So, you were sent back to a workplace where you had
29 cause to make serious allegations in respect of certain

1 members of local management. Explain.

2 A. Yes, indeed. I was back in the workplace where I had
3 made serious complaints in the confidential recipient
4 process, and in respect of local management's failure
5 to interview me as to why I was absent from work and 11:48
6 failure to respond to the serious complaints --

7 137 Q. CHAIRMAN: Can you see why I'm not seeing that in that
8 sentence? Mr. Marrinan rightly said you made an
9 additional complaint, and I have to confess I hadn't --
10 I was interested to know what is the additional 11:48
11 complaint?

12 A. Sorry --

13 138 Q. CHAIRMAN: Now, it doesn't matter. I mean, we all make
14 mistakes in writing things down so don't let's get --
15 but this is nothing new, is that right? This is back 11:48
16 to --

17 A. This is a medical consultation following my return to
18 work.

19 139 Q. CHAIRMAN: Absolutely.

20 A. I am adding in this "In addition..." -- what do I say? 11:49
21 I describe my current role --

22 140 Q. CHAIRMAN: Just take it easy. I mean, look, I am --
23 Mr. Marrinan rightly focussed on this, and he rightly
24 said you made an additional complaint, and I am keen to
25 write down additional complaints: details. Do you 11:49
26 understand me?

27 A. Well, that's great, and correct, Mr. Chairman. The
28 local management that were in Coolock station on my
29 return to duty were members who I had made complaints

1 of in the confidential recipient process. That's --

2 141 Q. CHAIRMAN: So which of the members? That was
3 Superintendent Curran?

4 A. And Inspector Waters.

5 142 Q. CHAIRMAN: Okay. That's all right. Oh, so maybe it 11:49
6 should have read 'where I had had cause...' I don't
7 know, whatever it is anyway. This wasn't anything --
8 this wasn't anything new. This isn't a new complaint
9 that says when I went back to work people ganged up on
10 me or treated me badly? 11:50

11 A. Oh, no, no.

12 CHAIRMAN: Okay. Thanks very much. Thank you for
13 clarifying that and thank you, Mr. Murrinan, for
14 raising it.

15 143 Q. MR. MARRINAN: So the reference there is to the 11:50
16 confidential report that you made to the confidential
17 recipient --

18 A. That's correct.

19 144 Q. -- which made allegations in relation to a systems 11:50
20 failure, but there was a second paragraph of the
21 complaint that you were making, namely how you were
22 dealt with by management, is that right? 11:50

23 A. I think in the confidential recipient report there are
24 four sections that I asked to be investigated, and they
25 are clearly set out, and I think we covered them there 11:50
26 with the Chairman there in relation to the disciplinary
27 investigation, the systems failures is in it as well,
28 the press release, the --

29 145 Q. CHAIRMAN: And the medical.

1 A. And the medical. The non-response of management in
2 relation to medical.

3 146 Q. MR. MARRINAN: Anyway, you gave that letter, or report,
4 to Dr. Devitt and he reported, and his report is at
5 page 462, and if we can just perhaps scroll over, 11:51
6 Mr. Kavanagh, to the last page -- no, sorry, the second
7 last page, 464. His conclusion, scroll down to the
8 end, "Collusions/Opinion". He says the conclusions of
9 his report on the 14th September 2010, which we went
10 into yesterday, still apply. 11:51

11
12 "2. Sergeant Hughes finds the Garda Síochána work
13 place extremely stressful and regards it as an unsafe
14 working environment, causing him anxiety, anger and
15 serious mistrust. 11:52

16 3. In this mental state, Sergeant Hughes should be
17 regarded as temporarily unfit for three months from all
18 Garda duties.

19 4. It is vital that steps are taken urgently to
20 address the matters raised by Sergeant Hughes. 11:52

21 5. If Sergeant Hughes can be convinced that these
22 matters are being approached in good faith by the Garda
23 authorities it is likely that his mental state will
24 improve. "

25 11:52

26 Now he reported that, his findings, to Dr. Quigley.
27 And then on the 22nd March, 2011 -- if we have page 454
28 on the screen -- Dr. Quigley reports to Assistant
29 Commissioner Fanning. And if we scroll down, and just

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look at the last three lines, he says:

"If Sergeant Hughes can be convinced that these matters are being approached in good faith by Garda authorities it is likely that his mental state will improve." 11:53

And then he says:

"A further assessment can then be arranged to consider progress at about the three month phase." 11:53

Then, if we just move forward, 25th March 2011, Assistant Commissioner Fanning writes to your chief superintendent, it is entitled "Sick Report". Sorry, it's page 4465 of the material. And if we scroll down, this is a reference to your meeting with the Assistant Chief Medical Officer, third paragraph: 11:53

"He further advised that it is Sergeant Hughes's assertion that he finds the An Garda Síochána workplace extremely stressful and regards it as an unsafe working environment causing him anxiety, anger and serious mistrust. You should now interview this member in order to establish the source of the member's stress and if it is suggested as being work related a full investigation should be carried out." 11:54

So, we're really sort of going around in circles at this stage, but nevertheless, that's what's going down

1 now from Assistant Commissioner Fanning?

2 A. That's correct.

3 147 Q. You can appreciate this does appear to be fairly
4 circular and -- but in any event, there is a report
5 then from you, and it's at page 4471, and it's dated 11:54
6 the 22nd April of 2011. And it refers -- it's to
7 Inspector Lacey and it refers to a meeting that you had
8 with Inspector Lacey, isn't that right?

9 A. That's correct.

10 148 Q. "The above meeting has been arranged following your 11:55
11 telephone call to me on the 21st April. I have been on
12 sick leave since the 4th January 2008. It is my
13 understanding that the meeting is in connection with my
14 current absence on sick leave and has been arranged
15 from a Garda welfare point. 11:55

16
17 Please be informed that my current absence on sick
18 leave relates to the matters that have caused my
19 previous protracted absences on sick leave since
20 December 2006. The issues which I believe have caused 11:55
21 those previous absences on protracted sick leave have
22 been reported to Garda management and I believe that
23 the serious issues have not been resolved. I believe
24 that my protracted absences on sick leave, including my
25 current such absence, have not been subjected to proper 11:56
26 and fair investigation by Garda management.

27
28 In the interim, and due to Garda management's failure
29 as I see it to properly deal with the serious issues

1 reported, I continue to suffer ongoing workplace
2 bullying, harassment, intimidation and abuse of
3 processes and isolation. "

4
5 Then you conclude by saying:

11:56

6
7 "I would be obliged if the necessary inquiries could be
8 made with HRM Garda Headquarters with a view to
9 obtaining the Garda Medical Department's reports
10 regarding my situation please. "

11:56

11
12 So, that was the position at that time, isn't that
13 right?

14 A. That's correct.

15 149 Q. Now, there is another e-mail that you sent -- it's at
16 page 4498 of the materials -- it's on the 15th July,
17 and it's an e-mail to the Inspector in Charge of HRM
18 "Medical Section". And you'll see there:

11:57

19
20 "Please refer to my sickness absence file at the Garda
21 Medical Section. As you will see, my pay has been
22 reduced following 183 day sickness absence. "

11:57

23
24 So at that stage your pay had been reduced to half pay,
25 is that right?

11:58

26 A. That's correct.

27 150 Q. You say:

28
29 "I would appreciate if you would seek to have this

1 matter reviewed urgently please as it is my contention
2 that my pay should not have been reduced in the
3 circumstances. "

4
5 Now, I think that there is a further dealing that you 11:58
6 had with Inspector Lacey on the 14th July, it's at page
7 4487 of the material. And again it's entitled "Sick
8 Absence" and it's to the superintendent. And it again
9 relates to your pay, isn't that right?

10 A. That's correct. 11:59

11 151 Q. And you see in paragraph 2:

12
13 "Sergeant Hughes has submitted a report requesting the
14 reduction in his pay be immediately reviewed. "

15 A. Sorry, where is that? 11:59

16 152 Q. And then if we scroll down -- sorry, we're not on the
17 right page. I think it's 4486. You are on 4487 there,
18 sorry, that's my fault. There you see it's a reference
19 to the pay. And then you'll see the second last
20 paragraph: 11:59

21
22 "Sergeant Hughes has requested that this review into
23 his pay be conducted as a matter of urgency. "

24
25 And if we go to page 4487 then, again this was a letter 12:00
26 that you sent, or I think you may have handed to
27 Inspector Lacey. Did you meet personally with
28 Inspector Lacey?

29 A. I did, at Swords Garda Station.

1 153 Q. Yes. And again, as seems to be your habit, you type
2 out a statement before you go to the meeting and you
3 hand that statement in?
4 A. That's correct.

5 154 Q. When you do that, do you discuss the contents of the 12:00
6 document or do you just hand it and walk away?
7 A. Oh, no. On that occasion there I sat down with
8 Inspector Lacey and he read through it.

9 155 Q. And in that, you go through the history of it. I don't
10 think there is any need to go through this again. It's 12:00
11 all set out there. You conclude, on page 488 in
12 saying:
13
14 "The reduction in pay will cause me further hardship."
15 12:01
16 And you respectfully request that the situation
17 regarding the reduction of pay be immediately reviewed.
18
19 Now, in the meantime, there is quite an amount of
20 correspondence that's passing backwards and forwards 12:01
21 between Assistant Commissioner Fanning and the chief
22 superintendent, where he is looking for reports from
23 local management. You have seen those in the papers?
24 A. I have seen those, yes.

25 156 Q. For the benefit of the parties, those papers are a 12:01
26 letter from Assistant Commissioner Fanning to the chief
27 superintendent on the 25th May, it's at page 4479. A
28 reminder is sent on the 22nd June 2011; that's at page
29 4480. There is a letter then on the 25th July of 2011

1 sent by Assistant Commissioner Fanning to the Assistant
2 Commissioner for the region saying that he hasn't had
3 any response from local management; that's at page
4 4483. And then eventually we have this report that I
5 refer to that has been opened by Inspector Lacey, and
6 your report to Inspector Lacey.

12:02

7
8 Again, this is my comment, but it doesn't seem to deal
9 with the issue that is -- that HRM and the question
10 that's been posed by HRM and the report that is in fact
11 anticipated. But in any event -- yes, and then if we
12 could just look at a report that was sent -- sorry,
13 there is another letter that I won't open at this
14 juncture, but it's a letter from Dr. Quigley of the
15 29th July 2011, looking for the report from local
16 management -- and that's at page 468 of the material.
17 And indeed he sends another reminder in that regard on
18 the 5th October, and that's at page 469 of the
19 material, and I don't intend to open that.

12:02

12:03

20
21 Now, we have a report that was sent on the 29th July of
22 2011 by Superintendent Curran, and it's at page 1198 of
23 the material, please. We see there the opening
24 paragraph:

12:04

25
26 "With reference to the above and memos from Assistant
27 Commissioner Fanning, dated 9th and the 25th March
28 2011, I attach the report of Inspector Luke Lacey."
29

12:04

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Then he says:

"Sergeant Hughes undertook to provide written details of the nature of his current explain to Inspector Lacey by the 18th April 2011. This has not yet been received at this office. 12:04

No investigation was conducted locally in respect of any specific "injury on duty" to Sergeant Hughes. The nature of the "injury on duty" contention related to a wide range of events and issues some of which were the subject of investigations by Assistant Commissioner Feehan. 12:04

And then if we scroll over to the next page, at page 1199: 12:05

"I refer to the memo dated the 25th March 2011 where the Chief Medical Officer advises that Sergeant Hughes asserts that he finds the An Garda Síochána workplace extremely stressful and regards it as an unsafe work environment causing him anxiety, anger and serious mistrust. 12:05

No issue of this nature has been brought to my attention by Sergeant Hughes. However on receipt of Sergeant Hughes's report I will examine it and report further. 12:05

1 So, do you take any issue with any of that?

2 A. I just don't recall the commitment I made to Inspector
3 Lacey that I would come back to him with details. I
4 don't recall that.

5 157 Q. Yes. It's difficult to know what details you could 12:06
6 have come back to him with, and Superintendent Curran
7 is clearly identifying the fact that there had been no
8 inquiry locally in relation to the nature of injury on
9 duty. And he is referring to the back, going back
10 again to the issue that you had said that these relate 12:06
11 to the wider issue, if I can put it that way, and --

12 A. That's correct.

13 158 Q. -- he clearly seems to regard it as not his area of
14 responsibility to look into that, or that it would be
15 inappropriate for him to do so. 12:06
16

17 Yes, this doesn't appear -- we might just briefly have
18 a look at that just to get a flavour of the urgency
19 with which, certainly Assistant Chief Medical Officer
20 regarded this. It's page 468 of the material. This is 12:07
21 a letter sent on the 29th July to Assistant
22 Commissioner Fanning. The first paragraph there and
23 the second line:

24

25 "From a medical perspective, I again underscore the 12:07
26 importance of interventions of management in relation
27 to addressing the issues as previously raised by me.
28 At this stage I request an urgent report of management
29 actions with regard to my advices."

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So in any event, if we then scroll forward to page 4514. This is a letter sent by Assistant Commissioner Fanning on the 8th September of 2011, it's marked "Urgent", and it's to the Assistant Commissioner of the region. And you'll see there in the first paragraph he refers to his letters, and minutes from his branch. Apparently he has still received no response to his queries at that stage, and he says in the concluding paragraph:

"This is unacceptable in light of the imminent High Court hearing. It is imperative that the composite report alluded to by Chief Superintendent Ballymun is forwarded to this Branch without further delay."

Now, there appears to be a report that was in fact compiled by Superintendent Curran; it's addressed to the chief superintendent, it's dated the 15th September of 2011. And this seems to have been prepared -- sorry, it's at page 4533. It refers to retraining and other issues, and it seems to be a document that was prepared for the defence of your High Court proceedings, and it's a four-page detailed report, which I don't intend to open in the circumstances, bearing in mind the reason that it was prepared, the purpose for which it was prepared.

There is then another report and another review by the

1 CMO on the 6th October 2011, isn't that right?

2 A. Yes, I think so.

3 159 Q. That report is at page 1374 of the material, the report
4 of Dr. Devitt. If we just turn over to page 1376
5 "Current Treatment". It says that you attend 12:10
6 Dr. Keenan.
7
8 "Asking regarding counselling, he stated that he would
9 like to attend counselling but he can't afford it."
10 12:10
11 And then if we scroll over to page 1377 of the
12 material, he sets out his conclusions and opinion
13 there. He says:
14
15 "It is unlikely that Sergeant Hughes's mental state 12:11
16 will improve until after the High Court proceedings.
17 If as a result of these proceedings Sergeant Hughes can
18 achieve a sense of vindication, it is likely that his
19 mental state will improve.
20 12:11
21 The improvement in his mental state will allow him to
22 enter into negotiations with his employers regarding
23 suitable placement and safeguards and conditions to be
24 put in place.
25 12:11
26 As a result of the court proceedings, it appears there
27 is somewhat of a stand-off between both parties."
28
29 And that report is referenced by Dr. Quigley in a

1 report that he sent to Assistant Commissioner Fanning
2 on the 17th October 2011; it's at page 470. He refers
3 to the High Court proceedings, and he concludes:

4
5 "This anticipated improvement in his mental health will 12:12
6 allow him to enter into negotiations with his employers
7 regarding suitable placements and safeguards... However
8 as a result of the court proceedings it appears that
9 there is somewhat of a stand-off between both parties."

10
11 Is that the position at that time, do you recall? 12:12

12 A. No, I don't agree. There was never any point where I
13 wasn't available to Garda management to discuss
14 improvements in my welfare, despite the High Court case
15 or despite my absence on sick leave. 12:12

16 160 Q. Now, we now move into 2012, and you are out sick
17 throughout this period of time, isn't that right?

18 A. That's correct.

19 161 Q. You don't actually return to work until subsequently,
20 your retirement on medical grounds in 2013? 12:13

21 A. That's correct.

22 162 Q. And we'll just look into the circumstances giving rise
23 to that. A letter was sent by your GP, Dr. Susan
24 Keenan, in February to the Chief Medical Officer --
25 it's at page 6850 -- sorry, it's actually to the 12:13
26 Assistant Chief Medical Officer. If we scroll down.
27 She says:

28
29 "I am writing to you on behalf of my patient,

1 Mr. William Hughes. As you know, the current court
2 case has been further adjourned due to a medical
3 illness of the prosecution witness.

4
5 I have spoken to Mr. Hughes recently and at this point 12:14
6 we feel that in his own best medical interest it would
7 be advisable for him to take a medical discharge from
8 An Garda Síochána. I feel the huge psychological toll
9 the past number of years have taken have effectively
10 made him unfit to return to his work. 12:14

11
12 I have advised him of this recommendation and he will
13 in due course attend yourself for assessment. As you
14 know this recommendation has been made previously."

15 12:14
16 That was by the CMO and earlier on that we referred to
17 back in 2008, isn't that right

18 A. That's correct.

19 163 Q. "Please contact me if you have any queries."

20 12:14
21 So this procedure is initiated by you, I suppose --

22 A. Yes, indeed.

23 164 Q. -- in consultation with Dr. Keenan, isn't that right?

24 A. That's correct.

25 165 Q. And obviously you discussed matters through with her at 12:14
26 that stage and you decided that it was time to retire
27 and to do so on medical grounds, isn't that correct?

28 A. That's correct.

29 166 Q. Now, there are a number of assessments that are then

1 gone through and I don't think there is any need to go
2 through these in any detail. I think it starts with
3 Dr. Quigley alerting the assistant --
4 CHAIRMAN: Sorry, could you just scroll back up a tiny
5 bit on that? Sorry. Just a moment, Mr. Marrinan. 12:15
6 Sorry, 28th February, thanks very much. So, I just
7 wanted to get the date because I could see the date
8 stamp of the 5th March, and I had misread --
9 misunderstood, 28th February. Thank you.

10 167 Q. MR. MARRINAN: I think that Dr. Quigley then writes to 12:16
11 the -- yes, Dr. Quigley -- you then -- sorry --
12 Dr. Quigley then writes to Assistant Commissioner
13 Fanning advising him of this letter and a request that
14 has come in, and he does so on the 9th March of 2012.
15 That letter is at page 472. And he indicates that he 12:16
16 has made an appointment for you to attend on the 29th
17 March, isn't that right?

18 A. That's correct.

19 168 Q. I think that you attended on the 29th March, and you
20 saw Dr. Quigley, is that right? 12:16

21 A. That's correct.

22 169 Q. And that on the 2nd April of 2012, he reports on that,
23 on that meeting to Assistant Commissioner Fanning, and
24 that's at page 471 of the material. And he indicated
25 that you were to see Dr. Devitt again, isn't that right 12:17
26 A. That's correct.

27 170 Q. And then if we go to page 473 of the material, there is
28 a report from Dr. Quigley, dated the 13th April of
29 2012, to Assistant Commissioner Fanning, where

1 Dr. Quigley considered a report that had been submitted
2 by Dr. Devitt in relation to Sergeant Hughes. And sort
3 of a spanner had been put in the works at that stage,
4 we'll see at the last paragraph he says:

5
6 "Dr. Devitt advises that the issue of retirement on
7 medical grounds (mental health) should not be addressed
8 until his High Court action is settled as there is the
9 possibility that if Sergeant Hughes feels a sense of
10 vindication his mental state will improve such that he
11 could resume Garda duties." 12:17

12
13 So, as it were, at that stage, your request has been
14 resisted, isn't that right?

15 A. Yes, indeed. 12:18

16 171 Q. And if we then move on to page 6898, that view is
17 communicated by Dr. Quigley to your GP. If we look at
18 the last four lines there:

19
20 "I further advised Garda management that the matter of 12:18
21 ill health retirement and Dr. Devitt's present advice,
22 should be postponed until there is resolution of his
23 High Court action. I note that Dr. Devitt advises that
24 there is still a possibility that if Sergeant Hughes
25 feels a sense of vindication his mental state will
26 improve such that he could resume Garda duties." 12:19

27
28 Now, I think in May, your civil action was settled,
29 isn't that right?

1 A. That's correct.

2 172 Q. And on the 11th June -- no, sorry, on the 5th June of
3 2012, Dr. Susan Keenan wrote again to Dr. Quigley, and
4 this is at page 6898 of the material. She says:

5 12:19

6 "Dr. Qui gley
7 I have recently met with Mr. Hughes. He has informed
8 me that his case has been settled without having to go
9 to court. Mr. Hughes agreed to this settlement as he
10 felt going to court would have been long and hard and 12:20
11 very distressing for him.

12

13 Mr. Hughes, although relieved that the case has been
14 settled --"

15 CHAIRMAN: Relieved. I think it means that although he 12:20
16 is relieved the case has been settlement he is a bit
17 disappointed that he hasn't had the whole issues
18 ventilated, I think that's the sense?

19 MR. MARRINAN: Yes, thank you.

20 CHAIRMAN: Is that your thinking, oh all right, like 12:20
21 many a person, I'll settlement the case but I'm still a
22 bit sorry that it hasn't gone on, that's --

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

24 173 Q. MR. MARRINAN: And she notes that:

25 12:20

26 "I can only hope that a removal from the constant
27 reminder of these issues will help in his longer term
28 recovery.

29

1 I refer to our previous correspondence with regard to
2 the medical discharge of Mr. Hughes from An Garda
3 Síochána. I am writing to you today further supporting
4 this and I re-emphasise the fact that Mr. Hughes is not
5 medically fit to return to work in on Garda. I hope 12:21
6 that you consider his case as soon as possible which
7 will enable Mr. Hughes to move on with his life and put
8 all this in the past."

9
10 And that letter is reported up by Dr. Quigley to the 12:21
11 CMO -- that's at page 474 of the material; that's done
12 on the 27th July.

13
14 And you go back and you see Dr. Devitt, isn't that
15 right, again, on the 2nd August of 2012. And he 12:21
16 reviews your case, and his report is at page 1383 of
17 the material. And if we just look at his conclusions
18 and opinion at 1384 of the material, he says:

19
20 "Despite settlement of his case, Sergeant Hughes' 12:22
21 mental condition continues to be as it was during
22 previous assessments..."

23
24 On that basis, he would now still be regarded as unfit
25 for work on ground of anxiety. 12:22

26
27 There is no reasonable prospect, given his relationship
28 with his employers, of an improvement in these symptoms
29 of anxiety.

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The symptoms of anxiety are situational in nature and occur when Sergeant Hughes thinks about, speaks about or encounters any aspect of An Garda Síochána.

12:23

Sergeant Hughes' symptoms of anxiety and obsessiveness certainly could be construed as symptoms caused by his attempts to adjust to his perceived very difficult situation.

12:23

In terms of a technical diagnosis, according to the Diagnostic and Statistical Manual (IV), Sergeant Hughes would currently qualify for a diagnosis of adjustment disorder with anxiety symptoms.

12:23

While this condition is usually self-limiting when the situation causing the need to adjust ceases, in some cases this can be ongoing or chronic. This would appear to be the case with Sergeant Hughes.

12:23

He would, therefore, qualify for a formal diagnosis of adjustment disorder with anxiety symptoms (chronic).

12:24

On that basis he is not in a position to fulfil the normal duty of his occupation as a garda sergeant to a satisfactory level.

It would, therefore, be to the benefit of An Garda Síochána organisation and Sergeant Hughes to retire him

1 on medical grounds.

2

3

Sergeant Hughes is a genuine individual and medical retirement as recommended will offer him the opportunity to rebuild his life."

12:24

6

7

And finally:

8

9

"Once he is freed from having to deal with An Garda Síochána on a day-to-day basis, his long term mental outlook will improve."

10

12:24

11

12

13

So, that reflected the position at that time. Can you tell us, did your position improve?

14

15

A. Oh yes, considerably.

12:24

16

174 Q. Considerably?

17

A. Yes, once I left the organisation, yes.

18

175 Q. Did you suffer any other sort of problems mentally arising out of all this?

19

20

A. No, never. Things have improved a lot, bar the memories of the past, but the moving on with my life, I just got on far better, you know.

12:25

21

22

23

176 Q. Now, I think a lot of what was done thereafter was really of a formal nature, and I don't think there is any need to open up the documents. I think it's sufficient just simply to refer to them briefly.

24

25

12:25

26

27

I think you attended again on the 7th September with Dr. Quigley, and on the 11th September, he gives his advices that you should be retired on medical grounds.

28

29

1 Those advices are on page 476 of the material.

2
3 On the 27th September, Dr. Keenan wrote a nice letter
4 to Dr. Quigley thanking him for all his assistance
5 throughout. That's at page 1389 of the material. 12:26

6
7 And on the 15th October, Dr. Quigley advised Assistant
8 Commissioner Fanning that you should be retired -- and
9 that's at page 475 of the material.

10 12:26
11 Now, there was a retirement order that was drawn up.
12 This is at page 6904 of the material. And if we look
13 there, you'll see that it's in a Form D33, is the
14 standard form. It's been certified by Dr. Quigley.
15 And if we scroll down there, half-way down, we'll see 12:27
16 that "To be suffering from --" and it says "-- chronic
17 reactive mental state" is what's put down there. And
18 then he certifies that you are so incapacitated by
19 infirmity of mind that you are unable to perform duties
20 as a member of An Garda Síochána, and that's signed on 12:27
21 the 15th October of 2012.

22
23 And then if we scroll down, if we go to page 1417, we
24 have the actual retirement order. That's signed on the
25 12th February of 2013 by the then Garda Commissioner 12:28
26 Martin Callinan. And it's a standard form of
27 retirement order, isn't that right?

28 A. That's correct.

29 177 Q. And it's done -- it says "Mental or physical

1 incapacity", isn't that right?

2 A. Correct.

3 178 Q. Now, there was subsequently an issue that you had in
4 relation to that, isn't that right?

5 A. Sorry, if you can remind me...

12:29

6 179 Q. You entered into extensive correspondence with Alan
7 Mulligan --

8 A. That's correct.

9 180 Q. -- in relation to a large number of issues that you
10 had. They appear to me, at the moment, not to be
11 relevant or sufficiently relevant that they should be
12 opened to the Chairman, and your own counsel can go
13 through that, if they wish. So, that's really the end
14 of the story as far as you are concerned with the
15 relevant events giving rise to your complaints to the
16 Tribunal, isn't that right?

12:29

12:29

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

18 181 Q. We know that subsequently, whilst you seem to have
19 moved on to some extent, with your life, you entered
20 into extensive correspondence with the Department of
21 Justice between 2012 and 2017, and you have disclosed
22 that material to the Tribunal, and it's in volume 2 at
23 page 270-340, and I don't see that that is relevant to
24 the matters under consideration at the moment.

12:29

12:30

25
26 And you also wrote to the Attorney General in 2017, and
27 that's in volume 2 at page 341-345. And similarly, you
28 wrote to the Policing Authority in 2016, to the Garda
29 Inspectorate in 2013, and to a number of politicians

1 between 2014 and 2018, and that correspondence is in
2 volume 2 between pages 387 and 401.

3
4 And you have been consistent in the complaints that you
5 have made throughout, and there is just two matters, 12:31
6 really, at this juncture that I'd like to return to
7 briefly.

8
9 And the first of those is your conversation with
10 Superintendent Curran in April of 2007, all right? In 12:31
11 your statement to the Tribunal investigators, you say
12 that you raised issues in relation to your current
13 concerns about a systems failure. Would you expand on
14 that, if you can, and tell us exactly what you said at
15 that time to Superintendent Curran? 12:31

16 A. In relation to the systems failure, I informed --

17 182 Q. Well, first of all, did you refer to it as a systems
18 failure to Superintendent Curran?

19 A. Yes, I did.

20 183 Q. And did you expand on that to him? 12:31

21 A. Yes, I informed him that there was matters to be looked
22 in, and if they are not looked into I sort of, not
23 warned him, but I advised him strongly that these
24 matters would have to be looked into because it could
25 affect the outcome of the murder investigation or the 12:32
26 coroner's inquest would need to know in relation to the
27 systems failure.

28 184 Q. Yeah, but did you identify to him what you believed the
29 systems failure to have been?

1 A. I would have, yes, I did.

2 185 Q. No, it's not a matter 'I would have'.

3 A. Yes. I discussed with him the matters in relation to

4 what I perceived to be the failures, the failures --

5 186 Q. But exactly how did you identify those? what did you 12:32

6 say to him?

7 A. Well, I told him there was a systems failure in the

8 management of the various matters pertaining to Baiba

9 and John Hennessy before she died.

10 187 Q. Right. 12:32

11 CHAIRMAN: We're concerned about -- sorry, we're

12 concerned if we may and I am grateful to Mr. Marrinan

13 for raising it. The question in my mind is: what did

14 you say? Not what I told him, what I informed him.

15 Can you understand what I mean? As best you can, can 12:33

16 you tell us what you said?

17 A. As best I can --

18 188 Q. CHAIRMAN: Yes, as best you can, bearing in mind it's a

19 long time ago and everything else, and I know your

20 description of the report that you made to him, but I'm 12:33

21 really interested to know what did you say?

22 A. I informed Superintendent Curran of my opinion that

23 there had been a systems failure --

24 189 Q. CHAIRMAN: Sorry, we're going wrong here. "I informed

25 him of my opinion" is a report of what was said. What 12:33

26 I'm concerned to try -- as best you can, I understand

27 this is difficult and I know that you're a garda

28 officer of great experience and so on. I am concerned

29 to know to write down as best I can what your memory

1 is, the words you actually used to him. There is a
2 terrible problem with the way Baiba Saulite's case was
3 handled; there was a mess because she wasn't protected
4 properly. Those are words of the conversation. I can
5 also say 'I told him about my concerns about the thing' 12:34
6 a different story. Now do you understand what I mean?
7 A. Yes.
8 190 Q. CHAIRMAN: I would prefer, as best you can, bearing in
9 mind that it's not the easiest, as best you can 'I
10 said...'
11 A. Superintendent, I believe that there was a systems
12 failure in relation to the handling of the
13 investigations surrounding Baiba Saulite and John
14 Hennessy prior to her murder and I am of the belief
15 that if these matters are not investigated, we will 12:34
16 face problems with regard to the successful murder
17 investigation and also have problems in relation to the
18 coroner's inquest.
19 191 Q. CHAIRMAN: Anything else?
20 A. And then he was writing notes as I was talking. 12:35
21 CHAIRMAN: Okay.
22 A. And we discussed -- I think we discussed other matters
23 there in relation to it.
24 192 Q. CHAIRMAN: Yeah?
25 A. And on reflection, I don't think I -- I did not mention 12:35
26 at that time the conversation I had with Walter
27 O'Sullivan, Detective Inspector Walter O'Sullivan at
28 Swords station on the 20th November 2006.
29 193 Q. CHAIRMAN: That's another day's work, if you like. Was

1 there any further reference to the systems failure
2 issue?

3 A. Not -- reference from the superintendent?

4 194 Q. CHAIRMAN: From anybody, either you said or he said.
5 A. Not that I recall. 12:35

6 195 Q. CHAIRMAN: Okay. Thanks very much. Now, sorry, thank
7 you. That's the only thing that you can remember you
8 said those words.

9 A. I said those -- I used those precise words, systems
10 failure. 12:35

11 CHAIRMAN: Thank you. That's exactly what I was hoping
12 for. Now, sorry Mr. Marrinan, you want to ask further
13 questions about that.

14 MR. MARRINAN: No, no, I am content with that.

15 196 Q. And the next thing I was going to ask you about was 12:36
16 your conversation with Mr. Hennessy in relation to the
17 article in The Daily Star Newspaper. Will you just
18 tell us how that came about?

19 A. Yes, indeed. It was -- I remember where I was when I
20 received the call actually. 12:36

21 197 Q. Yes. Well, tell us.

22 A. I was up at a shopping centre in North County Dublin
23 and he called me and he told me that there is an --
24 sorry, that a journalist had contacted him, Michael
25 O'Toole, had told him that he was publishing an article 12:36
26 in The Daily Star and he wanted John's opinions or
27 input into the article and he explained what it was to
28 John --

29 198 Q. But did he say what the article was about?

1 A. Yes. It's in relation to Baiba Saulite and that, in
2 relation to the documents -- sorry, he said that he got
3 information from high up within the Garda Síochána that
4 I had placed a document in the locker and it wasn't
5 been -- you know, that I never looked at it to that 12:37
6 extent.

7 199 Q. Right. So this wasn't just simply an article about the
8 Baiba Saulite case, it was an article about the failure
9 of you to do something in relation to the information
10 contained in the Victim Impact Report? 12:37

11 A. Yes, indeed. And I remember that John said to me that
12 he told Michael O'Toole not to publish that, that it
13 wasn't fair and it didn't reflect, you know, the actual
14 events, and nevertheless, it was published, as we know.

15 200 Q. And did Mr. Hennessy recount any further the 12:37
16 conversation that he had had with Mr. O'Toole other
17 than the fact that Mr. O'Toole had indicated that this
18 article was going to appear? Did he say why
19 Mr. O'Toole had contacted Mr. Hennessy in the first
20 place? 12:38

21 A. Yes, for his input into, did he want to make a comment
22 in relation to it.

23 201 Q. And did Mr. Hennessy indicate that he was going to make
24 a comment?

25 A. I think what -- what John told me was that he objected 12:38
26 to the article. So, I don't think he wanted to make a
27 comment in relation to it.

28 202 Q. What time of the day was this, do you recall?

29 A. Oh, I'd say about midday.

1 203 Q. And so, he was effectively just telling you that he was
2 tipping you off that this was going to be published the
3 next day, is that right?

4 A. Yes. And what John told me, it's not going to look
5 good for you Liam, you know, that's the way he put it 12:38
6 to me.

7 204 Q. Okay. And did he tell you anything more about his
8 conversation with Mr. O'Toole?

9 A. Not that I can recollect at the moment, unless I am
10 reminded. 12:38

11 205 Q. And -- well obviously -- how you did you react to that
12 to Mr. Hennessy?

13 A. Well extremely anxious and couldn't wait for the
14 publication to actually purchase the newspaper myself
15 and have a look to see what it was about. And it was 12:39
16 on the front page, so I was particularly shocked, you
17 know, at that development.

18 206 Q. Obviously shocked at the contents of it. But did you
19 -- did you think that this had come from somebody
20 senior in An Garda Síochána? 12:39

21 A. Well I was relying on what John told me. He told me
22 that Michael O'Toole told him that it came from high up
23 in the organisation.

24 207 Q. And that's what gave you cause for concern then, is
25 that right? 12:39

26 A. That's correct. And just, it only happened within like
27 a couple of weeks of me approaching the confidential
28 recipient investigation.

29 208 Q. Indeed, yes. Did Mr. Hennessy indicate that the

1 headline would be as it actually was in the end?

2 A. I think he did, yes.

3 209 Q. And -- but that was to bring home the force of just how
4 bad this was going to look, is that right?

5 A. Yes, indeed. 12:40

6 210 Q. Right. Okay. Okay, those are the two matters that I
7 wanted to you to deal with.

8 There is just one other matter in relation to a
9 complaint that you had made to the Tribunal in relation
10 to Dr. Quigley and your referrals, continual referrals 12:40
11 to the Chief Medical Officer. Now, Dr. Quigley isn't a
12 -- he isn't within the ranks of An Garda Síochána as
13 such, and this matter isn't within the term of
14 reference for the Tribunal to look at any allegations
15 of targeting by him. But looking back on this in terms 12:41
16 of his dealings with you, and I suppose bearing in mind
17 I didn't open the letter but I referred to the letter
18 that Dr. Keenan ultimately sent him thanking him for
19 his help and cooperation throughout -- and that she was
20 your GP. I know that you were angered and annoyed by 12:41
21 the fact that you haven't certified as injury on duty.
22 Leaving that aside, and the impact that had on you, to
23 say that you were continuously referred to
24 psychiatrists, you may not have intended it in the way
25 that you set it out to the Tribunal, but it would 12:42
26 appear that, in the first instance, you went and saw a
27 psychiatrist on referral from Dr. Reilly, isn't that
28 right?

29 A. That's correct.

1 211 Q. That was Dr. Fernandez. You also saw Dr. Corry, isn't
2 that right?

3 A. Yes, at the request of my solicitor, yes.

4 212 Q. And Dr. Quigley isn't a psychiatrist, and he was
5 referring you, as a general practitioner, to, as he saw 12:42
6 it, a specialist in the area who could advise him in
7 relation to mental health, isn't that right?

8 A. That's correct.

9 213 Q. And he seems to have done so in circumstances where
10 this issue was a live issue to be determined and to get 12:42
11 advice, isn't that right?

12 A. That's correct.

13 214 Q. And he seems to have communicated that advice on all
14 occasions to the Assistant Commissioner in HRM, isn't
15 that right? 12:43

16 A. That's correct.

17 215 Q. Subsequently, when it came to your retirement, he has
18 received a letter from your own doctor requesting that
19 you be retired on medical grounds, and he acted on that
20 as best he could in the circumstances. There was some 12:43
21 resistance, but it wasn't from him, it was from
22 Dr. Devitt and his opinion as to what was in your
23 interests at the time, but subsequently you were
24 retired on medical grounds.

25 CHAIRMAN: Do you have any complaint about Dr. Quigley? 12:43

26 A. No, my -- what I was saying in my report to the
27 Tribunal was that the continually referring me for
28 psychiatric assessment when Dr. Quigley knew, or maybe
29 should have known, but with the deepest respect to

1 Dr. Quigley, that the non-medical issues which were
2 underpinning my medical condition were not being
3 addressed by senior management, as we can see with the
4 numerous --

5 CHAIRMAN: Sorry, can I ask you a simple question, 12:44
6 Sergeant Hughes: Are you making a complaint about
7 Dr. Quigley? The answer to that first of all is a yes
8 or no, and then you may give an explanation. I don't
9 mind which it is, I just want to know.

10 A. Yes. My complaint to the Tribunal was that -- 12:44

11 CHAIRMAN: No, sorry. Does that mean that you are
12 making a complaint against Dr. Quigley?

13 A. Sorry, Mr. Chairman, do you mind if I consult with my
14 legal team?

15 CHAIRMAN: I do mind if you consult because it's a very 12:44
16 simple question.

17 A. Well --

18 CHAIRMAN: I mean look, you don't have to consult with
19 anybody. Mr. Marrinan has laid out a number of
20 interchanges, and I can understand you might have 12:44
21 thought something at the beginning, or you might have
22 thought something now. But all I want, whether it's
23 relevant or not, or within our terms or not, are you
24 complaining about Dr. Quigley? Now that's -- you don't
25 need to consult anybody to tell me that. 12:45

26 A. In light of discovery following making my Tribunal
27 report, if I was asked to reflect, I would say -- and
28 if Dr. Quigley's duty was to --

29 CHAIRMAN: Can I ask you a simple question, Sergeant

1 Hughes?

2 A. Yes.

3 CHAIRMAN: Are you making a complaint about
4 Dr. Quigley? I don't need a rigmarole, I don't need
5 qualifications, I don't need quibbles, yes or no, 12:45
6 followed, if you like, by any explanation that you want
7 to give. Simple! First, I need a yes or no, and I
8 don't mind then if you qualify -- if you describe any
9 -- do you follow me? I mean I'm not being difficult
10 here, or I'm not giving you a hard time, I want to know 12:45
11 what do I write down.

12 A. Well, yes, to answer your question, Mr. Chairman.

13 CHAIRMAN: Thank you. Okay. why?

14 A. I feel that, Dr. Quigley knew that the non-medical
15 issues that were underpinning my medical condition were 12:46
16 not being addressed by senior management.

17 CHAIRMAN: Was that any of his business to sort out?

18 A. I think so. I think so.

19 CHAIRMAN: Are you sure -- look, you have been over
20 this -- 12:46

21 A. Sorry, not to sort out, but he would be cognizant of
22 the fact that they were not being sorted out, and if he
23 had have -- if there was an insistence that the matters
24 be sorted out before I was referred again further for
25 psychiatric assessment, I think that would have gone a 12:46
26 long way towards resolving the issues and psychiatrists
27 wouldn't need to have been involved at all if the
28 non-medical issues were addressed by senior management.

29 CHAIRMAN: Okay. Anything else, Mr. Marrinan, arising

1 out that or whatever?

2 MR. MARRINAN: Just only on that point. I mean, I am
3 sort of blue in the face from opening letters that are
4 sent from Dr. Quigley requesting that all these matters
5 be addressed -- 12:47

6 A. Yes...

7 216 Q. -- over and over again, and reports from local
8 management, disciplinary proceedings should be
9 finalised as soon as possible, these matters are
10 hanging over Sergeant Hughes's head. I mean, he 12:47
11 couldn't have done much more in the circumstances,
12 bearing in mind that his authority only extended to
13 dealing with you and certifying whether you were fit
14 for duty or not. What more could he have done?

15 A. I don't know what's the answer to that. 12:47

16 217 Q. All right.

17 MR. MARRINAN: Okay.

18 CHAIRMAN: But on the basis of not knowing what more he
19 could have done, you still criticise him?

20 A. Well, I think that the referring me to a psychiatrist, 12:47
21 who has already made recommendations as to the way
22 forward, and these recommendations hadn't been adhered
23 to at all by Garda management, that Dr. Quigley then
24 referring me back then for further assessment to see if
25 there was a change in any way when they there couldn't 12:48
26 have been without Garda management's involvement in
27 these matters...

28 CHAIRMAN: Okay. Anything else, Mr. Marrinan?

29 MR. MARRINAN: There is nothing further. Thank you

1 very much.

2 A. Thank you very much indeed.

3 CHAIRMAN: Thank you very much. You have done very
4 well, if I may say so.

5 A. Thank you, Chairman.

12:48

6 CHAIRMAN: You have been here for four days and you
7 have answered all the questions and you have taken it
8 on the chin. Now I'm sorry to say you'll have to go
9 through a fair bit more because we have more -- but I
10 think -- thanks very much for the moment. Thanks. We
11 are finished now for today, thank you, and I think
12 everybody is probably reasonably pleased.

12:48

13
14 what we have been trying to do is have a -- as best we
15 can -- to fix times and dates so that people understand
16 where they are going.

12:49

17
18 So what we have said, and this is of interest to you,
19 Mr. O'Higgins obviously, and to Mr. Lynn and
20 Mr. O'Dwyer, we have taken out next week and we have
21 blocked out next week for cross-examination and, if
22 necessary, re-examination. I don't anticipate there'll
23 be a huge amount of re-examination by Mr. Marrinan, but
24 never say never.

12:49

25
26 So we think that -- if it takes shorter than a week, so
27 be it, but it's better that people will know and
28 witnesses will know. I don't want to consider the
29 possibility that it might take longer than a week, but

12:49

1 if it does, we'll still go ahead with our programme for
2 the witnesses and we will make some arrangement for
3 allowing further things, but I don't anticipate that.

4
5 Mr. O'Higgins, I don't want to pin anybody down to 12:50
6 being unreasonable, but you must have some idea as to
7 how long you will anticipate cross-examining.

8 MR. O'HIGGINS: Yes, Chairman. The timeline you have
9 indicated, in my view, that's entirely realistic from
10 my perspective. I don't see anything -- the duration 12:50
11 of my cross-examination will fit in.

12 CHAIRMAN: Thank you very much.

13 MR. O'HIGGINS: Well within that.

14 CHAIRMAN: If I were to say that, between yourself and
15 Mr. Lynn and his team, that I am allowing for a week, 12:50
16 that seems reasonable?

17 MR. O'HIGGINS: Yes.

18 CHAIRMAN: Thanks. I don't expect that you have to
19 keep going for a week. But -- so that we know where
20 we're going with the other witnesses and so on. 12:50

21 MR. O'HIGGINS: Will you allow me, very gently and
22 silently and almost off mic, utter the usual caveats
23 about the difficulties in estimating duration of
24 cross-examinations but, as far as am I am concerned, I
25 will be doing everything I can to ensure my -- 12:51

26 CHAIRMAN: And you don't know how much I'm going to be
27 intervening, which I try not to do but there it is, I
28 keep trying, even at my age, I keep trying. So, I'll
29 try not to add to the length of anything, but if you

1 can, you can blame me, which is fair enough. But other
2 than that, I think -- and you can liaise with Mr. Lynn
3 and Mr. O'Dwyer in relation to any of those issues so
4 that you are in agreement -- you understand what time
5 is available. 12:51

6
7 Okay.

8 MR. MCGARRY: I wonder, Chairman, before you rise --

9 CHAIRMAN: Sorry, McGarry, I wasn't forgetting you -- I
10 was forgetting you Mr. McGarry but I include you in 12:51
11 those remarks.

12 MR. MCGARRY: It's entirely understandable, Chairman.

13 I was just going to say, Chairman, with your
14 permission, I say discuss this with Mr. O'Higgins over
15 the weekend, but I may go first because I have a 12:51
16 scheduling difficulty later in the week.

17 CHAIRMAN: I have no difficulty with that, Mr. McGarry,
18 and if Mr. O'Higgins and Mr. Lynn and Mr. O'Dwyer, if
19 they have no problem with that, if counsel make that
20 arrangement, that's not a problem for me. If there was 12:52
21 an objection it, I'd make a ruling. I would -- if
22 there was an objection to it, I would deal with it, but
23 I am assuming there is no objection. If there is an
24 objection to it, it will be the standard way
25 previously, but I will accommodate you, Mr. McGarry, I 12:52
26 won't take you short on that.

27 MR. MCGARRY: I am very grateful, Judge.

28 MR. O'DWYER: I am very sorry, one thing unfortunately
29 --

1 CHAIRMAN: Just pull the microphone a tiny bit. Thank
2 you.

3 MR. O'DWYER: Chairman, one thing has struck me, just
4 if we're finishing there, that there was a matter that
5 Mr. Marrinan was going to return to in respect of Mr. 12:52
6 Hughes, which was the -- you may remember there was the
7 issue of the letter from the Assistant Commissioner
8 HRM, and there was the various -- you remember there
9 was the: and what did he say? And he said he would go
10 back to his -- 12:53

11 CHAIRMAN: And we said what were the multiple
12 inaccuracies that you said?

13 MR. O'DWYER: Yes.

14 CHAIRMAN: And the particular thing that Sergeant
15 Hughes said was the delay -- I think I have a note of 12:53
16 it, I can't remember -- what particular -- anyway, you
17 wanted to --

18 MR. O'DWYER: And it's very --

19 CHAIRMAN: Does Sergeant Hughes want to come back to
20 that, because you can cover it or Mr. Lynn can cover it 12:53
21 in re-examination. There is no problem.

22 MR. O'DWYER: Yes, I think it could be covered. I
23 apologise. Just it was left.

24 CHAIRMAN: There is no question of apologising,
25 Mr. O'Dwyer, thank you for clarifying it, and you are 12:53
26 perfectly right that there was something to return to.
27 But I'm thinking, Mr. O'Dwyer, I am thinking that it's
28 just as easily returned to in your examination, whether
29 we call it cross-examination or whatever you call it,

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it's probably as well to do that, and it's not -- it's not the biggest issue in the world either.

MR. O'DWYER: No.

CHAIRMAN: Thank you. Is that right all right? So we have an early day, which is no harm for anybody it seems to me, after getting started and I think we have made considerable progress. Thanks very much all round. Very good. Thanks.

12:54

THE HEARING ADJOURNED UNTIL MONDAY, 7TH FEBRUARY 2022

12:54

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