

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 MONDAY, 7TH FEBRUARY 2022 - DAY 162

162

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

GWEN MALONE STENOGRAPHY
SERVICES

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FORMER PRESIDENT OF THE COURT OF
APPEAL

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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.

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1 THE HEARING RESUMED ON MONDAY, THE 7TH FEBRUARY 2022 AS
2 FOLLOWS:

3
4 CHAIRMAN: Good morning.

5 MR. MARRINAN: I'll recall Sergeant Hughes, please. 10:30

6 CHAIRMAN: Thanks very much, yes.

7 THE WITNESS: Morning.

8 MR. MARRINAN: Chairman, Mr. McGarry is going to
9 cross-examine.

10 CHAIRMAN: Thanks very much. Yes, Mr. McGarry. 10:30

11
12 SERGEANT WILLIAM HUGHES WAS CROSS-EXAMINED BY

13 MR. MCGARRY AS FOLLOWS:

14 MR. MCGARRY: Thank you, Chairman. I am grateful to My
15 Friends for permitting me to ask questions out of turn. 10:30

16 Q. Sergeant Hughes, my name is Paul McGarry and I am one
17 the barristers representing former Assistant
18 Commissioner Fintan Fanning and I just have a few
19 questions for you arising from your statement and your
20 evidence to the Tribunal. 10:31

21 A. Thank you.

22 1 Q. Can I ask you to look at page 59, this is your omnibus
23 statement to the Tribunal?

24 CHAIRMAN: Can everybody hear Mr. McGarry? Good, no
25 problem. Mr. McGarry, just a tiny bit closer to the
26 microphone. Maybe I am the only one -- 10:31

27 MR. MCGARRY: Thank you, Chairman.

28 CHAIRMAN: Page 59 you said?

29 2 Q. MR. MCGARRY: Yeah, and you'll see there, Sergeant

1 Hughes, at line 908, there is just a passage I want to
2 read out, and I just have a few questions for you
3 arising from that.

4 A. Yes, indeed.

5 3 Q. You say: "In addition to the matters I have set out 10:31
6 above in this statement, I believe that I was also
7 targeted and discredited during the drawing up of my
8 retirement file. This was undertaken by Assistant
9 Commissioner HRM (Fintan Fanning). I say this in the
10 context of all the circumstances leading up to this 10:31
11 point and that there were many unresolved serious
12 matters which were serious and pertinent issues which
13 should have been included in the retirement summation
14 report, however, these were not included.

15 Nevertheless, the decision to retire me on medical 10:32
16 grounds was actively pursued by Garda management
17 despite these matters being unresolved at that time.
18 Completely worn down by the process I accepted this
19 course, but strongly believe that I had been
20 constructively dismissed from An Garda Síochána. I 10:32
21 believe this was the ultimate targeting of me BY Garda
22 management. "

23
24 Now, I just have a few questions arising from what's
25 said there. In the first instance, you say that you 10:32
26 believe you were targeted and discredited during the
27 drawing up of your retirement file and that this was by
28 Assistant Commissioner Fanning. Can you just explain
29 to us what you mean by that?

1 A. Well, what I mean is that the retirement was drawn up,
2 the retirement file was drawn up seemingly on medical
3 -- on the medical evidence alone, and that the matters
4 which we have referred to previously in relation to
5 management not looking after the non-medical issues, I 10:33
6 don't think they had substantive reports in that
7 regard, and that I felt that the retirement file
8 possibly should have included consideration of the
9 non-medical issues as well as the medical issues.

10 4 Q. So you say that the decision to -- that ultimately the 10:33
11 decision that was taken should have taken into account
12 factors other than the medical issues, is that right?

13 A. That's correct.

14 5 Q. Okay. And is that then what you mean when you say
15 "serious and pertinent issues which should have been 10:33
16 included in the summation report, however they were not
17 included...?"

18 A. That's correct.

19 6 Q. And then, you say: "The decision to retire me was
20 actively pursued by Garda management despite these 10:33
21 matters being unresolved at that time." What do you
22 mean by unresolved?

23 A. Well, again, just referring back to the reports that
24 HRM should have received in relation to the non-medical
25 issues were not included in the summations behind the 10:34
26 processes in connection with the retirement process.

27 7 Q. But we saw on Friday, when you were giving evidence in
28 response to questions from Mr. Marrinan, there were a
29 number of medical reports submitted, two I think from

1 your own GP, Dr. Keenan, you remember those?

2 A. That's correct.

3 8 Q. And in those reports your own GP was recommending that
4 you retire on medical grounds?

5 A. That's correct. 10:34

6 9 Q. And I think there was even a report from an independent
7 psychiatrist at that point, isn't that right?

8 A. That's correct I think, yes, yes.

9 10 Q. But Dr. Keenan was your doctor and she was the person
10 suggesting that you needed to retire because you were 10:34
11 unfit to continue in position, isn't that right?

12 A. That's correct. I went to see Dr. Keenan, to express
13 my complete exhaustion at the process that went before.

14 11 Q. No, and I appreciate that the CMO and the assistant CMO
15 were involved, but at the end of the day your own 10:35
16 general practitioner was advising you that you needed
17 to retire?

18 A. Yes. That's after many years of trying to pursue these
19 matters with management and with the CMO there in
20 relation to the non-medical issues which weren't 10:35
21 resolved.

22 12 Q. And then you say "completely worn down by the process I
23 accepted this course but strongly believe that I had
24 been constructively dismissed."
25 Now, did you ever do anything about the suggestion that 10:35
26 you were constructively dismissed?

27 A. With the Garda management?

28 13 Q. Yes.

29 A. I wrote to various commissioners following my

1 retirement and gave -- sent reports to them in that
2 regard.

3 14 Q. And did you ever bring legal proceedings asserting that
4 you had been constructively dismissed?

5 A. I did not. 10:35

6 15 Q. I see. And then, can I ask you to move forward just a
7 few pages, Mr. Kavanagh, to page 62. This is the text
8 of your letter to Mr. Justice Charlton then setting out
9 some of the concerns you have. And just at page 62
10 you'll see there in the second paragraph, you say: 10:36
11
12 "I haven't received legal assistance in drawing up the
13 content of this document."
14
15 That's correct, isn't it? 10:36

16 A. That's correct.

17 16 Q. And then can I ask you to go forward to page 74. And
18 you'll see in the third paragraph it says:
19
20 "In my case a decision was made to cut my pay after six 10:37
21 months absence even though my absence had not been
22 investigated by local management."
23
24 Do you see that?

25 A. I do. 10:37

26 17 Q. "This action was completely in contravention of the
27 Code Regulations."
28
29 And again I'm going to show you the Code Regulations

1 just in a moment but I'm suggesting to you that that's
2 not correct; that the issue with regard to pay was
3 related to the question as to whether you were unfit
4 for work because of an injury on duty or otherwise,
5 isn't that right? 10:37

6 A. Yes, the Code Regulations provide for that, yes.

7 18 Q. And then you say:

8
9 "Management was aware of this factor but to no avail.
10 I believe that this was yet another tactic condone by 10:37
11 Garda management, a way of starving a whistleblower
12 back to work."

13
14 Again, I am asking you, are you referring to Assistant
15 Commissioner, or former Assistant Commissioner Fanning 10:37
16 when you say "starving a whistleblower back to work"?

17 A. Well, I would say that the system, the system, that's
18 the way the system worked, in that I was making very
19 serious allegations to Garda management, I wasn't being
20 listened to as far as I could see, and the censure, the 10:38
21 sanction of my pay there was a factor in my stress and
22 the work related stress. And I wasn't probably
23 referring specifically to Assistant Commissioner
24 Fanning, but overall, that this was what the system had
25 perpetrated. 10:38

26 19 Q. And then, the next page, at the top of the next page,
27 page 75, you say:

28
29 "I can provide evidence to the Tribunal of senior Garda

1 management's highly irregular dealings and lack of
2 compliance with the Garda Occupational Health
3 Department's processes and recommendations that issued
4 for bringing resolution to the matters affecting me."

10:38

5
6 Then you say:

7
8 "I can prove that reports from Garda management in
9 relation to my case contained falsehoods and
10 misinformation."

10:39

11
12 Can I just ask you to identify where in the reports you
13 say there is falsehoods?

14 A. Well, specifically the part of the communications
15 between management, local management and the HRM was
16 that I was refusing all offers by management to meet
17 face-to-face, and that I insisted that communication
18 with me would be by telephone, that was completely
19 false.

10:39

20 20 Q. And is that the extent of the falsehoods that you are
21 referring to?

10:39

22 A. That would be the primary factor, yes.

23 21 Q. And again I need to ask you, when you talk about
24 "senior Garda management" there, are you again, I need
25 to ask you, referring to former Assistant Commissioner
26 Fanning?

10:39

27 A. The falsehoods, I'd say that were sent up to HRM were
28 not sent by Assistant Commissioner Fanning.

29 22 Q. He is not responsible for the allegation that's

1 contained here?

2 A. He is not responsible for receiving -- or for those
3 messages that were sent to him.

4 23 Q. Because, what you have said a moment ago, you say "the
5 CMO had been falsely informed --" You see, you give an 10:40
6 example: "An example of falsehood is contained in the
7 correspondence", which you have just told us, you had
8 been "falsely informed by senior ranking management
9 that I was refusing to meet with local management", but
10 you say that that wasn't Assistant Commissioner 10:40
11 Fanning, is that right?

12 A. That's correct.

13 24 Q. And then if I could ask you to look at page 78, in the
14 middle of the page, third paragraph, I should say, you
15 say: 10:40
16
17 "I believe that I have identified gaping holes in the
18 administrative procedures leading to my medical
19 discharge. These matters are currently under review at
20 HRM but I can safely say that the documents that I have 10:40
21 received clearly highlight huge discrepancies in the
22 administrative processes leading to my retirement."
23

24 Is that again a reference to the same thing, the
25 non-face-to-face meetings or is there something else? 10:41

26 A. Well, in the fact that the reports, the investigative
27 reports concerning my absence on illnesses were not
28 procured by HRM and not sent to HRM by local
29 management, despite numerous requests in that regard

1 from HRM.

2 25 Q. Just on the next page, page 79, the second last
3 paragraph, you'll see:
4
5 "In 2012 a new --" 10:41
6
7 Your words.
8
9 "-- Assistant Commissioner HRM seems to have identified
10 the fact that my protracted absences from the workplace 10:41
11 had not been investigated by local management."
12
13 who are you referring to there?
14 A. Specifically Assistant Commissioner Fanning and, to a
15 lesser degree, Assistant Commissioner Clancy at an 10:41
16 earlier juncture.
17 26 Q. But Assistant Commissioner Clancy moved away from HRM
18 in 2009 and Assistant Commissioner took over in 2009?
19 A. That's correct.
20 27 Q. But it couldn't be a reference to Assistant 10:42
21 Commissioner Clancy if it's in 2012 when you refer to a
22 new Assistant Commissioner?
23 A. Yes, indeed. In -- the correspondences are numerous
24 there from Assistant Commissioner Fanning to local
25 management, and he made great efforts there to actually 10:42
26 try to secure the investigative reports.
27 28 Q. Can I ask you to look at page 6703, please. This is
28 the injury on duty portion of the Garda Code, do you
29 see that, 11.37?

1 A. I do.

2 29 Q. And I don't want to dwell on that but there is a HQ
3 directive, which was signed by Assistant Commissioner
4 Fanning, which is at page 6755 -- 6753 is where it
5 starts. Are you familiar with that? 10:43

6 A. Yes, I have seen that document.

7 30 Q. And on page 3, which is at 6755, you'll see the process
8 in relation to injury on duty classification, do you
9 see that, bottom of the page, just at the very bottom
10 of the page you'll see "he notes that a marginal note 10:43
11 should be made at Code 11.37". So that's what this is
12 referring to, do you see that?

13 A. I just see a marginal note should be made at Code 37,
14 yes.

15 31 Q. Yes. And it's about what's written above and I just 10:43
16 want to look at that for a moment. It says:
17
18 "Where there is any doubt --"
19
20 And that's bold underlined. 10:44
21
22 "-- that any injury on duty occurred divisional --"
23 CHAIRMAN: Sorry, where is this?
24 MR. McGARRY: Sorry, it's page 6755 on page 3,
25 Chairman. 10:44
26 CHAIRMAN: Page 3, yes. Where are you?
27 MR. McGARRY: The heading is "Injury on duty
28 classification".
29 CHAIRMAN: Yes, I am sorry, thanks very much. I didn't

1 see that. I hadn't got that in front of me, yeah?

2 32 Q. MR. MCGARRY: So, it says:

3

4 "Where there is any doubt that an injury on duty
5 occurred, divisional officers should refer the matter 10:44
6 to Assistant Commissioner HRM who will seek the advices
7 of the CMO. The CMO will take into account all
8 relevant information in arriving at his/her advices.

9

10 The decision regarding injury on duty will be based on 10:44
11 - a complete investigation file into accident;
12 - management views and recommendation;
13 - assessment and opinion of the CMO.

14

15 Ordinary Illness/Injury on Duty: Where there is a 10:44
16 doubt --"

17

18 again

19

20 "-- as to whether the member's sickness absence is due 10:44
21 to ordinary illness or an injury on duty, the member's
22 absence will be treated as ordinary illness pending a
23 decision on the classification of the injury and in
24 particular the CMO's advice."

25

10:45

26 And I am suggesting to you, Sergeant Hughes, that the
27 CMO's advice in this matter is absolutely crucial.

28 A. In relation -- yes, in relation to the medical matters,
29 yes.

1 33 Q. Yes. And when you look at the, at all of the documents
2 that we opened on Thursday and Friday, that Assistant
3 Commissioner Fanning was involved with, I'm suggesting
4 to you that at all times, he was making it clear that
5 he required the input and advice from the CMO in order 10:45
6 to process matters or to take decisions?
7 A. Sorry, I thought there was -- the CMO was looking to
8 HRM, Assistant Commissioner HRM for the -- for his
9 input.

10 34 Q. No, what was happening was -- and we can go through it 10:45
11 if we need to -- but what I'm suggesting to you is that
12 all of the documentation shows that the Assistant
13 Commissioner HRM was facilitating, on the one hand, the
14 CMO to get information from local management --
15 A. Yes. 10:46

16 35 Q. -- to provide information to the CMO?
17 A. Yes.

18 36 Q. And he was acting as a conduit, if you like, for
19 information to go to the CMO in order to assist the CMO
20 in providing the advice that he needed to provide? 10:46
21 A. That would sound right, yes.

22 37 Q. So ultimately, there wasn't, I suggest to you, any
23 deviation from this HQ directive, which as we know is a
24 marginal note on 11.37, there wasn't any deviation from
25 that process, because the CMO's advice ultimately 10:46
26 proved to be crucial, isn't that right?
27 A. Yes. What the first paragraph there says "Where there
28 is any doubt that an injury on duty occurred the
29 divisional officer should refer the matter to the

1 Assistant Commissioner HRM." And I think between the
2 two stools there in relation to injury on duty or
3 ordinary illness, there has to be reports received by
4 Commissioner HRM to facilitate a full decision in that
5 regard.

10:47

6 38 Q. Yes, but I am suggesting to you that that document
7 clearly shows that it's the CMO's advice that's crucial
8 in determining the issue?

9 A. Well, it would be crucial from the medical matters
10 point of view.

10:47

11 39 Q. Yes.

12 A. But, overall, any decisions going forward then would
13 have to include the non-medical -- reports on the
14 non-medical matters.

15 40 Q. But what this is concerned with is, whether the illness
16 is an ordinary illness or an injury on duty?

10:47

17 A. Yes.

18 41 Q. So I'm suggesting to you that it's entirely proper and
19 appropriate that that would be done by taking the
20 advice of the CMO, or relying on the advice of the CMO?

10:47

21 A. Yes, on the medical matters, yes.

22 42 Q. Yes. But is there any -- is the question as to whether
23 the illness is an ordinary illness or an injury on duty
24 anything other than a medical matter?

25 A. Oh, yes. There would have to be reports submitted by
26 local management in relation to the non-medical
27 matters, I think, before full determination can be
28 made.

10:47

29 43 Q. I see. There was just one other matter and it's not

1 particularly important. At page 4262, Mr. Kavanagh, I
2 think there was a suggestion -- there is a handwritten
3 note at the bottom right-hand corner of that document,
4 and it was suggested I think that that was Assistant
5 Commissioner Fanning's note, but in fact I'm instructed 10:48
6 that that's superintendent -- Chief Superintendent
7 Grogan's note. Again, I don't think anything turns on
8 that.
9 Thank you.

10 A. Thank you. 10:49

11 CHAIRMAN: Very good, you are finished now,
12 Mr. McGarry?

13 MR. MCGARRY: Yes, Chairman.

14 CHAIRMAN: Thank you very much. Yes?

15 MS. McGRATH: Chairman, you'll recall from our 10:49
16 discussion this morning that there is some material
17 that Mr. O'Higgins wants to have circulated before he
18 starts his cross-examination.

19 CHAIRMAN: Certainly.

20 MS. McGRATH: We are trying to resolve that problem at 10:49
21 the moment, and Ms. Doolan and Ms. Walsh are just gone
22 upstairs to print hard copies and they should be back
23 in about five minutes, if -- I don't know if
24 Mr. Kavanagh has resolved it electronically?
25 If you just give me a moment, Chairman, just for one 10:50
26 second.

27 CHAIRMAN: There should be no problem because I have a
28 copy here and I am happy for that to be circulated and
29 I am sure that Tribunal counsel can circulate theirs

1 and we'll get copies in due course.

2 MS. McGRATH: I am just going to check something with
3 with Mr. Kavanagh. Just one moment. No, they haven't
4 been added electronically, so it might take about five
5 minutes, if that's okay. 10:50

6 CHAIRMAN: well, I think we'll proceed. Mr. O'Higgins,
7 can you leave -- can you leave -- this is PULSE
8 records? Sorry, Mr. O'Higgins, can I address you?

9 MR. O'HIGGINS: Sorry, my microphone is misbehaving
10 slightly. 10:50

11 CHAIRMAN: Sorry, just a moment. We asked that -- you
12 asked that certain material, i.e. PULSE records, be
13 circulated before your cross-examination, isn't that
14 right?

15 MR. O'HIGGINS: That's right. 10:51

16 CHAIRMAN: And we assembled the PULSE records and
17 collected them, but because of glitches in our system
18 we weren't able to put them electronically so that they
19 would be immediately available. Can you leave that
20 matter over until after lunch when we can hand out -- 10:51
21 when we can hand over copies of the PULSE records to
22 counsel for Sergeant Hughes so that everybody -- now
23 everything is gone off -- so that everything -- is that
24 okay with you?

25 MR. O'HIGGINS: No difficulty at all, Chairman. 10:51

26 CHAIRMAN: Right. And, Mr. Lynn, you have no problem
27 with that? You haven't seen the stuff. There is not
28 that much in it. I don't know how significant it is or
29 how -- but it would be useful for you to have an

1 opportunity of looking at it over lunch, there is not a
2 lot you can do about it, I dare say, but anyway, we'll
3 arrange for that. And so, we'll proceed on that basis.
4 And Ms. McGrath, if copies, if hard copies arrive,
5 we'll simply distribute them. 10:52

6 MS. McGRATH: They are actually here, Judge, just now.

7 CHAIRMAN: They have arrived? For goodness sake,
8 problem solved, Ms. McGrath, it's efficiency more than
9 anybody could demand. Okay. So, now we're in the
10 position, Mr. O'Higgins, you can proceed, it seems to 10:52
11 me, in accordance with whatever you you want, including
12 referring to PULSE records, if and when they are to be
13 handed to the witness, they will be handed to the
14 witness.

15
16 THE WITNESS WAS CROSS-EXAMINED BY MR. O'HIGGINS AS
17 FOLLOWS: 10:52

18 44 Q. MR. O'HIGGINS: Thank you, Chairman. Sergeant Hughes,
19 Mícheál O'Higgins for An Garda Síochána.

20 A. Hello. 10:53

21 45 Q. Now, can I just begin, and we needn't spend too long on
22 this because Mr. Marrinan brought you over much of this
23 material and it's not directly -- it's not a matter
24 that the Tribunal is investigating directly, but just
25 to set context, can I bring you back to the end of 10:53
26 2004?

27 A. Yes.

28 46 Q. I think it's the case that in December of 2004, and
29 where I'm going with this is just to get a bit of

1 context of when you first met Baiba Saulite, all right?

2 A. Yes, indeed.

3 47 Q. So in December 2004 Baiba Saulite, I think, obtained a
4 barring order in the District Court?

5 A. That's correct. 10:53

6 48 Q. And the gist of the basis upon which she obtained it
7 was the position that she had been subjected to
8 violence by her partner?

9 A. That's correct.

10 49 Q. And I think on the 10th December, she was accompanied 10:53
11 by her solicitor, John Hennessy?

12 A. That's correct.

13 50 Q. And went before, I think, it was district Judge Bryan
14 Smyth, is that right?

15 A. Yes, indeed. 10:54

16 51 Q. And he directed that an order be made -- that an order
17 be served on Mr. A directing him to produce the
18 children at Swords District Court on a later date in
19 December?

20 A. That's correct. 10:54

21 52 Q. And I think, broadly speaking now, just dealing with
22 matters generally, that's appraisal well where you come
23 into the picture?

24 A. That's correct.

25 53 Q. And you served that order on Mr. A, you have indicated 10:54
26 in your materials, and he failed to attend at Swords
27 District Court, and a warrant had to issue for his
28 arrest?

29 A. That's correct.

1 54 Q. And it's my understanding then that on a later date in
2 December, I think it was the 2nd December, he was
3 found to be in contempt of court?
4 A. That's correct.

5 55 Q. Can I just ask you: did you give evidence in relation 10:54
6 to that before the district judge?
7 A. I did not, no.

8 56 Q. And in one of your reports, it indicates that around
9 this time you met I think John Hennessy and you
10 certainly met Baiba Saulite? 10:55
11 A. Yes, I think he was arrested and put in custody and
12 taking to Dolphin House Court in Dublin here on the
13 24th December 2004. And I became aware that the garda
14 who was in charge of the case had difficulties on that
15 particular day, and I was in Swords Garda Station when 10:55
16 I heard of these difficulties so I decided to proceed
17 to Dolphin House Court, as I had some knowledge of the
18 case.

19 57 Q. Yes. And as we move then into January of 2005, you and
20 your superintendent, Noel McLoughlin, obtained an order 10:55
21 pursuant to I think it is section 42 of the Criminal
22 Justice Act of 1999 for a warrant for the arrest of
23 Mr. A?
24 A. Yes, from prison, yes.

25 58 Q. And I think the purpose of that was to enable his 10:55
26 questioning in relation to the abduction of the
27 children?
28 A. Correct.

29 59 Q. And I think that thereafter, in January, Mr. A was

1 arrested, was it by yourself?

2 A. Sorry, he remained in custody. We brought him back to
3 Cloverhill Prison and he remained in custody until he
4 until he purged his contempt --

5 60 Q. Sorry, I said arrested, you are quite right to correct 10:56
6 me. He was questioned in relation to the abduction
7 investigation?

8 A. That's correct.

9 61 Q. And I think you yourself participated in that, I think 10:56
10 it was in the second interview with Garda McNally, you
11 asked him questions pertaining to the abduction
12 allegation?

13 A. That's correct.

14 62 Q. And you were aware, weren't you, that Mr. A continued, 10:57
15 as his partner complained, you were aware that he
16 continued to insert -- to assert considerable influence
17 over Ms. Saulite, isn't that right?

18 A. Oh yes, he did, yes.

19 63 Q. And this brought about a situation where Ms. Saulite 10:57
20 informed Gardaí that she and Mr. A had arranged to meet
21 to try and bring a conclusion to the ongoing family law
22 dispute that they had?

23 A. That would be correct, yes.

24 64 Q. And I think subsequently then, as January moved, as we 10:57
25 moved towards the end of January, the 19th January, you
26 became aware that Ms. Saulite was offering to withdraw
27 her statements of complaint against Mr. A, isn't that
28 right?

29 A. That's correct.

1 65 Q. And am I correct, you met her at Swords Garda Station
2 over approximately a two-day period, around this time,
3 where she was effectively seeking to withdraw her
4 statement?
5 A. Yes, that's correct. 10:57

6 66 Q. And am I correct that Mr. A was in fact with her on
7 this occasion, and you took the common sense and
8 sensible approach of insisting that he remove himself
9 from the environs of the station?
10 A. That's correct. 10:58

11 67 Q. And I think through your efforts, you were able to
12 persuade Ms. Saulite that she should not withdraw her
13 complaints and that had -- that bore fruit, those
14 efforts, and she indicated that she was resolute in her
15 intent to pursue the complaint? 10:58
16 A. That's correct.

17 68 Q. So as we move the timeline on then to considerably
18 later that year, I suppose one of the standout events
19 in 2005 pertaining to the investigation was that
20 directions were received in August from the Director of 10:58
21 Public Prosecutions, isn't that right?
22 A. I think it might have been May, but I'd -- it was
23 mid-2005 anyway.

24 69 Q. Well perhaps they were implemented in August. In any
25 event, was it yourself who charged Mr. A and brought 10:59
26 him before the Bridewell District Court?
27 A. I did indeed, yes.

28 70 Q. And on that occasion, I think did he threaten you on
29 that occasion in the environs of the court?

1 A. Yes, he made veiled threats towards us but no threat
2 that was specific to us.

3 71 Q. And he had to be restrained by your colleague, Garda
4 Nyhan?

5 A. Yes, myself and Garda Nyhan. 10:59

6 72 Q. You both had to restrain him?

7 A. Well, we were holding on to him when he was in custody
8 in the Bridewell prison section.

9 73 Q. We needn't look at it now because -- oh, in fact it's
10 been circulated. I think there is a -- you took the 10:59
11 initiative of putting up an entry on PULSE, isn't that
12 right, on the 25th August 2005?

13 A. Yes.

14 74 Q. Referable to this matter, isn't that so? It's a little
15 hard to see the date, but if we -- [document handed to 11:00
16 the witness]

17 A. Sorry, which page?

18 75 Q. CHAIRMAN: Have you got that book of documents? It's
19 page 4. And you'll see the date about half-way down
20 over towards the right-hand side, which gives date and 11:00
21 time, do you see that?

22 A. 4/1/2005, yes.

23 76 Q. CHAIRMAN: No, the next one. The fourth document, at
24 least in my book the fourth document in is 25/08/2005.
25 Time: 12:06. Is that the one? 11:01

26 A. Sorry, are we saying --

27 MR. O'HIGGINS: There may be a few of them -- this may
28 assist sergeant --

29 77 Q. CHAIRMAN: Hold on, Mr. O'Higgins, wait until -- wait

1 until everybody has the right document, particularly
2 Sergeant Hughes. Sergeant Hughes, start from the
3 beginning again.

4 A. Yes, indeed.

5 78 Q. CHAIRMAN: Mr. O'Higgins, please allow me. Go to the 11:01
6 fourth page

7 A. Fourth page.

8 79 Q. CHAIRMAN: Okay?

9 A. Okay.

10 80 Q. CHAIRMAN: Find a date on the right-hand side. You 11:01
11 should be familiar with this --

12 A. I am.

13 81 Q. CHAIRMAN: -- half-way down: 25/08/2005.

14 A. Yes, I have it here. Thank you Mr. Chairman.

15 82 Q. CHAIRMAN: Very good. Now Mr. O'Higgins. 11:01
16 MR. O'HIGGINS: Thank you Chairman.

17 83 Q. Do you see there in the narrative box which you would
18 have written in, isn't that right?

19 A. Yes, indeed.

20 84 Q. And what I have here on page 8457, there is a reference 11:02
21 to the directions of the DPP, do you see that?

22 A. Yes, I do.

23 85 Q. "[blank] Mr. A was formally charged before court 46
24 with abducting his two children." And the names are
25 blanked out appropriately. "See previous intelligence 11:02
26 reports." Isn't that right?

27 A. Yes.

28 86 Q. "Remanded in custody on the 27th August 2005. He
29 made -- "I think you have used this expression already:

1 "He made veiled threats."

2 A. That's correct.

3 87 Q. What is a veiled threat?

4 A. Well, it would be mutterings under his breath towards
5 us in other words that we'd be in trouble or to that 11:02
6 extent, that type of thing. He was sort of aggressive
7 towards us, you know.

8 88 Q. Right. And it was towards yourself. He threatened
9 you?

10 A. Well, I wouldn't consider it as a threat to me 11:02
11 personally, but he was just aggressive towards us, you
12 know.

13 89 Q. I see. And it says:
14
15 "He made veiled threats to Sergeant Hughes at the 11:03
16 Bridewell after his bail application failed. Garda
17 Declan Nyhan assisted in restraining him."
18
19 So he assisted you, is it, in restraining him?

20 A. Well, we had to restrain him to make him comply with 11:03
21 our directions towards the cells, et cetera.

22 90 Q. Right. Then it says:
23
24 "The mother of the children (Baiba Saulite) is now
25 anxious that Mr. A may seek to threaten and intimidate 11:03
26 her."
27
28 Is that right?

29 A. That is correct.

1 91 Q. Did she say that to you?
2 A. She did, yes.
3 92 Q. It says:
4
5 "Any calls to this address to be treated urgently. At 11:03
6 the time of his arrest Mr. A was driving vehicle [
7 blank]."
8
9 And it gives a description. So just that detail there,
10 you put into the PULSE entry that any calls to this 11:03
11 address to be treated urgently and that was an
12 appropriate step you took?
13 A. Yes, it was.
14 93 Q. All right. And am I correct that you also took, if I
15 may say, the appropriate step of sending a memorandum 11:04
16 to your colleagues?
17 A. Yes, if I can be reminded?
18 94 Q. Yes. So maybe we might have page 1710 on screen,
19 please. And just whilst Mr. Kavanagh is getting it,
20 what you are going to see, sergeant, is a memorandum 11:04
21 that is signed by yourself, addressed to the
22 superintendent in Coolock, bearing the date stamp the
23 25th August of 2005. And you'll see there on the
24 right-hand side, top corner, we have the date stamp,
25 and the heading is: "DPP -v- [blank]". Mr. A. 11:05
26 "Breaches of section 16, Non-Fatal Offences Against the
27 Person Act 1997." And it indicates in the first
28 paragraph that:
29

1 "The above person was charged before the Dublin
2 District Court 46 on that date, the 22nd August '05
3 with the abduction and was remanded in custody at
4 Cloverhill on the 26th August."

11:05

5
6 Then it says:

7
8 "His partner, Baiba Saulite, the mother of the
9 children, now resides at [blank] address in Swords."

10
11 11:05

12
13 Skip over the next bit.

14 "Ms. Saulite has expressed fear that Mr. A may seek to
15 intimidate her as a result of her continued cooperation
16 with the Gardaí in this matter. He has displayed
17 violent tendencies towards others, including
18 Ms. Saulite in the past."

11:05

19 was that your -- that represented your knowledge at the
20 time, did it, sergeant?

11:06

21 A. That's correct.

22 95 Q. And you alerted them in the following paragraph, you
23 said:

24
25 "It is requested that all members familiarise
26 themselves with this matter and be aware that any calls
27 to the above address should be responded to promptly."

11:06

28
29 Can you assist the Chairman, what was your thinking in

1 putting that alert out to your colleagues?

2 A. well, precisely that; that any calls to the address
3 there should be treated as urgent, any patrol cars in
4 the vicinity to go immediately to the address, any
5 available resources immediately go to the address. And 11:06
6 command and control, our control units would be made
7 aware of that to be alert, there would be an alert put
8 on the system.

9 96 Q. CHAIRMAN: May I just ask a question there? Does that
10 really mean any calls from this address should be 11:06
11 treated urgently?

12 A. Eh, any calls from the -- yeah, from the -- from Baiba
13 Saulite.

14 97 Q. CHAIRMAN: I mean, it says "to the address", but it
15 seems that it means any calls from the address should 11:06
16 be treated urgently. There is no -- it's just that, to
17 be clear about it.

18 A. Yes.

19 98 Q. CHAIRMAN: Is that right?

20 A. Yes. And if somebody puts in a call from the address, 11:07
21 they would get there as quickly as possible.

22 99 Q. CHAIRMAN: Yes. Thanks?

23 100 Q. MR. O'HIGGINS: So, as we move the timeline on then
24 into September of 2005, we know that Mr. A applied for
25 bail in the High Court? 11:07

26 A. That's correct.

27 101 Q. And were you present for that? I think Ms. Saulite
28 gave evidence, did she?

29 A. Yes, I was there with Baiba.

1 102 Q. And did you accompany her to the Court?
2 A. I don't recall if I accompanied her to the Court, but
3 she was at the court for the bail application.
4 103 Q. That's fine. And you also gave evidence?
5 A. I did. 11:07
6 104 Q. The High Court judge, we have heard already, made the
7 pragmatic decision to admit Mr. A to bail but on the
8 condition that the children were to be returned to the
9 jurisdiction?
10 A. Correct. 11:08
11 105 Q. And that practical approach bore fruit, as it were, and
12 I think in October of 2005 Mr. A made arrangements for
13 the return of the children and it was organised that
14 Baiba Saulite would travel to the Middle East to
15 collect them, isn't that right? 11:08
16 A. That's correct.
17 106 Q. And I think on the 20th October 2005, the two children
18 returned, and in accordance with the bail order of the
19 High Court judge, Mr. A was released?
20 A. That's correct. 11:08
21 107 Q. So, as we move the timeline into February of 2006, am I
22 correct that Ms. Saulite visited you in the station in
23 February of 2006, is that right?
24 A. Can I be reminded of the chronology on that, please?
25 108 Q. Certainly. This was with a view to obtaining a 11:09
26 protection order against Mr. A, does that help you? I
27 don't mean this to be in any sense a catch you out
28 situation.
29 A. No, I was aware she was applying for under the family

1 law acts there in the courts at the time, okay.

2 109 Q. All right. So, in fact I think did you do a PULSE
3 entry as well, and again to your credit, did you also
4 make a PULSE entry referable to this --

5 A. I could have, yes. 11:09

6 110 Q. -- this incident? I'll just see now if it's in the
7 materials that we have there. In any event, it is the
8 case, isn't it, that Mr. Hennessy was called as a
9 witness for the prosecution to contradict the claim
10 that is being made by -- 11:10

11 A. Oh, I recall now --

12 111 Q. -- Mr. A that he was the legal guardian of the
13 children, and that obviously would not have endeared
14 Mr. Hennessy to Mr. A, isn't that right?

15 A. That's correct. 11:10

16 112 Q. And that was in the context of Mr. A being anxious to
17 get a lighter sentence that he might otherwise get in
18 relation to the car operation that he was being
19 prosecuted for before the Circuit Court?

20 A. I don't recall that, but I do recall that the -- I 11:10
21 think Mr. Hennessy objected to his status under the
22 Guardianship of Infants Act and that I think what was
23 the matter that became a bone of contention.

24 113 Q. All right. And we know from the timeline that on the
25 27th February 2006 Mr. Hennessy's home was the subject 11:10
26 of an arson attack?

27 A. That's correct.

28 114 Q. A serious matter. And it's my understanding, as we
29 move into March of 2006, that Mr. A was arrested in

1 relation to the arson attack and questioned, is that
2 right?

3 A. That's correct.

4 115 Q. And you were made aware, weren't you, you being on good 11:11
5 terms obviously with Sergeant Ambrose and other people
6 in the station, you were fully aware of this arson
7 attack?

8 A. Sergeant Ambrose looked after the arson attack on
9 Baiba's car.

10 116 Q. On her car, excuse me? 11:11

11 A. Yes, I was aware of that.

12 117 Q. And you were also aware of the arson attack on
13 Mr. Hennessy's home?

14 A. Yes, correct.

15 118 Q. And I presume, being an experienced garda officer, and 11:11
16 availing of your common sense, it did cross your mind
17 that there may be a connection --

18 A. Oh, yes.

19 119 Q. -- a link between these matters, isn't that right?

20 A. That's correct. 11:12

21 120 Q. That is to say, between the abduction of the children,
22 and also the attack on Mr. Hennessy's home?

23 A. Yes, indeed.

24 121 Q. In terms of a common suspect.

25 A. Sorry, excuse me? 11:12

26 122 Q. In terms of a common suspect?

27 A. Yes, we knew where the threat was coming from.

28 123 Q. And I think the case -- the arson on Mr. Hennessy's
29 home, it's fair to note, was investigated by Swords

1 detective unit?

2 A. Correct.

3 124 Q. And you also became aware of Garda intelligence that a
4 person had been approached and asked to consider
5 shooting a solicitor? 11:12

6 A. That's correct.

7 125 Q. And you knew, obviously, that was Mr. Hennessy?

8 A. Sorry, I obviously?

9 126 Q. You made the connection that that was Mr. Hennessy?

10 A. It came down on the bulletin, the bulletin from the 11:12
11 Commissioner's office that it was Mr. Hennessy, yes.

12 127 Q. And you also were aware, when it happened, or shortly
13 after it happening, of the attack on Ms. Saulite's car
14 in August of 2006?

15 A. The arson attack on her car, yes. 11:13

16 128 Q. And it was outside her home, isn't that right?

17 A. That's correct.

18 129 Q. And I think on the 11th October 2006, as we move the
19 timeline on again, you had visited Ms. Saulite, isn't
20 that right, you indicated that in one of your reports? 11:13

21 A. Yes, that's correct.

22 130 Q. And can I just ask you: what was the purpose of that
23 visit or what was the context of that visit?

24 A. We went over to visit her in relation to the
25 forthcoming trial, which was due to start on the 7th 11:13
26 November.

27 131 Q. Yes. And broadly speaking, would it be fair to say you
28 wanted to ensure, being the officer centrally involved
29 in the abduction investigation, you wanted to ensure

1 that she'd appear in Dublin Circuit Criminal Court for
2 the trial relating to the abduction?

3 A. Yes, indeed. I think we served a subpoena on her that
4 day.

5 132 Q. I see. And so, this was in, did you say, the 11th 11:14
6 October?

7 A. The 11th October 2006, yes.

8 133 Q. The trial was due to happen, due to start on the 7th
9 November, isn't that right?

10 A. That's correct. 11:14

11 134 Q. And she relayed to you, did she, that she was
12 continuing that -- that he, Mr. A, was continuing to
13 intimidate her from prison, isn't that right?

14 A. That's correct.

15 135 Q. And she told you that he was constantly ringing her and 11:14
16 sending her texts?

17 A. That's correct.

18 136 Q. And applying pressure that way?

19 A. That's correct.

20 137 Q. Can you just assist us, other than that visit on the 11:14
21 11th October, did you also visit her home on her
22 occasions in October?

23 A. I'd have to be reminded through the PULSE incidents
24 there or through any records, but the 11th October is
25 the one that I remember. 11:15

26 138 Q. All right. And on the 13th October, you received -- I
27 think you have told us this already -- you received
28 what you regarded as more reliable information
29 regarding a threat on John Hennessy's life?

1 A. That's correct, it was an article -- an instrument down
2 from the Commissioner's office in that regard.

3 139 Q. All right. And you became aware that a specific hitman
4 had been identified and also I think a weapon; that was
5 the intel? 11:15

6 A. That's correct.

7 140 Q. And you made -- you took proactive steps and you made
8 contact with an official in the Chief State Solicitor's
9 Office and told her of these latest developments that
10 had come to your attention? 11:15

11 A. That's correct.

12 141 Q. And I think also, you sent in a report via your own
13 superintendent, on the 20th October, referable to this
14 information, isn't that correct?

15 A. That's correct. 11:16

16 142 Q. We might just look at that for a moment, sergeant.
17 It's at page 1737 of the materials. Maybe I have the
18 wrong -- so, I have 1737 in my page. It is a report of
19 yourself, Sergeant Hughes, to Superintendent Coolock,
20 of the 20th October 2006. Mr. Kavanagh might just 11:16
21 scroll down, see if we... No. We're still on the
22 PULSE. All right. Well, I'll just, for the moment
23 then if we scroll down a little bit more, it might be
24 this next document. That's us there, thanks,
25 Mr. Kavanagh. 11:17

26
27 So, do you have it there, sergeant? We have lost it
28 again there, Mr. Kavanagh. If we scroll down a few
29 pages.

1 CHAIRMAN: Can I have the correct number?

2 MR. O'HIGGINS: 1740.

3 CHAIRMAN: Thank you.

4 MR. O'HIGGINS: If we just hold it there for a sec.
5 Thank you. 11:17

6 143 Q. So just to familiarise yourself, sergeant. This is
7 your memorandum to the superintendent at Coolock
8 bearing the date stamp the 20th October '06. And it
9 records that:

10
11 "The above trial is due to proceed at Dublin Circuit
12 Criminal Court on the 7th November 2006. The accused,
13 Mr. A, is currently serving a four-year sentence in
14 Mountjoy Prison on an unrelated matter." 11:17

15
16 That was the case, wasn't it, sergeant? Mr. A was now
17 serving a sentence that he had got from the Circuit
18 Court in relation to the stolen cars operation that --

19 A. That's correct. 11:17

20 144 Q. -- he had been involved with. If we scroll down a
21 little bit. The memo continues: 11:18

22
23 "Two of the witnesses due to give evidence at the trial
24 on the 7th November are John Hennessy, solicitor, and
25 Mr. A's partner, Baiba Saulite. Mr. Hennessy has been 11:18
26 the victim of an arson attack on his home on the 27th
27 February 2006. Baiba Saulite's private car was the
28 subject of an arson attack outside her home on the 18th
29 August 2006."

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So it's fair to say you were linking those two serious criminal matters?

A. That's correct.

145 Q. And then if we read on:

11:18

"Mr. A is a suspect for the arson attack on Mr. Hennessy's home. The attack on Ms. Saulite's property is still under investigation. Preliminary findings indicate that Mr. A may be a suspect for arranging this attack. Mr. Hennessy has recently been the subject of a further threat on his life. [Blank] is suspect for organising this threat. It may be prudent to have details of the above matters furnished to the office of the DPP for the information of prosecuting counsel in the above case."

11:18

11:19

And that's signed by yourself, isn't that right?

A. That's correct.

146 Q. And we have heard already, and you have indicated in your evidence, sergeant, that the court ordered that a Victim Impact Report be prepared by Ms. Saulite, and we know all about?

11:19

A. We do.

147 Q. That's at the heart of things. But can you just assist the Tribunal, how many times, can you recall -- just to give us a flavour of it, how many times did you see Baiba Saulite in between the time when her car was burnt out in August '06 and 14th November, when she met

11:19

1 you in the Garda Station in Swords?

2 A. Well, as we discussed, I visited her on the 11th
3 October 2006, and there could have been another
4 occasion which just doesn't come to mind at the
5 present. We would have met her at the court for the 11:20
6 trial.

7 A. Yes.

8 148 Q. You know. And then following the order that a victim
9 impact be composed or prepared we met her then on the
10 14th November 2006? 11:20

11 149 Q. Yes. And what was -- so there were -- were they at the
12 station or did you see her at her home?

13 A. Sorry, on the 11th October 2006 was at her home.

14 150 Q. Were there other visits to her home?

15 A. I just can't recall at the moment. I'd have to be 11:20
16 reminded of the chronology.

17 151 Q. All right.

18 A. But the 14th November -- or sorry, the 7th November,
19 would have been the court hearing obviously.

20 152 Q. Right. 11:20

21 A. And then at the station for the 14th, Swords Station
22 for the 14th November of 2006.

23 153 Q. Right. And prior to her coming to the station on the
24 14th with the draft victim impact, had you given her a
25 degree of guidance on what should or shouldn't be in 11:21
26 it?

27 A. I had -- we had arranged for her to call at an earlier
28 date and when we contacted her, there was something had
29 come up and we couldn't meet her and we put it back to

1 the 14th. But on the 14th I gave her guidance. I said
2 that it should really be matters there that don't refer
3 to Mr. A in a negative light and she -- I asked her
4 from a health point of view, how did she -- you know,
5 how did she react to these things and I advised her to 11:21
6 get medical reports in that regard.

7 154 Q. All right. We'll come to that because it is quite
8 important that meeting there, so we'll come to that.
9 But just to set the context for that, am I correct that
10 Baiba Saulite, when she came to the Swords Garda 11:21
11 Station on the 14th November, she had made an
12 appointment to see you?

13 A. That's correct.

14 155 Q. And previously, when you had gone to her home, were you
15 with Garda Nyhan? 11:22

16 A. That's correct.

17 156 Q. Right. And it's possible, is it, that there were other
18 visits to her home with Garda Nyhan?

19 A. Between the 11th October and the --

20 157 Q. No, between August and November? 11:22

21 A. Oh yes, there may have been one, at least one visit to
22 her home.

23 158 Q. All right. And obviously, entirely proper, you were
24 preparing her for her court appearance and ensuring
25 that she turned up in the first instance? 11:22

26 A. Yes, indeed.

27 159 Q. And it's my understanding that with Garda Nyhan, when
28 she arrived at the station on the 14th November, you
29 took her to an interview room where she provided you

1 with the draft statement that she had written on hotel
2 notepaper?

3 A. Yes. Someone else had written the document for her.

4 160 Q. I understand. So, a friend of hers had written the
5 document and had given her help in putting it together? 11:22

6 A. That's correct.

7 161 Q. Her visit to the station, how long did it last?

8 A. I would say approximately 30 minutes, 40 minutes. It
9 wouldn't have been much longer than that.

10 162 Q. 30 or 40? 11:23

11 A. I can't recall specifically exactly how long it was, it
12 wasn't really -- as I said, it was an informal type of
13 a meeting so...

14 163 Q. Inspector Cryan records you indicating it was 45
15 minutes, you wouldn't differ with that? 11:23

16 A. I wouldn't have any difficulty with that, no.

17 164 Q. All right. The meeting obviously was about this
18 important document that was to go before the court, and
19 it was going to be needed by the circuit judge in
20 dealing with sentence, isn't that right? 11:23

21 A. Correct.

22 165 Q. At this point in time, he had -- Mr. A had pleaded
23 guilty --

24 A. That's correct.

25 166 Q. -- to the abduction of the children. And that, 11:23
26 presumably, was obviously good news for the
27 investigation and good news for you and your
28 colleagues?

29 A. Yes indeed.

1 167 Q. would it be fair to say there was a degree of stand
2 down of tension a little bit: what was thought to be a
3 fully hotly contested trial had now reduced, if that's
4 the right verb, to a plea?
5 A. Yes, we were very relieved that the plea had been taken 11:24
6 and that we weren't put through the ordeal of a trial
7 in that regard, you know. And my personal belief was
8 that he was just accepting full -- accepting fully that
9 he was guilty of the crime and he was going to move on
10 from that. 11:24
11 168 Q. Yes. Am I correct that in this visit of Baiba Saulite,
12 that you indicate may have taken place between, was it,
13 between 30 and 45 minutes, whatever it was, you
14 discussed with her Mr. A, and specifically whether --
15 how he was after the plea and how his demeanour was? 11:25
16 A. Yes indeed. we -- having dealt with the aspect of the
17 written document she had, and I photocopied and handed
18 it back to her, I then just engaged in a casual
19 conversation with her as to how he was since the
20 sentencing, and she related some matters to us then. 11:25
21 169 Q. Casual conversation?
22 A. Casual conversation.
23 170 Q. She told you, didn't she, that she had stopped bringing
24 the children to see him?
25 A. That's correct. 11:25
26 171 Q. She had told you she had changed the SIM card on her
27 phone?
28 A. That would be correct, yes.
29 172 Q. Did that cause you any concern, that she had decided to

1 take that step that might annoy him?

2 A. No, not at the time, not really. It was just, I did
3 express concern to her that 'Is that the right thing to
4 be doing?' or words to that effect to her, but she
5 seemed to be determined enough to go that course. 11:26

6 173 Q. And you detected a greater confidence in her?

7 A. Absolutely. She looked very well and confident within
8 herself and happy within herself.

9 174 Q. You, I think, asked her obviously how she was and she
10 said Mr. A never stopped talking about John Hennessy 11:26
11 and yourself, Liam Hughes?

12 A. That's correct, yes.

13 175 Q. And that you and John Hennessy were responsible for
14 putting him in prison?

15 A. That's correct, she would have said -- yes. 11:26

16 176 Q. It is the case, isn't it, that in the course of this
17 meeting on the 14th November, sergeant, Baiba Saulite
18 told you that she feared for her own safety?

19 A. Absolutely not. She did not say that to us.

20 177 Q. Absolutely -- you are clear on that? 11:26

21 A. Absolutely clear. If she had said that to me, I
22 would have asked her did she want to make a formal
23 complaint in that regard and we would have investigated
24 it. She certainly did not say she was in fear of her
25 own safety to us on that occasion. 11:27

26 178 Q. Did she not say that she was in fear for her own
27 safety, Declan's safety, John's safety and your --
28 Liam's safety?

29 A. No. She mentioned myself and John Hennessy and

1 probably Declan as well. But not -- she made no
2 complaint to me whatsoever in relation to her own
3 safety.

4 179 Q. But she was present in the station with a victim impact
5 draft report, I acknowledge a draft, but she was 11:27
6 present with a draft that indicated in express terms
7 that she had a concern for her safety?

8 A. Yes indeed. That hadn't been read at the time, and she
9 didn't make that complaint to us on the 14th November.

10 180 Q. So at this meeting of the 14th November, she was 11:27
11 handing you over a draft report in which she expressed
12 a concern for her own safety, and yet, you're saying
13 explicitly she expressed no such concern at the
14 meeting?

15 A. She did not make any allegation to me in relation to 11:27
16 her own safety on that occasion.

17 181 Q. You see, I just wonder, are you mistaken about that?
18 And I'll just offer to you why.

19 A. No. I'm absolutely clear about that.

20 182 Q. All right. In your conversation with Inspector Cryan 11:28
21 on the 22nd November, that's the Wednesday after the
22 murder on the 19th, Inspector Cryan records you as
23 saying to him that Ms. Saulite had told you at the
24 meeting on the 14th November that she feared for her
25 own safety, Declan's safety, John's safety and your 11:28
26 safety?

27 A. No. I did not relate that to Inspector Cryan on that
28 occasion.

29 183 Q. Inspector Cryan's note indicates that you told him that

1 she even mentioned a man's name who Mr. A didn't know
2 was visiting her, and she had told you that this man
3 was telling Baiba to be careful, do you recall that?
4 A. I think she relayed that to us on the 14th -- sorry,
5 for Baiba to be careful? 11:29
6 184 Q. Yes.
7 A. No, the conversation she had was that this individual
8 had been in her house on the 11th October when the
9 detectives visited, the local detectives had visited
10 her on the 11th October, and that she had conversations 11:29
11 with him in relation to certain matters that were
12 ongoing at the time.
13 185 Q. You had asked her, didn't you, in the discussion you
14 had on the 14th could she visit this man and she said
15 no, not under any circumstances? 11:29
16 A. Well, she said that the detectives were looking after
17 the matters there and she was happy to leave it at
18 that.
19 186 Q. You told her that the Victim Impact Statement report
20 would have to be edited and put in a proper form, isn't 11:29
21 that right?
22 A. That would be correct, yes.
23 187 Q. The other person I want to suggest to you, just so that
24 you are not wrong footed by this, sergeant, as well as
25 I am suggesting you telling Michael Cryan that she had 11:30
26 reported a fear for her own safety to you, you also
27 said that to Superintendent Denedy, do you remember
28 that?
29 A. I don't recall that, no.

1 188 Q. All right. I'll bring you to that in due course but I
2 just want you to be aware of that. That's another
3 record which appears to be indicating -- well, I'm
4 suggesting to you that you may be mistaken about that
5 detail? 11:30

6 A. No, I certainly did not make a mistake about that
7 detail.

8 189 Q. All right. You photocopied the victim impact draft
9 that she had produced and gave her the original, and
10 you held on to a copy yourself? 11:30

11 A. That's correct.

12 190 Q. Am I correct you asked her did she want to make any
13 complaint?

14 A. No. She would never -- that was Baiba's form, when
15 discussing Mr. A. Apart from the child abduction case 11:30
16 she never made any formal complaints in relation to
17 Mr. A's other activities that she reported to me.

18 191 Q. My question was: did you ask her would she make a
19 complaint?

20 192 Q. CHAIRMAN: It know it may seem a little, it may seem a 11:31
21 little impractical and possibly even unrealistic, but
22 we are referring to Mr. A, and I appreciate, I know it
23 slips out occasionally, it's Mr. A?

24 A. Sorry. Mr. A.

25 193 Q. CHAIRMAN: That's all right. I mean as I say, I am 11:31
26 aware of the complexities of the situation, but we have
27 taken a decision to redact references. And so, it's
28 Mr. A.

29 A. My apologies, Mr. Chairman.

1 194 Q. CHAIRMAN: No, no, no, I understand. Consider yourself
2 completely forgiven, it's just a reminder to make sure
3 that we proceed as we have directed, so that's not a
4 big problem. Now, Mr. O'Higgins, yes.
5 MR. O'HIGGINS: Thank you Chairman. 11:32

6 195 Q. Sergeant, you have made it clear in your report to
7 Inspector Mangan, and throughout the materials really,
8 that you and your colleagues I think had been asking
9 her to make a complaint a long time over the period,
10 and she hadn't -- it hadn't been her methodology to 11:32
11 make a complaint?

12 A. That's correct.

13 196 Q. Right. My question to you: on this occasion, on the
14 14th November, you did ask her, didn't you, do you want
15 to make a complaint about what you're saying? 11:32

16 A. Yes, I asked her. I said, when she mentioned this,
17 these matters, I said do you want us to pursue this
18 Baiba? And she said no, she was happy enough that the
19 detective units were looking after it.

20 197 Q. Why did you ask her did she want to make a complaint? 11:32

21 A. Well, she was talking -- the matters she was referring
22 to, we had just finished with the, more or less
23 finished with the child abduction case and she was
24 referring to other matters that would require Garda
25 attention possibly and I just asked her do she want us 11:33
26 to pursue any of these matters and she said no.

27 198 Q. You see, I suggest to you the reason you asked her
28 whether she wanted to make a complaint, because you
29 were asking her did she want to make a complaint about

1 threats?

2 A. No. Not on her. If she wanted to make any formal
3 complaints in relation to any of the matters she was
4 talking to us casually about.

5 199 Q. I'm suggesting to you that the reason that you asked 11:33
6 her did she want to make a complaint was because she
7 had told you something regarding her fears for her own
8 safety?

9 A. No, that's not correct.

10 200 Q. Am I correct, you didn't send up any report of this 11:33
11 meeting up to the superintendent or the inspector, as
12 would have been your normal way?

13 A. I didn't send up any report in relation to that
14 interaction with Baiba on that occasion.

15 201 Q. And that wouldn't be your norm form, would it? As we 11:34
16 have seen, you're assiduous in sending up reports.

17 A. The meeting, as I said, we were there to determine
18 whether or not we would make a Victim Impact Statement,
19 that didn't occur, and there was nothing arising from
20 the meeting I felt that should be reported on on that 11:34
21 occasion.

22 202 Q. Just looking at that and viewing matters in context,
23 sergeant: She has visited you on the 14th and said what
24 you've said; she has provided you with a draft impact
25 statement; you retain a copy, don't provide a copy to 11:34
26 your superintendent or superior officers; you don't
27 send up a report; you then learn the devastating news
28 there's been a murder on the 19th, a short period
29 afterwards?

1 A. Yes indeed.

2 203 Q. You haven't read the victim impact?

3 A. No.

4 204 Q. You read it after that?

5 A. On the morning after, yes. 11:35

6 205 Q. You are in serious shock on learning this news.

7 A. Serious shock in relation to?

8 206 Q. When the news breaks that she's been murdered?

9 A. Oh, yes indeed, yes.

10 207 Q. Amongst your feelings, I take it you'd agree with me, 11:35

11 you were concerned that you were professionally

12 exposed?

13 A. I was concerned, when I read the document, that the

14 matters within the document there would be of relevance

15 to the murder investigation. Obviously, when I read 11:35

16 the lines in it, I was concerned, yes.

17 208 Q. Were you concerned that your own position, that you'd

18 be professionally exposed?

19 A. Well, I brought it immediately to the attention of

20 Detective Inspector Walter O'Sullivan. 11:35

21 209 Q. I'll come to that because that is an important

22 conversation, I'll grant you, and we'll deal with that

23 in detail.

24 A. Yes.

25 210 Q. But just if I could just bottom out on. Would you 11:35

26 agree with me, and I am suggesting to you it would be

27 perfectly normal and reasonable of you, you had

28 concerns that this may give rise to professional

29 exposure for you, a problem for you, because you didn't

1 send up a report, you didn't tell anybody about the
2 victim impact?

3 A. Well, there was no -- there was no - how would you say?
4 - pressing need to send the victim impact on at the
5 time, but on the morning that you are referring to, was 11:36
6 I professionally exposed? I don't think I thought that
7 in that lines. My main objective was to bring it to
8 the attention of my authorities as soon as possible and
9 the immediate -- the responses I received initially
10 were that the matters referred to in the Victim Impact 11:36
11 Report were not of significance for me to worry about.

12 211 Q. You mentioned Walter O'Sullivan. You met Inspector
13 O'Sullivan on the Monday morning, the 20th November?

14 A. That's correct.

15 212 Q. That's the day after the murder? 11:37

16 A. The morning after the murder, yes.

17 213 Q. The morning after. And you met him in the community
18 policing offices, isn't that right?

19 A. Yes indeed.

20 214 Q. And in your discussion with him, I'm suggesting to you, 11:37
21 you expressed concern that the contents of the Victim
22 Impact Report would cause you professional problems?

23 A. I don't recollect that conversation, that precise,
24 those terminology you are referring to there.

25 215 Q. Don't worry about the terminology because that's my 11:37
26 oral language. But just the gist of it, you told him
27 that you were concerned that the document left you with
28 something to explain, isn't that right?

29 A. Well, obviously the content of the document there,

1 having read it on the 20th there, was of concern to me,
2 you can say professionally or personally, and I needed
3 to bring it to the attention of my authorities
4 directly.

5 216 Q. And didn't he try to reassure you? 11:37

6 A. He did.

7 217 Q. And console you, and didn't he indicate - and again, I
8 am speaking now in the gist rather than the precise
9 words being attributed to either of you - didn't he
10 console you that the Victim Impact Report was not a 11:38
11 huge deal, and basically there was no need to worry in
12 relation to it?

13 A. Yes, indeed, I'll accept that.

14 218 Q. All right. Well, I'm suggesting to you that he
15 wouldn't have said that unless you had told him you 11:38
16 were concerned that the document left you with
17 something to explain?

18 A. Well, the document obviously had the last assertions
19 possibly of a murdered victim, and I just needed to get
20 it to his attention. I needed it to be assessed 11:38
21 straightaway in relation to the -- you know, her
22 assertions, her last assertions to the Garda Síochána
23 more or less prior to her murder needed to be brought
24 to his attention.

25 219 Q. And I suggest to you that Inspector O'Sullivan made 11:39
26 efforts to assure you and he indicated and he referred
27 to the professional job you had done on the abduction
28 investigation?

29 A. Yes. That would be the conversation we'd had.

1 220 Q. And he indicated that would stand to you?
2 A. Excuse me?

3 221 Q. He indicated that that would stand to you, the good job
4 you had done?
5 A. Eh, I think he may have said that, yes. 11:39

6 222 Q. And I'm suggesting to you that not only did you say
7 that to Inspector O'Sullivan, but the following day,
8 the Tuesday, the 21st November, you also had a
9 conversation with then Inspector Michael Cryan --

10 A. That's correct. 11:39

11 223 Q. -- when he rang you, is that right?
12 A. Sorry, if you can tell me, he rang me?

13 224 Q. Yes. So I'll just put to you what his recollection is:
14 You indicated that you were still very shocked and
15 couldn't believe it had come to this, with Baiba being 11:39
16 murdered, and you said you kept racking your brain to
17 see if there was something else you could have done to
18 prevent it.

19 A. That could be something I may have said to him, that he
20 has taken notes of, yes. 11:40

21 225 Q. And you expressed anger that more had not been done to
22 prevent her killing?
23 A. I was angry that I felt that more could have been done,
24 yes.

25 226 Q. And again, he sought to reassure you and expressed the 11:40
26 belief that from what he knew you had done all you
27 could?
28 A. That could be correct, yes.

29 227 Q. And he indicated he was not aware of any specific

1 threats Mr. A had made?

2 A. He may have said that, yes.

3 228 Q. So, I will, because it's important, I am going to come
4 back to your conversation -- in fact conversations,
5 plural, with Michael Cryan in due course. 11:40
6
7 Returning to your conversation with Inspector
8 O'Sullivan. His statement starts at page 657 of the
9 materials, and we might just have that for a moment.
10 We might go to page 661, first of all, please, 11:41
11 Mr. Kavanagh. And he says, about four paragraphs down:
12
13 "At Swords Garda Station sometime between 10:00 and
14 11:00am I met with Sergeant William Hughes in the
15 community policing office." 11:41
16
17 we're agreed about that, are we, sergeant?

18 A. Yes, indeed.

19 229 Q. He continues: "I was interested in meeting him for the
20 purpose of advancing the murder investigation due to 11:41
21 the fact I was aware he was the senior member in charge
22 of the investigation into the abduction of the children
23 of Bai ba Sauli te.
24
25 It was my intention to meet with Sergeant Hughes and to 11:42
26 invite him to the investigation conference so that he
27 could brief the investigators in relation to his
28 knowledge of the abduction and the characters
29 associated with it.

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Because of his central investigative role in the abduction case, I believed Sergeant Hughes possessed a comprehensive knowledge of the character of Mr. A and other characters of interest to the murder investigation. "

11:42

I take it you don't take issue with any of that?

A. I am afraid that his recollection is not correct in relation to that he met me before the first conference and was with the intention of inviting me to that conference. I didn't in fact meet Detective Inspector O'Sullivan until after the first conference had dispersed.

11:42

230 Q. So, you are making a correction. You are saying that he didn't invite you to the conference, is that it?

11:42

A. He didn't invite me to the first conference, no.

231 Q. All right, we'll come on to that. He continues:

"At Swords Garda Station I enquired as to whether or not Sergeant Hughes was on duty and I learned that Sergeant Hughes was "not good" and that he was up upstairs in the community policing office. "

11:42

Do you want to comment on that?

11:43

A. I can't really. That's what he says. I was good. You know, I wasn't -- I was sort of being made out to be a nervous wreck in the office but that's not true. You know, that wasn't true. I was shocked, I was

1 concerned, but not in the notes that I have seen in
2 relation to himself, it wasn't that I was very bad, you
3 know.

4 232 Q. All right. You see, sergeant, there's other indicators
5 that you were not in a good way. Michael Cryan says 11:43
6 something similar, including conversations the next
7 day, you were not in a good way?

8 A. That's the Wednesday I think, yes, two days later.

9 233 Q. Do you take issue with that general position that you
10 were really, you were in bits? 11:43

11 A. Well, no, not in bits, no. I was able to converse with
12 them, I was able to express my views, and, you know,
13 there was -- as a matter of fact, the issues in
14 relation to my demeanour on each occasion only came to
15 my notice, only came to my attention, six years later 11:44
16 at the High Court, at the Declan Nyhan High Court case.

17 234 Q. Inspector O'Sullivan says you were visibly upset, you
18 looked poorly, you were troubled, agitated, and he
19 refers to you being disturbed?

20 A. Disturbed? Just, I was anxious and I was -- but not 11:44
21 that I was in bits or anything like that, you know.

22 235 Q. You just see there, his statement puts it:
23
24 "I cannot recall whether Sergeant Hughes was dressed in
25 his uniform or civilian attire. He was alone in the 11:44
26 office. He is visibly and emotionally upset, looked
27 poorly, troubled and agitated."

28 A. No.

29 236 Q. "He was disturbed by the news of Baiba Saulite's

1 death."

2 A. No. Absolutely not. It was, I that contacted
3 Detective Inspector O'Sullivan. When the conference
4 had dispersed he was over in a local cafe having
5 coffee, and he said he was having coffee and he said 11:45
6 he'd be over to me shortly.

7 237 Q. If Mr. Kavanagh might scroll down there we see that his
8 statement conditions, and Inspector O'Sullivan states
9 that:
10 11:45

11 "During the course of the conversation Sergeant William
12 Hughes reported to me that Bai ba Saulite had called to
13 see him sometime in the days prior to her death and
14 that he had spoken to her where she complained about
15 her husband, Mr. A, whom she feared and whom she 11:45
16 believed was planning to do harm to her and do harm to
17 her sol i ci tor."

18
19 Do you see that there?

20 A. That is not correct. 11:45

21 238 Q. So he is wrong about that, is he?
22 A. She did not make any complaint to me that he was going
23 to harm her.

24 239 Q. "Sergeant William Hughes produced a document from a
25 drawer underneath his desk and informed me that this 11:45
26 was the Victim Impact Statement that had been prepared
27 by Ms. Saulite on hotel stationery paper. Sergeant
28 Hughes went on to say that the Victim Impact Statement
29 was incomplete and unsigned."

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And then he appends a copy of that to his statement.

Then if we scroll down a little bit:

"Sergeant Hughes reported that this was Baiba Saulite's Victim Impact Statement partially prepared in relation to the child abduction case. He expressed concern about the Victim Impact Statement stating that it would have professional difficulties for him because of what was contained in it and that "they" would come after him." 11:46

A. I don't recall saying that to him.

240 Q. But you might have?

A. No, I don't recall saying that to him. 11:46

241 Q. You are in deep shock, you have learned devastating news, I think you have acknowledged that there was a basis for you feeling concerned for your own professional position, you are telling this to a colleague and he is saying, in very clear terms, that you were concerned this would have professional difficulties for you; I suggest to you that's likely and very commonsensical? 11:46

A. Well, as I said, I was concerned in relation to -- when I read the contents of the victim impact on the morning I was concerned that it would be -- it would be necessary to bring it to the attention of my authorities due to what she had included in the document. 11:47

1 242 Q. You told the Tribunal, sergeant, that you didn't attend
2 the conference?

3 A. That's correct.

4 243 Q. Why not?

5 A. I decided that all the evidence there that was 11:47
6 available in the child abduction case was already with
7 the Garda authorities. My office was next door and I
8 decided to go and go through my files to see was there
9 anything that could assist with the inquiry, and that's
10 the -- while I was always available to the murder 11:47
11 investigation team.

12 244 Q. Inspector O'Sullivan indicates that in the conversation
13 he had with you on the Monday morning, he told you it
14 was important you should attend?

15 A. I don't recollect him saying that because the issue of 11:48
16 me attending the murder conference, as I saw it, would
17 be to actually accept jobs and to go out and actually
18 operate as a murder investigator and doing calls. The
19 distinction I make is that the murder conference or the
20 murder investigation itself, I was always available to 11:48
21 the murder investigators in relation to full
22 cooperation and full disclosure of any documents or
23 files or any assistance I can give them.

24 245 Q. So, sorry, you are drawing a distinction between
25 whether you did or didn't attend the conference versus 11:48
26 whether you did or didn't participate in the
27 investigation, is that the distinction you are drawing?

28 A. Yes. Any reference to me not attending the conference
29 shouldn't be confused with not cooperating with the

1 murder investigation itself. Any of the people -- most
2 of the personnel that were there, and I think one the
3 witnesses says that the room was packed that morning,
4 they would have been summoned to be there because they
5 came from resources from all over the division, you 11:49
6 know, and probably from our divisions. They would have
7 been contacted by Garda management to attend directly
8 for the purpose of receiving jobs, and, you know,
9 duties in relation to the murder investigation itself.
10 But I was there on that morning, I saw the senior 11:49
11 officers there assembled in the kitchen before the
12 conference, I was available to the conference if I was
13 required. If there was any issue in relation to my
14 non-attendance at the conference, which seems to be --
15 seems to have developed over the passage of time, I 11:49
16 think the correct course would have been to get in
17 touch with my line manager, Inspector Donal Waters, and
18 maybe to establish, through him, as to why, if I had
19 any difficulties in that regard. This wasn't done.
20 246 Q. I am just a little bit unclear on this. Is it your 11:50
21 position that you made a conscious decision not to
22 attend? Is that what you are telling the Chairman?
23 A. It shouldn't be seen that. I went to my office to go
24 through my files to see if there was anything -- you
25 know, to go through the last document there that I 11:50
26 received from Baiba, and also, to go through my files
27 and see if there was anything that I could bring to the
28 attention of the murder investigation team that I could
29 be of assistance with. But, as far as going and

1 actually looking for work in relation to the murder
2 investigation, going, as I said earlier, boots on
3 ground and going out and doing house calls, et cetera,
4 no, that didn't occur to me at all.

5 247 Q. Sergeant, nobody needs an invitation to attend a 11:50
6 conference?

7 A. I agree.

8 248 Q. Yeah. You were the person centrally involved in the
9 abduction investigation; you had a reservoir of
10 information and knowledge pertaining to Baiba Saulite 11:51
11 and her connections?

12 A. Which was with Garda management at the time.

13 249 Q. Yeah. You have lots to offer to your colleagues who
14 were embarking upon a very serious murder
15 investigation, isn't that right? 11:51

16 A. In what respect? Sorry, a lot to offer?

17 250 Q. Sorry, I am suggesting to you, you had a reservoir of
18 information, you had been centrally involved in the
19 abduction investigation, are we agreed about that?

20 A. Yes. And all my information, apart from the victim 11:51
21 impact, my last meeting with Baiba, was already with
22 Garda management on that morning.

23 251 Q. Sorry, just take it in stages. You knew you could be
24 of assistance to the conference?

25 A. Yes indeed. 11:51

26 252 Q. Right. You knew there was a conference going on?

27 A. I did.

28 253 Q. There was a lot the people at the conference, the place
29 was pretty crowded, it must have been quite hard to

1 avoid the conference?

2 A. I wasn't trying to avoid the conference.

3 254 Q. Were you keeping the head down?

4 A. I decided to go to my office just to actually look at
5 the documents as I have said, and to assist the murder 11:52
6 investigation.

7 255 Q. You see, I am suggesting to you, and I'm asking you, is
8 it possible that your concerns for the potential
9 professional exposure that you felt you might have,
10 that those concerns, and your whole shock in relation 11:52
11 to victim impact not being read and so forth, that
12 caused you to keep out of the way of questions and
13 therefore you made a decision I won't go to that
14 conference?

15 A. No, that's not true. 11:52

16 256 Q. I am suggesting to you that you knew, broadly speaking,
17 three things?

18 A. Sorry, I beg your pardon?

19 257 Q. You knew three things --

20 A. Yes. 11:53

21 258 Q. -- that caused you professional concern. Firstly, you
22 knew that she had come to the station on the 14th
23 November and relayed information to you?

24 A. That's correct.

25 259 Q. You knew that. Secondly, you knew you hadn't sent up a 11:53
26 report, isn't that right?

27 A. That's correct.

28 260 Q. And thirdly, you knew -- you had read the Victim Impact
29 Statement and you knew what it said in the last page,

1 but you hadn't brought it to anybody's attention?

2 A. That's correct, yes.

3 261 Q. And those three things were troubling you deeply, and
4 you were keeping the head down?

5 A. Oh no, I wasn't keeping the head down, if I met 11:53
6 Detective Inspector Walter O'Sullivan after the first
7 conference and brought these matters directly to his
8 attention.

9 262 Q. You are aware, aren't you, that there is a dispute
10 between yourself and Walter O'Sullivan as to this 11:54
11 conversation that you attribute to him, specifically
12 I'm talking about your claim that he told you, on the
13 Monday morning, that the Commissioner's office were
14 aware of threats to John Hennessy and Baiba Saulite,
15 received a request for protection for her and had 11:54
16 refused that request?

17 A. That's correct.

18 263 Q. Isn't that your -- that is your position, Walter
19 O'Sullivan told that you?

20 A. That's correct. 11:54

21 264 Q. And that's an important part of your whole story, I
22 don't mean that pejoratively, that's an important
23 element of your position, isn't that right?

24 A. Well it's a matter that I subsequently reported on,
25 yes. 11:54

26 265 Q. Yes. So you say that on the very day after the murder
27 you were told by a person in management not only that
28 the Commissioner's office were well aware of threats to
29 Baiba Saulite, but that the Commissioner's office had

1 been asked to allocate protection for her and had
2 refused?

3 A. That's what he told me, yes.

4 266 Q. I presume you were very relieved to hear that when
5 Walter O'Sullivan, you claim, said that? 11:55

6 A. Well he actually said, well, you have nothing to worry
7 about and he went on to say that in relation to the
8 protection issue.

9 267 Q. My question is: were you very relieved to hear that
10 information? 11:55

11 A. I don't know whether relieved is the word. Possibly,
12 yes, possibly just...

13 268 Q. You see, on hearing that, your concerns about not
14 relaying the Victim Impact Report or not relaying the
15 details of her visit to the station of the 14th 11:55
16 November would now fall away, wouldn't they?

17 A. But we go back to the 14th November, there was nothing
18 to really report on in relation to, other than she
19 visited us to help her prepare a victim impact.

20 269 Q. All right. We'll deal with that -- 11:56

21 A. Yes.

22 270 Q. -- but my specific question is: on hearing this
23 information from Walter O'Sullivan, which you attribute
24 to him, your concerns about not relaying the victim
25 impact, and I'm suggesting also the details of the 11:56
26 visit on the 14th, your concerns would now fall away?

27 A. I wouldn't say fall away. I mean, the fact is I still
28 had the victim impact there with the contents in it, so
29 it was going to be reviewed fully by management at

1 another juncture, so it was still a meeting I had with
2 her, she still had produced this document and in the
3 document there was this reference to threats on her, so
4 it was something I had to still be concerned about.

5 271 Q. But, presumably, you were relieved to hear information 11:56
6 that was going to take the spotlight off you and switch
7 it on to management?

8 A. Yes, but --

9 272 Q. Isn't that right?

10 A. -- inevitably, the reading -- or, sorry, the 11:57
11 non-reading -- I knew I didn't read the document, so if
12 I didn't read the document I couldn't really be held
13 responsible for its contents if she didn't make a
14 formal complaint, you know.

15 273 Q. Sergeant, the spotlight -- if this information was 11:57
16 correct, the spotlight would be lifted off you and
17 would be placed upon Garda management for refusing her
18 protection, isn't that right?

19 A. Well, I don't know whether spotlight is the right word,
20 but I had my dealings with Baiba, other people had 11:57
21 their dealings with Baiba, and through probably an
22 investigation, we'd find out then if that was the case
23 and there was, as Walter O'Sullivan had relayed to me,
24 well then we'd have to find out what went wrong in
25 relation to the entire episode, our dealings with Baiba 11:57
26 Saulite.

27 274 Q. Sorry, I didn't mean to cut you off. This was
28 startling information. This was, I am suggesting to
29 you, information you were going to be pleased to hear,

1 for the reason I mentioned - the spotlight would lift
2 off you on to management - you presumably asked Walter
3 O'Sullivan some questions around the issue?
4 A. Of that -- that issue of protection?
5 275 Q. Yeah. 11:58
6 A. No, I didn't. When he finished he left the office
7 after saying it.
8 276 Q. Well, what did you say to him when he told you?
9 A. I can't recall what I said in reply. I think he just
10 said it and left, you know. He was on the way out the 11:58
11 door anyway. He was standing with his back to the
12 door, and he just held one hand up and said don't worry
13 about this and he moved off.
14 277 Q. Did you ask him who had made the request for protection
15 on her behalf? 11:58
16 A. No, I did not.
17 278 Q. Did you ask him when this occurred?
18 A. Sorry?
19 279 Q. Did you ask him when this occurred?
20 A. When it occurred? 11:58
21 280 Q. Yeah.
22 A. No.
23 281 Q. Did you ask him who made the decision to turn it down?
24 A. No.
25 282 Q. Did you ask him the reasons it was turned down? 11:58
26 A. No.
27 283 Q. Why not?
28 A. He had left the office; he had gone. He left the
29 office after saying that, making that statement.

1 284 Q. And that's the reason you didn't ask him those
2 questions?
3 A. Well, I don't figure that -- that was a matter for
4 Walter and the Commissioner's office. For me to be
5 questioning in relation to it, I don't think it's my 11:59
6 place to be questioning him. But I suppose in
7 hindsight, I could maybe follow him out and ask him
8 more questions and find out exactly what happened.

9 285 Q. You see, didn't you have further dealings with Walter
10 O'Sullivan that week? 11:59
11 A. We did, in the bail application.

12 286 Q. Yes. So, your meeting with Walter O'Sullivan occurred
13 on the Monday morning, the 20th November?
14 A. That's correct.

15 287 Q. And am I correct that you received word that on the 11:59
16 following Friday, there was to be a bail application in
17 the High Court where Mr. A was looking for bail?
18 A. That's correct.

19 288 Q. And Inspector O'Sullivan made contact with you to
20 prepare for the bail hearing? 11:59
21 A. Yes, we prepared for the bail hearing, yes.

22 289 Q. And you worked with him and also I think D/Sergeant
23 Finbar Garland who was involved in the stolen car
24 racket investigation, and you prepared with Walter
25 O'Sullivan on the Thursday and the Friday for the bail 12:00
26 hearing, isn't that right?
27 A. We prepared with them? I don't recall meeting the two
28 individuals, Detective Walter O'Sullivan and Sergeant
29 Garland, until the actual day of the bail hearing in

1 court.

2 290 Q. Did you have dealings with Walter O'Sullivan preparing
3 for the bail?

4 A. I don't recall that.

5 291 Q. And I think on the Friday itself, you were in his 12:00
6 company for a good part of the day, isn't that right;
7 the case ran into after lunch?

8 A. That's correct, yes.

9 292 Q. And you went, you have told us, to a pub near the Four
10 Courts, was it, for lunch, on the Friday? 12:00

11 A. I recall that, yes.

12 293 Q. And you had a discussion with him there?

13 A. Yes, I did.

14 294 Q. Presumably during the course of this discussion, or
15 your contact with him right through the week, you 12:01
16 revisited the conversation you claim you had with him
17 on the Monday?

18 A. Sorry, can you repeat that? Did I --

19 295 Q. Presumably you brought up again with him the startling
20 information he had conveyed to you on the Monday? 12:01

21 A. No, I did not.

22 296 Q. Why not?

23 A. I just didn't bring it up with him. I thought, like,
24 that was between him and the Commissioner's office.

25 297 Q. But, look, this was -- this was fairly seismic 12:01
26 information, you'd agree with me?

27 A. Yes. It was information okay, yes, that he had in
28 relation to his interactions with the -- or his
29 knowledge of interactions with the Commissioner's

1 office.

2 298 Q. Management were not only aware of a threat on her life
3 but they were in receipt of a request for protection
4 and they had turned it down?

5 A. That's what he said. That's what he said on the 20th 12:01
6 November to me in the office, in the community police
7 office in Swords.

8 299 Q. Whom did you tell?

9 A. Well, that morning, I contacted Garda Nyhan to tell him
10 what had -- 12:02

11 300 Q. I beg your pardon, what?

12 A. Contacted Garda Nyhan, Declan Nyhan.

13 301 Q. And when did you contact him?

14 A. I'd say within a few minutes of receiving that
15 information. 12:02

16 302 Q. Because it was important?

17 A. Well, I think he'd like to know, yes.

18 303 Q. And did you discuss with Garda Nyhan what to do about
19 it?

20 A. No, I did not, no. 12:02

21 304 Q. So, you just contacted him but you didn't discuss what
22 you were going to do with the information?

23 A. I don't understand, what could I do with the
24 information?

25 305 Q. No, no. You have told us you contacted Garda Nyhan on 12:02
26 the Monday morning on learning this from Walter
27 O'Sullivan?

28 A. Yes.

29 306 Q. Was this in a phone call to Garda Nyhan?

1 A. A telephone call, yes.

2 307 Q. What did you say to him? You won't believe it, Declan,
3 I'm after hearing management knew it and they refused
4 her protection?

5 A. No, I discussed the interaction with Detective 12:03
6 Inspector Walter O'Sullivan at the office and the
7 Victim Impact Statement and I told him then in relation
8 to what Walter had said when he was leaving the office.

9 308 Q. Right. So, presumably you discussed what you were
10 going to do with this important information? 12:03

11 A. No. We did not.

12 309 Q. Why not?

13 A. I don't understand what we could do with it. It was a
14 matter between Detective Inspector Walter O'Sullivan
15 and the Commissioner's office what they were going to 12:03
16 do with it.

17 310 Q. But did it not at the very least concern you that there
18 had been a request for protection and somebody had made
19 a decision to turn it down?

20 A. Yes, it did. 12:04

21 311 Q. Were you not anxious to know the reasons for that and
22 the context in which that request for protection had
23 come?

24 A. I guess my feeling was that the request for protection
25 arose in relation to the meeting on the 11th October 12:04
26 2006 with Baiba and another person at Baiba's home, and
27 as a result of that meeting, the instrument for
28 protection -- or sorry, for John Hennessy, the
29 instrument that arrived down in relation to the Garda

1 response to John Hennessy's situation was brought to
2 the attention of all members. And my reasoning back
3 then was that there was probably protection requested
4 in relation to the John Hennessy and Baiba Saulite
5 arising from the 11th October developments. 12:04

6 312 Q. Are you telling us that was an extrapolation you made
7 or was that something that Walter O'Sullivan had said?

8 A. No, no. The instrument had arrived down in relation to
9 the Garda response to the assassination conspiracy on
10 John Hennessy. My reasoning on the 20th October -- or 12:05
11 20th November was that protection had been sought for
12 both John Hennessy and Baiba Saulite, and that was my
13 reasoning behind what Walter O'Sullivan had told me.

14 313 Q. When was the first time you had wrote down your claim
15 that Inspector O'Sullivan told you this important 12:05
16 information on the 20th November? When was the first
17 time you wrote that down?

18 A. I wrote it down -- I included it in my report, the
19 confidential recipient's office, I included it my
20 report to the disciplinary inquiry, which was -- the 12:05
21 disciplinary inquiry was in 2008 and similarly the
22 confidential recipient process.

23 314 Q. Two years later?

24 A. Yes, that's correct.

25 315 Q. Does that strike you as odd? 12:06

26 A. In hindsight, and looking back from where I am today,
27 maybe I should have put it in writing straight away,
28 but back then, I was reticent in relation to reporting
29 any matter that -- obviously the tide of feelings in

1 relation to Baiba Saulite and John Hennessy was that
2 there was no protection sought and I was reticent at
3 actually reporting that when the entire management
4 structure appeared to be saying -- would be saying the
5 opposite. 12:06

6 316 Q. We'll come on to this, but I mean -- sorry, is that
7 credible, sergeant? Christy Mangan looked for a report
8 from you for the fact-finding in December. We all know
9 it's not in there.

10 A. We all know? 12:06

11 317 Q. We all know you didn't include that detail in the
12 report to Inspector Mangan?

13 A. That's correct.

14 318 Q. That was a report into Garda knowledge as to whether
15 there was a threat to Baiba Saulite? 12:07

16 A. Yes.

17 319 Q. All right? The information you claim Walter O'Sullivan
18 gave you on the 20th November had a burning relevance
19 to what Inspector Mangan was investigating. You didn't
20 put it into Inspector Mangan's report, your report to 12:07
21 him - why?

22 A. I was -- I gave Inspector Mangan a full chronology of
23 my dealings with Baiba Saulite. If the same
24 information had been sought from Inspector Walter
25 O'Sullivan I would have thought that he would have 12:07
26 included his interactions and his dealings with Baiba
27 Saulite and John Hennessy in his report to that
28 fact-finding inquiry.

29 320 Q. So, is it your evidence that you opted -- you decided

1 you wouldn't put it in?

2 A. Yes.

3 321 Q. You withheld it?

4 A. well, withheld -- I just didn't include it in that
5 report. 12:08

6 322 Q. In fact, you didn't include it in any report or written
7 document for two years?

8 A. well, as soon as I could avail of the confidential
9 recipient process, I included it in that report.

10 323 Q. We might just look at that now. Page 510, please. 12:08
11 And this is your report to Inspector Fergus Dwyer, then
12 Inspector Fergus Dwyer as part of the CRO
13 investigation. And this is dated the 29th October
14 2008, and if we might move to page 525 of the
15 materials, page 16 of this report, we see where you 12:08
16 mention it. And this is October 2008. And if we
17 scroll down towards the bottom of page 16, please, just
18 there, thank you Mr. Kavanagh.

19

20 Do you see here, sergeant, in this report you have 12:09
21 pasted in large swathes of your report to Inspector
22 Mangan for the fact-finding, isn't that right?

23 A. Yes, it would be from a draft to Inspector Mangan too,
24 yes.

25 324 Q. But the bit at the bottom that's underlined that we see 12:09
26 on screen there, that's new, and you have put it in
27 there, isn't that right?

28 A. Correct.

29 325 Q. So, you have, as it were, you have woven into your

1 chronology that you have provided to Inspector Mangan
2 this extra detail that you didn't provide Inspector
3 Mangan?

4 A. That's correct.

5 326 Q. And the underlined words say:

12:09

6
7 "He went on to state that I should have no concerns
8 about the document, that the Commissioner's office were
9 well aware of the threats to John Hennessy and Baiba
10 Saulite and refused to allocate protection --"

12:10

11
12 And I am interested in this last clause:

13
14 "-- despite being requested to do so by the
15 investigating members."

12:10

16
17 That's what you put in.

18 A. That's correct.

19 327 Q. So, leaving aside for a moment that you are doing this
20 now for the first time two years later, can I ask you
21 about that last clause there where it says "despite
22 being requested to do so by the investigating members"?
23 I want to suggest to you that makes no sense, because
24 you were one of the investigating members centrally
25 involved with the abduction, isn't that right?

12:10

12:10

26 A. The investigating members I am referring to here were
27 people that were dealing with what I often refer to as
28 the ancillary crimes that were being committed in
29 respect of John Hennessy and Baiba Saulite.

1 328 Q. If investigating members had requested protection for
2 Baiba Saulite, you would have known all about it?
3 A. But I didn't. I didn't know.
4 329 Q. You would have. You had constant dealings with her and
5 you would have had dealings with your colleagues 12:11
6 telling you about it, nobody would have withheld that
7 from that?
8 A. But I didn't know in relation to the requests for
9 protection on Baiba Saulite or John Hennessy.
10 330 Q. I'm suggesting to you, you didn't know because there 12:11
11 was no request and Walter O'Sullivan never said it to
12 you?
13 A. No, he definitely said it to me on the 20th November
14 2006. He said it to me and he it said in a way that he
15 was maybe trying to alleviate my concerns: you needn't 12:11
16 have anything to worry about. And he went on with
17 that, with what he said.
18 331 Q. I presume we can eliminate, you are not suggesting he
19 said it to you knowing it to be incorrect just to
20 alleviate your concerns? 12:12
21 A. No, no. He said it as though it was factual.
22 332 Q. And this really is a central platform of your case,
23 isn't it?
24 A. Of my case?
25 333 Q. Yes. Your whole account? 12:12
26 A. Sorry, my whole account in relation to?
27 334 Q. Your -- the words you attribute to Inspector O'Sullivan
28 forms a very important part of your whole account to
29 this Tribunal?

1 A. It forms a part, the conversation that I had with
2 Walter O'Sullivan forms a part of me believing that
3 there had been a systems failure in relation to the
4 coordination and correlation of crimes before Baiba's
5 death. 12:12

6 335 Q. As early as the press release, which we know is the
7 22nd November 2006, you had formed the view that you
8 are being scapegoated?

9 A. I formed a view that there was a systems failure in
10 relation to the correlation and coordination of crimes 12:13
11 before Baiba's murder.

12 336 Q. No, no. You have told the Tribunal, and I think it's
13 in your materials as well, that as early as the press
14 release, which was the 22nd November, a few days after
15 the murder -- 12:13

16 A. Yes.

17 337 Q. -- you had formed the view, and you said it to the High
18 Court during Declan Nyhan's civil proceedings --

19 A. Yes.

20 338 Q. -- you had formed the view that you were being 12:13
21 scapegoated by management?

22 A. When I saw the press release, yes.

23 339 Q. Yes.

24 A. Yes

25 340 Q. So that's your thinking and that's your perspective as 12:13
26 of as early as the 22nd November '06, isn't that right?

27 A. Well, it was my feeling that the press release was
28 pointing towards my work.

29 341 Q. You knew as well that the purpose of Inspector Mangan's

1 fact-finding investigation was to ascertain the level
2 of knowledge in the possession of An Garda Síochána
3 concerning any threat to the life of Baiba Saulite; you
4 knew that was its purpose, didn't you?

5 A. I think it was the level of knowledge was -- level of 12:14
6 knowledge in relation to Baiba Saulite was the term
7 they used in the terms of reference for that inquiry.

8 342 Q. Yes. So, wouldn't it have been in your interests and
9 in the interests of the investigation that you would
10 relay to Inspector Mangan what you claim Walter 12:14
11 O'Sullivan said to you?

12 A. In hindsight, yes, I should have included that in the
13 Inspector Mangan report, but back then, I was expecting
14 that Inspector Mangan's investigation would discover
15 that anyway. 12:14

16 343 Q. CHAIRMAN: Sorry?

17 A. I was expecting that Inspector Mangan's fact-find
18 investigation would discover that anyhow, without me
19 having to --

20 344 Q. CHAIRMAN: well, why didn't you put it in? I mean, 12:14
21 wasn't it important?

22 A. It was important Mr. Chairman and in hindsight looking
23 back --

24 345 Q. CHAIRMAN: I mean, here was a case where there wasn't
25 just suspicions, there was knowledge. 12:15

26 A. It was.

27 346 Q. CHAIRMAN: Can you understand why it's puzzling that
28 you didn't?

29 A. If you recall from my evidence --

1 347 Q. CHAIRMAN: Sorry, question: Can you understand why it's
2 puzzling that you didn't? I mean it does not look
3 good --
4 A. Yes, Mr. Chairman.
5 348 Q. CHAIRMAN: -- let's in the face it, if you don't 12:15
6 mention it for two years and here is this clearly
7 bombshell information, I mean that was bombshell
8 information, the guards knew of -- the guards looked
9 for protection and it was rejected by the
10 Commissioner's office. So senior people were seriously 12:15
11 in default, as you would see it. So why not put that
12 bombshell information into the report?
13 A. If you recall, Mr. Chairman, I was reticent in relation
14 to reporting such matters and at the end of the
15 conversation with Inspector Mangan I did -- 12:16
16 349 Q. CHAIRMAN: Why were you reticent?
17 A. I was -- I was -- I was concerned in relation to making
18 such serious matters known, and I expected that
19 Inspector O'Sullivan would make them known. But if I
20 can finish? 12:16
21 350 Q. CHAIRMAN: Yes.
22 A. In relation to the -- at the end of my meeting with
23 Inspector Mangan, I actually said I believe there was a
24 systems failure in the way that things were managed
25 and he said that he would report it onto the 12:16
26 Commissioner.
27 351 Q. CHAIRMAN: But your meaning of systems failure was
28 policing failures in the assessment and management of
29 the series of crimes and the information that was

1 available to the Gardaí, you thought it should have
2 been a central command and an overall assessment, isn't
3 that right?

4 A. Unified assessment, yes.

5 352 Q. CHAIRMAN: So you had that -- a unified approach to the 12:16
6 whole thing. So that they failed to appreciate the
7 level of threat to Baiba Saulite, that's essentially
8 the point.

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

10 353 Q. CHAIRMAN: But here was evidence that they actually 12:17
11 knew about the threat.

12 A. That's according to the conversation -- yes.

13 354 Q. CHAIRMAN: According to you.

14 A. Yes.

15 355 Q. CHAIRMAN: So, is that not -- does that not sort of 12:17
16 outrank the other complaints, your systems failure and
17 everything else? Sure, isn't this the biggest systems
18 failure you could have conceived of: they actually
19 turned down a request?

20 A. Well, that would form part of the systems failure, 12:17
21 Mr. Chairman.

22 CHAIRMAN: Okay. Anyway. Thank you.

23 356 Q. MR. O'HIGGINS: Inspector Mangan was appointed I think
24 on the 6th December '06 to conduct a fact --

25 357 Q. CHAIRMAN: Sorry, let me just stop for one moment. 12:18
26 Sorry. Sergeant, help me on this. The question is:
27 why did Sergeant Hughes not put information about the
28 request for protection that was made by officers to the
29 Commissioner's office and was rejected, why didn't he

1 put that into the Mangan report? what do I write down?
2 what's the reason you didn't?

3 A. The reason was because I was very worried about me
4 having to report a third party to an inquiry and I
5 expected that Inspector O'Sullivan would actually have 12:18
6 covered that in his report to the fact-find
7 investigation.

8 CHAIRMAN: Okay. Thank you. Thank you.

9 358 Q. MR. O'HIGGINS: Just stemming from the answer you have
10 just given, your position is that you decided not to 12:18
11 tell Inspector Mangan, you decided not to tell, am I
12 correct, anybody but your colleague Garda Nyhan, is
13 that right?

14 A. I did have conversations with inspectors and with my --
15 in the days after the murder, and I expressed my 12:19
16 contention that there had been a systems failures --

17 359 Q. No, no, just stay with it for a moment.

18 A. Yes...

19 360 Q. Whom did you tell what I'm suggesting to you - if I
20 could borrow the Chairman's phrase - the bombshell 12:19
21 information, whom did you tell that to?

22 A. Well, Garda Nyhan. And, I didn't repeat the actual
23 terminology that was used to the officers, but I used
24 the term "systems failure". And in my mind, if that
25 was the case, as outlined by Detective Inspector Walter 12:20
26 O'Sullivan, well then that would form part of the
27 systems failure in relation to the overall events
28 connected to Baiba Saulite.

29 361 Q. I just don't understand that. Whom did you tell, other

1 than Declan Nyhan, the information that there had been
2 a request for protection but Garda management had
3 refused? who did you tell that to?
4 A. Within the organisation?
5 362 Q. Yes. 12:20
6 A. Nobody at the time, no.
7 363 Q. Nobody?
8 A. Nobody.
9 364 Q. But you told Declan Nyhan?
10 A. I told Declan Nyhan, yes. 12:20
11 365 Q. Right. When you decided not to put -- not to give the
12 information to Inspector Mangan, which you'd agree with
13 me would have been otherwise relevant to his
14 investigation, so when you decided not to give it to
15 him, information that would have been relevant, and you 12:20
16 knew would have been relevant, when you decided not to
17 give it to him, did you discuss that with Declan Nyhan
18 and did you discuss how you would get it out?
19 A. No, I don't recall discussing that aspect with him at
20 the time, but he was also invited to make his 12:21
21 contribution to the Mangan investigation, the
22 fact-finding investigation I should say.
23 366 Q. Inspector Mangan was appointed on the 6th December.
24 Your report is dated the 17th December. Can you tell
25 the Tribunal when did you first start preparing your 12:21
26 report?
27 A. Em, in the days leading up to the 16th. I decided to
28 create a chronology of events as I was aware.
29 367 Q. Did you put it through a number of drafts?

1 A. I did, yes. Over the years I put it through a number
2 of drafts and copying and pasting from it in relation
3 to other reports.

4 368 Q. No, but in terms of the actual document that you gave
5 to -- submitted to Inspector Mangan, did it go through
6 a number of drafts? 12:21

7 A. I'm not sure, I'm not sure.

8 369 Q. Are you maintaining your claim that your report to
9 Inspector Mangan was a protected disclosure?

10 A. I was asked by the investigators to describe my
11 revelations to management, my disclosures to management
12 and I elected to have the Mangan report there as being
13 a protected disclosure. 12:22

14 370 Q. I know that, but are you maintaining that claim?

15 A. I did say it in my statement, yes. 12:22

16 371 Q. My question is, and I presume you know why I'm asking
17 this because it doesn't seem to make sense: Are you
18 continuing to persist with the contention that it was a
19 protected disclosure?

20 A. Well, there are -- yes, it was a disclosure to
21 Inspector Mangan in relation to, as we can see in the
22 report there, the non-correlation of and the
23 coordination of various crimes, lack of briefings in
24 realisation to the various crimes. 12:22

25 372 Q. The report was a chronology of actions and dealings you
26 had with Ms. Saulite, isn't that right? 12:22

27 A. Sorry, I beg your pardon?

28 373 Q. The report was a chronology of dealings you had with
29 Ms. Saulite?

1 A. That's correct.

2 374 Q. Indeed, if we look at the report, which is at page 860,
3 that is actually spelt out by you in the report?

4 A. Sorry. Yes.

5 375 Q. You see the second paragraph there, sergeant: 12:23
6
7 "The following is a chronology of the events from the
8 time of the abduction of the [blank] children until the
9 death of Ms. Saulite."

10 A. That's correct. 12:23

11 376 Q. That's how you phrased your document?

12 A. Yes, indeed.

13 377 Q. And this carries the date on the top right-hand corner
14 of the 17th December 2006?

15 A. That's correct. 12:23

16 378 Q. I think this is the report you gave to Inspector Mangan
17 for the fact-finding investigation that he was tasked
18 with carrying out?

19 A. That's correct.

20 379 Q. So, it's a timeline of actions and events? 12:24

21 A. The timeline is?

22 380 Q. It's a timeline.

23 A. Is accurate, yes.

24 381 Q. No, what it is is, it's a chronology?

25 A. Yes, it's a chronology of all my dealings with Baiba 12:24
26 Saulite prior to the murder.

27 382 Q. You didn't indicate to Inspector Mangan, am I correct,
28 that you were making a complaint when you submitted
29 your report?

1 A. No, no, he -- the request was for me to provide
2 information of my dealings with Baiba prior to her
3 murder.

4 383 Q. Am I correct, you didn't indicate you were making a
5 complaint? 12:24

6 A. Not at that time, no.

7 384 Q. When you submitted your report on the 17th December, am
8 I correct you handed him a 16-page report, not a
9 19-page report?

10 A. That's correct. 12:24

11 385 Q. You did not say to him, when you provided him with the
12 report, that you were making allegations of system
13 failures?

14 A. No, I didn't use that term at that time.

15 386 Q. Nor did you say you were feeling -- 12:25

16 A. Sorry, I beg your pardon, if I can recollect. At the
17 end, when I submitted the report to him and he slightly
18 browsed through it, I said to him that I believe there
19 was a systems failure in relation to the Garda handling
20 of the Baiba Saulite matters and he said he'd report my 12:25
21 concerns to the Commissioner.

22 387 Q. I think you are aware that's not Inspector Mangan's
23 recollection?

24 A. I think I am, yes.

25 388 Q. Nor did you say how you were feeling in respect of 12:25
26 being isolated or being treated by senior management,
27 which you have elsewhere claimed you did say?

28 A. To Inspector Mangan, no.

29 389 Q. Yes.

1 A. At that time?

2 390 Q. Yes.

3 A. I recollect having a conversation with him in relation
4 to the systems failure, and, you know, my general
5 feelings at the time. 12:25

6 391 Q. Inspector Mangan did not tell you that Garda management
7 would seek further clarification from you.

8 A. He may not have said that but I just passed on my
9 assertion that there had been a systems failure to him.

10 392 Q. In your statement to the Tribunal of Inquiry, you make 12:26
11 an allegation that the commencement of Inspector
12 Mangan's fact-finding was part of a cover-up that was
13 underway in relation to events involving Baiba Saulite
14 prior to her murder, and you allege that the
15 Commissioner and senior Garda management were involved 12:26
16 as they were behind the instigation of the fact-finding
17 process, and you individualise your allegation and you
18 say that the individuals were Noel Conroy, who was the
19 Garda Commissioner, Al McHugh, who is the Assistant
20 Commissioner DMR, and you also say that the cover-up 12:26
21 involved the chain of command down to Inspector
22 Christopher Mangan. Are you persisting with the claim
23 that Inspector Mangan, just to take him first of all,
24 was involved in a cover-up?

25 A. The instruction down from -- to Inspector Mangan was to 12:27
26 carry out a fact-find in relation to all knowledge
27 within An Garda Síochána in relation to Baiba Saulite.
28 I was conscious, as the weeks passed, and months passed
29 by that all members of An Garda Síochána who had

1 dealings with Baiba Saulite were not being interviewed,
2 members that had information in relation to their
3 dealings with Baiba Saulite, even retired members who
4 had had dealings with Baiba Saulite were not
5 interviewed. So, from that perspective, the fact-find 12:27
6 did not extend to actually interview all members and it
7 appeared to me to be concentrating on the visits by
8 Baiba to me in the -- with me on the 14th November
9 2006.

10 393 Q. If that was your position, sergeant, now would have 12:27
11 been the moment, I suggest to you, to play your main
12 card, your claim that Walter O'Sullivan had told you
13 about the bombshell information?

14 A. If that was the position then?

15 394 Q. If it was your position that you formed a view from the 12:28
16 outset that the lens of the fact-finding was too narrow
17 and was focussing too much on you and wasn't focussing
18 sufficiently on others, if that was your position, I
19 suggest to you that would have prompted you immediately
20 to bring to the attention of Inspector Mangan and 12:28
21 management what you claim Walter O'Sullivan had said?

22 A. Yes indeed, and taking that in mind, I started to raise
23 these concerns with Superintendent Curran in April
24 2007.

25 395 Q. No, no, no, you'd immediately make contact with the 12:28
26 inspector: Inspector, I didn't put it into my report
27 but there is something I need to tell you that's of
28 startling relevance to your inquiry. Why didn't you do
29 that?

1 A. Well I didn't do it, and the over the course of the
2 months following the initiation of the fact-finding
3 inquiry, I started to realise that certain people -- a
4 lot of people were not being interviewed in relation to
5 their dealings with Baiba Saulite, and it was following 12:29
6 that then that I raised it with my own line manager,
7 Superintendent Curran, I raised the fact that the
8 systems failure and --

9 396 Q. We'll come on to that. Superintendent Curran didn't
10 come into the picture -- didn't even arrive in the 12:29
11 station until March of the next year?

12 A. Correct.

13 397 Q. He has no baggage in any of this.

14 A. He has no what?

15 398 Q. He has no baggage -- 12:29

16 A. Yes.

17 399 Q. He arrived in in the spring, all right. Inspector
18 Mangan is tasked with doing the report?

19 A. Correct.

20 400 Q. You know that because you give him your report? 12:29

21 A. That's correct.

22 401 Q. You have made a call I'm not going to include my
23 startling information walter O'Sullivan told me?

24 A. Yes.

25 402 Q. You now learn, you say, that people who should have 12:30
26 been interviewed by Inspector Mangan haven't been
27 interviewed by him. Why didn't you go to Inspector
28 Mangan and alert him to the information?

29 A. Yes, I didn't do that.

1 403 Q. We know that. Why not?

2 A. I felt the proper course was to raise it through my own
3 line management.

4 404 Q. But, you see, you didn't raise the bombshell
5 information with Mark Curran when he entered the 12:30
6 picture months later.

7 A. I don't recall, actually, that conversation with Mark
8 Curran but I did raise the concept of a systems failure
9 with him and that would have -- if I had been asked to
10 investigate, or if that was investigated at the time, 12:30
11 it's very possible then I would have actually relayed
12 the information in relation to Walter O'Sullivan's
13 conversation with me on the 20th November.

14 405 Q. I suggest to you that it's unfair of you to accuse
15 Inspector Feehan -- Inspector Mangan for being involved 12:31
16 in a cover-up; that's not fair.

17 A. Well, the -- if the investigation was launched and
18 certain matters are not uncovered, well then the person
19 conducting that investigation then is obviously
20 involved in not uncovering that information. 12:31

21 406 Q. Information that you had withheld.

22 A. No, the information from other members of the Garda
23 Síochána who had dealings with Baiba Saulite prior to
24 her murder.

25 407 Q. So your allegation of impropriety against the inspector 12:31
26 is it that he didn't uncover information that you
27 withheld from him?

28 A. No, sorry, that he didn't uncover information that
29 other people had as to their dealings with Baiba

1 Superintendent Michael Feehan.

2
3 1. On the 6th December 2006, Chief Superintendent
4 Feehan was requested by Assistant Commissioner McHugh
5 to carry out a fact-finding investigation and report 12:33
6 his views and recommendations on the level of knowledge
7 in possession of An Garda Síochána relative to threats
8 to Baiba Saulite prior to her murder.

9
10 2. Chief Superintendent Feehan requested Detective 12:33
11 Inspector Christopher Mangan to assist with the
12 investigation.

13
14 3. Detective Inspector Christopher Mangan contacted
15 Detective Superintendent Michael Byrne to establish if 12:34
16 he had any information in his possession in relation to
17 the matter and he indicated he was not in possession of
18 any such information.

19
20 4. Inspector Mangan requested Sergeant Hughes to 12:34
21 submit a report... Sergeant Hughes submitted a report.

22
23 5. Detective Inspector Mangan requested Garda Nyhan to
24 submit a report... Garda Nyhan submitted a report.

25 12:34
26 6. Detective Inspector Mangan requested Detective
27 Sergeant Kieran McEneaney to submit a report for the
28 fact finding. Detective Sergeant Kieran McEneaney
29 submitted a report dated 21st December 2006.

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7. Inspector Mangan visited the District Office at Coolock Garda Station where he spoke to Inspector Donal Waters, Acting District Office. Inspector Donal Waters was not in possession of any information relative to the investigation. Detective Inspector Mangan examined the files held at the District Office, Coolock Garda Station and two reports relative to Baiba Saulite were located. The first report was dated 20th January 2005 and had been forwarded to sergeant Liam Hughes by the District Officer. The second report contained a letter from John Hennessy solicitor and this had also been forwarded to Sergeant Liam Hughes on the 1st November 2005. "

12:34

12:35

Just pause there. Do you recall that, sergeant?

12:35

A. The second report, is it?

413 Q. Those two documents referred to at paragraph number 7 there.

A. I'd have to be reminded on those.

12:35

414 Q. So, the first is the two reports relative to Baiba Saulite and also a report of the 1st November '05, does that ring any bells?

A. I'd just have to be reminded on those.

415 Q. All right. It continues:

12:35

"The former district officer, Superintendent Noel McLoughlin, was not interviewed as he had retired. Garda Adrian Walsh, district officer Coolock, was

1 interviewed by Detective Inspector Christopher Mangan
2 and he was unable to provide any information relative
3 to the investigation.
4

5 8. Inspector Mangan also researched section 5 of the 12:35
6 Criminal Justice Act 1993" -- and that's the statutory
7 basis for criminal impact statements.
8

9 "9. Detective Inspector Mangan examined and considered
10 the Victim Impact Report submitted by Bai ba Saul ite to 12:36
11 Sergeant Hughes.
12

13 10. Inspector Mangan researched and considered the
14 judgement of the Court of Appeal in DPP v Wayne
15 Donoghue. 12:36
16

17 11. Inspector Mangan researched and considered the
18 previous victim impact statements which were submitted
19 in criminal cases in the C district.
20

21 12. Inspector Mangan interrogated the Garda PULSE
22 information system to establish what information
23 existed relative to threats to Bai ba Saul ite.
24

25 13. Inspector Mangan examined statements made by Bai ba 12:36
26 Saul ite to Garda Conor McNally.
27

28 14. Inspector Mangan spoke to Garda Alan Campbell who
29 was involved in the completion of the original file

1 involving Sergeant Hughes and Baiba Saulite."

2

3 Now that you see that there, sergeant, would you agree
4 with me that it's not fair to suggest that Inspector
5 Mangan solely focussed on you? 12:36

6 A. Em, if you -- I know it will probably be opened later,
7 but if you contrast the amount of people interviewed in
8 that investigation with that that was -- in the
9 investigation conducted by Chief Superintendent Feehan
10 in the confidential recipient process, you'll see that 12:37
11 far more people were interviewed in relation to their
12 dealings with Baiba Saulite than in this particular
13 investigation.

14 416 Q. So was that latter report an investigation, was that a
15 very thorough report as far as you were concerned? 12:37

16 A. The confidential recipient one?

17 417 Q. Yes.

18 A. It seems to be quite extensive, yes.

19 418 Q. And very thorough around comprehensive?

20 A. It's thorough and comprehensive in respect of 12:37
21 interviewing far more members of the Garda Síochána
22 that had dealings with Baiba Saulite prior to her
23 murder.

24 419 Q. And very professionally done and very in-depth in the
25 approach it took to the whole investigation, you'd 12:37
26 agree with that?

27 A. I don't fully agree with that, no.

28 420 Q. I see. We'll come back to that in due course when we
29 do it in chronology.

1 A. Sure.

2 421 Q. Now, if we could -- if we could look at the conclusions
3 that Inspector Mangan came to, the conclusion of the
4 second report is at page 890, and we see from the
5 bottom of the page that this is then Detective 12:38
6 Inspector Christopher Mangan and it carries the date of
7 the 2nd February. If we scroll down a bit more, we'll
8 see the date of it, the 2nd February 2007. So, perhaps
9 if we could just scroll back up to the top we'll see
10 the conclusion he reached having spoken to all those 12:38
11 people.

12

13 "During the period of time that Bai ba Saulite was
14 involved with Mr. A she suffered emotionally and
15 physically. . . " 12:38

16

17 "Sergeant Liam Hughes had submitted a comprehensive
18 report outlining his dealings with the deceased."
19

20 That word "comprehensive" that's in your ease, isn't 12:39
21 it, that's fair minded of him?

22 A. That's the chronology I gave, yes.

23 422 Q. My question is: wasn't it fair minded of him to refer
24 to it as being a comprehensive report?

25 A. Yes indeed. 12:39

26 423 Q. "Detective Sergeant Kieran McEneaney has submitted a
27 report outlining his dealings with the deceased. Both
28 sergeants were not in possession of specific threats to
29 her and she did not make any formal complaint to either

1 member. Garda Nyhan has submitted a brief report
2 outlining that he was not aware of a threat to her."

3
4 I think we can take it from that, sergeant, that Garda
5 Nyhan also chose not to disclose the startling
6 information that you had relayed to him? 12:39

7 A. Yes indeed.

8 424 Q. The report continues:

9
10 "The handwritten document submitted by Baiba Saulite to 12:40
11 Sergeant Hughes would not constitute a Victim Impact
12 Statement and would not have been accepted by the
13 courts.

14
15 The handwritten document purporting to be a Victim 12:40
16 Impact Statement could not be used by the Gardaí to
17 investigate or instigate a prosecution against Mr. A."

18
19 Again, I think that is a reasonable and fair-minded
20 conclusion to draw that is in ease of your position, 12:40
21 isn't that right

22 A. That would be correct, yes.

23 425 Q. "As a result of the investigation of the facts to hand,
24 I am of the view that Sergeant Hughes and Garda Nyhan
25 completed a complex investigation in a very 12:40
26 professional manner."

27
28 You'd agree with me that again is a reasonable and
29 fair-minded observation for the inspector to make?

1 A. Yes, it is.

2 426 Q. He is not targeting you when he makes -- when he puts
3 in that reference?

4 A. Em, as I stated there, there were far more people
5 involved with Baiba Saulite that maybe he could have 12:40
6 commented on in relation to their investigations.

7 427 Q. He continues:
8 "There certainly was knowledge in existence and
9 available to the Gardaí in relation to threats from
10 Mr. A to Baiba Saulite." 12:41
11 That's correct, isn't it?

12 A. I have read that. I don't fully understand "there was
13 knowledge in existence and available to the Gardaí in
14 relation to threats from Mr. A to Baiba Saulite".

15 428 Q. Yes. So for instance, what he is referring to there, 12:41
16 as I understand it, is the fact that you had put up on
17 PULSE that he had threatened her, that she had reported
18 that he had threatened her, isn't that right?

19 A. Yes, yes.

20 429 Q. You were also aware that in her statements in January 12:41
21 of '05, she had also given chapter and verse on
22 assaults and, on her case, being threatened and
23 intimidated by her partner?

24 A. Yes.

25 430 Q. And you were aware of that as well? 12:41

26 A. Yes.

27 431 Q. So how were you puzzled by that -- there was knowledge
28 available to the Gardaí in relation to threats from
29 Mr. A to Baiba Saulite? There were.

1 A. There were. And there was more information there that
2 could have been discovered in that investigation as
3 well.

4 432 Q. Yeah. So, how were you puzzled by that? That's a
5 correct statement. 12:42

6 A. But he is not including the remaining -- the other
7 members who were involved with Baiba Saulite in their
8 assessments.

9 433 Q. He does, in his report, indicate the level of knowledge
10 and also looked at the PULSE, isn't that right? 12:42

11 A. He has looked at PULSE but there was matters that were
12 not put in PULSE pertaining to Baiba.

13 434 Q. Yes. And his next statement: "The members of An Garda
14 Síochána involved with Baiba Saulite readily admit this
15 in their reports." That's correct as well, isn't it? 12:42

16 A. I think he is referring just to myself and Kieran
17 McEneaney there.

18 435 Q. I think he may be, it's not clear, we can ask him, but
19 I suggest it's yourself and Declan Nyhan?

20 A. Yes, and Declan Nyhan, correct. 12:43

21 436 Q. So that's also correct?

22 A. Well there was other people that had reports -- sorry,
23 information that could have been -- I'll make it clear
24 to you I am not suggesting that you failed to act on
25 foot of that information, that's not my point. Nor am 12:43
26 I suggesting to you that you were in any way guilty of
27 the disciplinary charge because you were exonerated of
28 that, I want to make that clear. But in terms of the
29 limited initial conclusions by the inspector in this

1 last page, they are all correct.

2 A. It is, but he doesn't allude at all to the matters that
3 were not put in PULSE that involved Baiba Saulite and
4 her interactions with Gardaí.

5 437 Q. I see. So you are criticising him that he didn't 12:43
6 exhaustively go through in his conclusion paragraph
7 here, he ought to put it in other materials?

8 A. There is a lot more material that could have been gone
9 into the report, yes, in relation to the assessment of
10 the level of threat known to the Gardaí prior to her 12:43
11 death.

12 438 Q. But you see, you are aware, aren't you, sergeant, this
13 was a fact-finding; it is a preliminary report to see
14 if there is something to look into in depth; in modern
15 parlance, a scoping exercise, isn't that right? 12:44

16 A. Yes, to find the level of threat known to members of An
17 Garda Síochána prior to her murder.

18 439 Q. No, no, no --

19 A. Level of knowledge rather.

20 440 Q. No, it was to gather facts to see if they warranted an 12:44
21 inquiry; that's what he was doing, no more than that?

22 A. Yes.

23 441 Q. And you see it in the last sentence:
24
25 "In order to clearly outline the facts in existence, I 12:44
26 respectfully suggest that this matter be formally
27 investigated."
28
29 That's all he was doing. He wasn't reaching a

1 conclusion for or against you. He wasn't condemning
2 you. He was simply indicating it was appropriate to
3 proceed to an investigation.

4 A. I accept that.

5 442 Q. And yet you say he targeted you? 12:45

6 A. Well in that report there, the overall -- the overall
7 situation with the fact-find investigation leading up
8 to the disciplinary investigation, I felt I was
9 targeted --

10 443 Q. CHAIRMAN: How was this targeting you, sergeant? How 12:45
11 did Inspector Mangan target you specifically?

12 A. Well, I have always believed, Mr. Chairman, that there
13 was evidence there available to the Garda Síochána
14 following the murder --

15 444 Q. CHAIRMAN: Sorry, you are not answering my question. I 12:45
16 am trying to be specific because I want to be clear. I
17 understand your case and your complaints, I understand
18 all that. Here is a report by Inspector Mangan. How
19 did he target you in that report?

20 A. Well, it appears in that report that he was just -- the 12:46
21 focus of attention is back on my dealings with Baiba
22 Saulite on the 14th November 2006.

23 445 Q. CHAIRMAN: Okay. The focus is on you?

24 A. In that report, yes.

25 446 Q. CHAIRMAN: And that's how he targets you? 12:46

26 A. Well he targeted my, work, yes.

27 447 Q. CHAIRMAN: Because the focus is -- the focus of this
28 report is on you?

29 A. The focus of this report seems to be, to me, to be

1 actually focussing in on my meeting with Baiba Saulite,
2 and then he is talking about the Victim Impact Report
3 and the Criminal Justice Act in relation to how the
4 circumstances by which way the victim impact reports
5 are formulated. 12:46

6 448 Q. CHAIRMAN: Does he not tend to exonerate you by saying
7 it's a complex investigation and so on, and it couldn't
8 be used to investigate? I mean, are we reading the
9 same document when he says the victim impact couldn't
10 be used? How is that targeting you? 12:47

11 A. He says the handwritten document purporting to be a
12 Victim Impact Statement could not be used by the Garda
13 to instigate a prosecution against Mr. A.

14 449 Q. CHAIRMAN: Mmm... Nothing wrong with that, I take it?

15 A. It would not have been accepted by the courts, 12:47
16 Mr. Chairman --

17 450 Q. CHAIRMAN: You are not saying there is anything wrong
18 with that, are you?

19 A. No, I actually fully agree with that.

20 451 Q. CHAIRMAN: Yeah. 12:47

21 A. But when he was asked to the level of knowledge, the
22 focus appeared to be on my dealings with Baiba Saulite
23 prior to her murder.

24 452 Q. CHAIRMAN: Okay. when he says "the members of on Garda
25 Si uochana i nvolved Bai ba Saul i te", do you think that 12:48
26 applies to you and Garda Nyhan exclusively?

27 A. And Detective Sergeant McEneaney I think is mentioned
28 there as well.

29 453 Q. CHAIRMAN: well if Detective Sergeant McEneaney is

1 included, that's somebody else it's focussed on, isn't
2 that right?

3 A. That's correct.

4 454 Q. CHAIRMAN: Okay. He is deliberately targeting you?

5 A. Well I felt the report -- 12:48

6 455 Q. CHAIRMAN: I understand your complaint. You say this
7 report could have been better, it could have been more
8 thorough, it could have been this, that and the other?

9 A. Yes.

10 456 Q. CHAIRMAN: Okay, fair enough, maybe you are right, 12:48
11 maybe you are wrong, maybe the report could have been a
12 lot better, a lot more thorough. But that's a
13 different thing -- saying I have a criticisms of this
14 report, that's a different thing from saying this man
15 targeted me, he deliberately set out to damage me. So 12:48
16 I mean, that's what targeting -- that's my
17 understanding of targeting is: he set out to get me.

18 A. Well, in the overall context of the disciplinary
19 procedure which came later --

20 457 Q. CHAIRMAN: I'm not talking about the overall context of 12:49
21 anything. I am talking about -- I'm sorry, I
22 interrupt, and I shouldn't interrupt, but just so you
23 understand what I'm looking for. Here we have
24 Detective Inspector Mangan. Now, I want to know how
25 did he set out to target you? Because, presumably, you 12:49
26 can't target somebody accidentally, so he said I'm
27 going to target Sergeant Hughes, is that what you are
28 saying?

29 A. What I'm saying, Mr. Chairman, is that the report from

1 Inspector Mangan there formed the basis of his
2 superiors officers in deciding on a course. Now, if he
3 had conducted a full fact-finding inquiry, it would
4 have been revealed that several offences there that
5 were reported that involved Baiba Saulite were not 12:50
6 properly investigated, and that some of them were not
7 entered on PULSE and not properly disseminated, and
8 that was a level of knowledge that was known to members
9 of the Garda Síochána prior to her murder, and they
10 were not factored into that report. So, from my 12:50
11 perspective, the fact that the reports were forming the
12 basis of an assessment to senior officers', therefore,
13 determination as to whether there was any disciplinary
14 issues arising, I think that there should have been a
15 much more widespread collection of information in 12:50
16 relation to Baiba from other members.

17 458 Q. CHAIRMAN: Okay. That seems to me -- please correct me
18 now if I'm wrong -- that that seems to to me to be
19 letting Inspector Mangan off-the-hook. Am I right in
20 saying that? 12:50

21 A. Not off-the-hook, no. His job was to, as we know, to
22 collect all the information from members of An Garda
23 Síochána who had knowledge of Baiba's -- Baiba Saulite
24 prior to her murder. This wasn't done.

25 459 Q. CHAIRMAN: You know what I have to write down. The 12:51
26 question I have to ask is: did senior officers -- and
27 we'll include Inspector Mangan for this purpose -- did
28 Inspector Mangan target Sergeant Hughes because he had
29 made a protected disclosure? That's what I have to

1 answer. Now what do I say in relation to that?

2 A. well, I think that if he had concluded -- or, sorry,

3 conducted a far more comprehensive investigation, it

4 would have taken the focus of attention away from my

5 case. 12:51

6 460 Q. CHAIRMAN: would he still have had to answer the

7 question about you?

8 A. well if he had all the information that I think he

9 should have had in compiling --

10 461 Q. CHAIRMAN: But would he still have had to answer the 12:52

11 question about you?

12 A. Yes indeed.

13 462 Q. CHAIRMAN: There'd be you, but there'd be a lot of

14 other people as well

15 A. Yes, the bottom -- like, the report could have been 12:52

16 concluded that I have noted that there were several

17 investigations in relation to Baiba Saulite and

18 information wasn't correlated properly, that they

19 haven't investigated properly, and that there are far

20 more issues here arising, rather than the Victim Impact 12:52

21 Report and Sergeant Hughes's dealings with the --

22 463 Q. CHAIRMAN: Do you think he was asked to do that?

23 A. He was, he was asked to --

24 464 Q. CHAIRMAN: was he asked to evaluate the quality of the

25 policing before the murder? 12:52

26 A. well he was asked to assemble the level of knowledge --

27 or assess the level of knowledge --

28 465 Q. CHAIRMAN: Are we talking the same language here?

29 A. Yes...

1 466 Q. CHAIRMAN: Sorry, I mean -- Anyway, there it is. You
2 say this was targeting you because you had made a
3 protected disclosure. And which protected disclosure
4 was that?

5 A. Which protected disclosure? 12:52

6 467 Q. CHAIRMAN: Did you -- had you made any protected
7 disclosure before the Sergeant -- the Inspector Mangan
8 report? Actually, do you know, don't worry about that,
9 we'll have a legal debate in the end over the evidence
10 and the conclusions and the inferences, and I am sorry 12:53
11 for asking you a question that seems to me is more
12 properly a matter for argument and inference, so we'll
13 retreat from that.

14 Anyway, there it is. I have the picture. You say
15 Inspector Mangan should have carried out a much more 12:53
16 comprehensive report and he would have found out a lot
17 of other things, and because he didn't, you say that
18 represented targeting of me? That's essentially --

19 A. That's essentially it, Mr. Chairman. Thanks.

20 468 Q. CHAIRMAN: Thank you. 12:53

21 MR. O'HIGGINS: Sergeant, just before we move off
22 Inspector Mangan's report, can I ask you to look at
23 page 882, which is the final page of his earlier report
24 to Assistant Commissioner -- to Chief Superintendent
25 Feehan. So it's his initial report, and this is the 12:54
26 last page of it, and we might scroll down towards the
27 bottom, please. And this is dated the 22nd December
28 2006, so it's a little before, and just the last
29 paragraph there I want to draw to your attention.

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He focuses in on the victim impact and he says:

"In the absence of a statement of complaint from Baiba Saulite, the Gardaí would be unable to interview Mr. A who was in prison when the intimidation was ongoing. Without a statement of complaint a prosecution could not be instigated against Mr. A for the issuing of threats. As the matter stood, the Gardaí had no evidence to deal with the situation and impose any form of sanction on Mr. A."

You'd agree with me that was, again, a fair-minded reference that actually was in ease of your position?

A. That's his assessment of the position, yes. 12:55

469 Q. Yeah, and it was in ease of your position.

A. Sorry?

470 Q. It was in ease of you. It favoured your position. It, as it were, defended your position.

A. If he is referring to the victim impact, it would appear, yes, that he is speaking in favour of that. 12:55

471 Q. It's not just the victim impact actually, he is saying that in the absence of a statement of complaint from Baiba Saulite, you know, at this time, and I suggest to you this could also incorporate the visit to the station on the 14th November, in the absence of a statement of complaint, the Gardaí would be unable to interview Mr. A, and without a statement of complaint, a prosecution could not be instigated against Mr. A. 12:55

1 So, I'm suggesting to you these are points,
2 conclusions, preliminary conclusions he has reached
3 that are actually in ease of your position?
4 A. Yes, that could be so, yes.
5 472 Q. Right. And I am suggesting to you that that doesn't 12:56
6 sit easily with an allegation that this man was
7 targeting you or being unfair to you.
8 A. The -- as I said, the -- when the senior officers
9 relied on his reports there to proceed with a
10 disciplinary investigation, I don't think they had 12:56
11 access to all the information that was available in
12 relation to Baiba Saulite prior to her murder.
13 473 Q. Yes. No, it was intended there'd be a more in-depth
14 investigation then, that's the nature of a scoping
15 exercise, isn't that right? 12:56
16 A. The -- sorry, could you repeat that?
17 474 Q. Yes. The nature of a fact-finding, or what I termed
18 scoping exercise, is that it's preliminary, it's not
19 the full investigation?
20 A. Yes, I would say, but it wouldn't necessitate the 12:57
21 conduct of a full investigation.
22 475 Q. Yes. And that was his conclusion; from his preliminary
23 look at things it warranted looking into further, and
24 that was reasonable, wasn't it?
25 A. A full investigation, yes, I think it warranted a full 12:57
26 investigation from the outset.
27 476 Q. All right. I'm going to move now to your dealings with
28 Inspector Cryan, which is a new area, and you are aware
29 there is --

1 CHAIRMAN: Do you want to leave it at that before we --
2 will we break -- is that a convenient time to break for
3 lunch?

4 MR. O' HIGGINS: That be would convenient, Chairman.
5 Thank you. 12:57

6 CHAIRMAN: All right. Thank you very much.
7
8
9

10 THE HEARING ADJOURNED FOR LUNCH AND RESUMED AS FOLLOWS: 12:58
11

12 CHAIRMAN: Thanks very much.

13 477 Q. MR. O' HIGGINS: Sergeant, can I bring you now to Swords
14 Garda Station on the -- well, first of all, we know
15 that the murder was the 19th November and then the 14:01
16 conference was on the 20th, the Monday, isn't that so?

17 A. That's correct.

18 478 Q. All right. You had a number of discussions or meetings
19 with then Inspector Michael Cryan in the days that
20 followed the murder, isn't that so? 14:02

21 A. That's correct.

22 479 Q. And on the Tuesday, the 21st November, Inspector Cryan
23 made contact with you by telephone, isn't that right?

24 A. That's correct.

25 480 Q. Around about lunch time, around 1:15? 14:02

26 A. I don't recall the time.

27 481 Q. Right. And he basically rang you for two reasons I am
28 suggesting; he had phoned you on the Sunday night, the
29 night of the murder, while he was en route to the scene

1 of the murder, and in this phone call now on the
2 Tuesday at lunch hour, his purpose of ringing you was
3 that D/Sergeant McEaney had asked him to get a copy
4 of the abduction of the children file that you had?

5 A. Yes, I read his notes. 14:03

6 482 Q. Pardon?

7 A. I read his notes on that, yes.

8 483 Q. Well, that's correct, isn't it, he asked you --

9 A. Yes, I have a recollection of him ringing me in
10 relation to the child abduction investigation file. 14:03

11 484 Q. Right. He indicates that in this call you were still
12 very shocked, and you said you couldn't believe it had
13 come to this with Baiba being murdered, and you
14 indicated you kept racking your brain to see if there
15 was something else you could have done to prevent it? 14:03

16 A. Yes, they are his notes on that, yes.

17 485 Q. I know they are his notes. But is that what you said?

18 A. I could have said that to him, yes.

19 486 Q. Right. So, I'm suggesting to you that you were -- you
20 were really troubled and you were actually being hard 14:04
21 on yourself?

22 A. Being hard on myself?

23 487 Q. Yes.

24 A. I was fairly concerned obviously after Baiba's death in
25 relation to how it transpired, yes. 14:04

26 488 Q. Yes. But more specifically, as well as being obviously
27 deeply upset and troubled by the murder, that she had
28 been killed, you were specifically also concerned, from
29 your own position, in that you were racking your brain:

1 was there more I could have done?
2 A. That's a possibility yes, but I would have -- if I was
3 given a chance to qualify it I would say: Was there
4 more that we all could have done in relation to Baiba
5 Saulite? 14:04

6 489 Q. Really? We can all get very philosophical about this.
7 I am asking you what you said to the man. He says you
8 indicated to him that you kept racking your brain and
9 wondered if there was something more you could have
10 done, did you say that? 14:05

11 A. Well, I don't have any recollection of the actual --
12 the words I used with Inspector Cryan on that date.

13 490 Q. He indicates that he tried to console you, he doesn't
14 use that word but he said to you as far as he knew, he
15 had done all you could? 14:05

16 A. Sorry, is this a telephone conversation or is it a
17 meeting?

18 491 Q. A telephone call, lunch hour, 1:15 on the Tuesday?
19 A. No, I don't recollect that format of language being
20 used. 14:05

21 492 Q. All right. I wonder is your recollection flawed?
22 Because you also don't seem to remember that he rang
23 you on the Sunday night?

24 A. I don't remember that he rang me on the Sunday night.

25 493 Q. His note appears to indicate that he did? 14:05

26 A. He says that he did, but I have disputed that. I don't
27 recollect him ringing me on the Sunday night. I
28 reported on several occasions to the authorities that I
29 received a telephone call from Sergeant Ambrose and --

1 in relation to the murder, twice.

2 494 Q. It isn't disputed that you did.

3 A. Sorry?

4 495 Q. It isn't disputed that you received a call from
5 Sergeant Ambrose, certainly it's not my purpose or 14:06
6 intention to suggest that you didn't get a call from
7 Sergeant Ambrose. But I'm suggesting you did get a
8 call from Michael Cryan on the Sunday.

9 A. I don't recollect getting a call from Michael Cryan on
10 the night of the murder. 14:06

11 496 Q. Okay. Do you recall the phone call at lunch hour on
12 the Tuesday?

13 A. I don't recollect the time, but I accept that I did --
14 was contacted by Inspector Cryan over the following
15 days. 14:06

16 497 Q. Right. He says that you said that Mr. A had made
17 threats against you, yourself, and Garda Nyhan, and he
18 says that you expressed anger that "no one in authority
19 had phoned to see how he was".

20 A. How I was? 14:07

21 498 Q. Yes.

22 A. Again, I don't recollect the format of the conversation
23 that we had on that occasion.

24 499 Q. And he says that he responded, that's why I am ringing
25 you, and that he said to you that you hadn't told him 14:07
26 about the specific threats to you and Garda Nyhan when
27 he spoke to you on the Sunday night en route to the
28 murder scene?

29 A. That he said I hadn't told him about the specific

1 threats, is it?

2 500 Q. Yes.

3 A. Again, I don't recollect that format of conversation
4 with Inspector Cryan.

5 501 Q. He says that you agreed you hadn't told him that, and 14:07
6 you explained that it was only after the murder that
7 the significance of the threat became obvious?

8 A. Against myself and Garda Nyhan, is it?

9 502 Q. Yes.

10 A. I don't recollect discussing the level of threat 14:08
11 against me or Garda Nyhan with Inspector Cryan.

12 503 Q. He says that you stated you were very angry and annoyed
13 that somebody in DDU - that's the detective unit -
14 would now try to blame you for not doing your job
15 properly. 14:08

16 A. No, I don't recollect that format of conversation.

17 504 Q. And he says that you said you didn't want anybody in
18 DDU, especially the D/Sergeant or the D/Superintendent
19 ringing you about it or speaking to you?

20 A. No, again, I don't recollect that. 14:08

21 505 Q. You did have some class of longstanding dispute with
22 some of your detective colleagues, isn't that right?

23 A. I had reported some detective members there, management
24 there, for various matters there and that's a matter of
25 record. 14:08

26 506 Q. All right. And believe me, it's not part of my purpose
27 to go into that, or I don't think it's really what the
28 Tribunal wants to go into it, but you brought it up
29 here in this conversation I am suggesting to you, and

1 you said to Inspector Cryan, you asked that someone in
2 uniform be appointed to deal with you, not one of the
3 detectives?

4 A. No, I don't recollect that at the time, and I certainly
5 would not have said to Inspector Cryan, or intimated to 14:09
6 him, that I wouldn't take any approach from a member in
7 authority such as a detective superintendent.

8 507 Q. He says that you also stated that no one in the DDU had
9 assisted in the investigation of the child abduction?

10 A. He says that? Again, I don't recollect the actual 14:09
11 conversation -- the words of the conversation I had
12 with Inspector Cryan on that day, or thereabouts.

13 508 Q. And he says that you felt that yourself and Garda Nyhan
14 were being left out to dry?

15 A. Again, I don't recollect that conversation. 14:09

16 509 Q. Says that he pointed out Garda Alan Campbell, who was
17 then in the DDU, had assisted and done the covering
18 report for the abduction and that the DDU had
19 investigated the criminal damage to the solicitor's
20 house which was connected to the case? 14:10

21 A. Again, I don't remember the exact train of conversation
22 that you are referring to there, but Garda Campbell did
23 actually compile the book, the child investigation --
24 investigation file book.

25 510 Q. Of the abduction file that went into the DPP? 14:10

26 A. That's grand. In January 2005.

27 511 Q. And Inspector Cryan says that you said the criminal
28 damage to the solicitor's house was not investigated
29 properly and nor was the criminal damage to Baiba

1 517 Q. About five o'clock in the evening?
2 A. Yes, I am confused as to the actual chronology when I
3 met him at the station, and I confused it I think in
4 evidence in the High Court in relation to when he
5 actually collected the copy of the victim impact off 14:12
6 me, Victim Impact Statement, which was on the
7 wednesday, on the 19th.

8 518 Q. All right. well, that's fair of you to point out and,
9 if I may say, that's a reasonable position in
10 circumstances of the shock of the whole incident? 14:13
11 A. Yes. well, I think I was being asked to recollect it
12 in 2012, the sequence of events, which weren't an issue
13 at the time in 2006, but they were an issue in the High
14 Court, but I couldn't recollect the actual visits that
15 he made and the times that he arrived at the station. 14:13
16 I didn't take any notes of me interacting with
17 Inspector Cryan or any of his comments to me or any of
18 my comments to him at the time. But in 2012 I found it
19 difficult to recollect whether it was five o'clock on
20 the Tuesday or twelve o'clock on the wednesday. 14:13

21 519 Q. I appreciate that. I appreciate. And doubtless the
22 Chairman will as well. At five o'clock then that
23 evening you gave him a copy of the abduction file and I
24 think also a copy of the disclosure file?
25 A. I think that was on the wednesday the 19th. when you 14:13
26 say disclosure file, the victim impact, is it?

27 520 Q. No, no, no so --
28 521 Q. CHAIRMAN: He means the abduction file?
29 A. Oh, the abduction file.

1 522 Q. CHAIRMAN: I am sorry, Mr. O'Higgins. You mean that
2 Inspector Cryan's note records that at 5:00pm on the
3 Tuesday you gave him the abduction file, that's what
4 his note says?
5 A. Yes. 14:14

6 523 Q. CHAIRMAN: Okay. And you don't remember the specific
7 time, but if I understand you don't disagree that
8 that's probably right?
9 A. That's probably correct, Mr. Chairman.

10 CHAIRMAN: Okay. 14:14

11 524 Q. MR. O'HIGGINS: So you handed over the file that went
12 into the DPP?
13 A. Yes. We had sent five copies of that file to the
14 district office, one for the district office, one for
15 the chief's office, one for Crime and Security and one 14:14
16 for the -- PP's office, I think there's two for the
17 DPP's office, sorry.

18 525 Q. So in this meeting on the evening of the Tuesday, you
19 didn't mention the victim impact report, you didn't
20 give it to him? 14:15
21 A. I can't recall -- I know I gave it to him on the
22 Wednesday, the 19th -- or sorry, no, the 22nd November.

23 526 Q. Why wouldn't you, you are handing him over documents --
24 A. Excuse me?

25 527 Q. You are handing him over documents for investigative 14:15
26 purposes, why don't you hand him over the victim
27 impact?
28 A. Well, if you had asked me without referring to notes
29 did I hand over the victim impact to him, I would have

1 said yes, I handed over all the documents to him at the
2 time, but I can't remember the chronology of handing
3 them, the file and -- or the victim impact, a copy of
4 the Victim Impact Statement.

5 528 Q. Don't you know well you didn't give him the victim 14:15
6 impact at this time?

7 A. I don't recall. I don't recall.

8 529 Q. Not least from the High Court hearing, you know it was
9 suggested to you you didn't hand over the victim impact
10 when you met him at five o'clock on the Tuesday? 14:16

11 A. Well, if -- that's his recollection of it. If he says
12 I didn't hand it over, it sort of suggests I was
13 actually not handing it over deliberately, but if he
14 looked for it it was there for him to take at any time.

15 530 Q. Would it not have been attached to the same file, or 14:16
16 with it?

17 A. No. The child abduction investigation file was
18 actually bound and the victim impact, a copy of the
19 victim report was separate.

20 531 Q. Did you not have them housed in the same part of your 14:16
21 locker?

22 A. They were in the same locker, but I can't recollect
23 why, if he didn't -- if he asked for the victim impact
24 at the time, the victim impact document, he would have
25 got it and I don't know why -- what the sequence was 14:16
26 leading, but I do know that he received both documents
27 as soon as he -- promptly.

28 532 Q. You see, he didn't know about it to ask for it at this
29 point.

1 A. I thought he did know about it.

2 533 Q. No, he did later on, when he was asked to get it from
3 you. But in this hand over of documents at five
4 o'clock he didn't have it, he didn't know about it at
5 least -- 14:17

6 A. Okay.

7 534 Q. -- and you didn't hand it over. I am not saying you
8 were specifically asked to, he doesn't say that. He
9 didn't ask you because he didn't know about it.

10 A. Yes. Again, I can't remember exact timeframe of 14:17
11 handing the documents over and, as I said, it only
12 became an issue in 2012. And really, if there was an
13 issue with regard to any of my transactions with
14 Inspector Cryan back in 2006 I am sure if it was
15 brought to my attention then it would have been 14:17
16 remedied immediately.

17 535 Q. He says that he later rang you at half past six, an
18 hour and a half later, and he asked you, on the request
19 of D/Inspector O'Sullivan, for a copy of the -- for the
20 victim impact report that you had taken on the 14th? 14:17

21 A. Yes. Well, again, I don't recall that chronology.

22 536 Q. He says you said you'd only a copy as she had the
23 original and was in the process of completing it and
24 you were keeping a log of all dealings -- sorry --
25 sorry, he stated that you only -- he says you said you 14:18
26 only had a copy as she had the original, do you recall
27 that?

28 A. No, I don't recall the train of the conversation with
29 Inspector Cryan back in 2006.

1 537 Q. He says that you asked -- Inspector Cryan asked him to
2 ensure that all in authority were told that what was in
3 the report was not a complaint as such, but rather a
4 part of the victim impact report?
5 A. Yes, indeed. I don't recollect the conversation with 14:18
6 him I had back then, you know, requesting that --
7 making that request of him.
8 538 Q. He says you wondered could it be used as evidence? And
9 the inspector told you he doubted that it could?
10 A. No, I didn't -- I wouldn't have said that to him. I 14:19
11 definitely wouldn't have said used in evidence, for
12 what though?
13 539 Q. He instructs me that you undertook to call to Swords on
14 the 22nd November, that's the wednesday, the next day,
15 and leave a copy of the victim impact? 14:19
16 A. Yes, indeed. And any conversations I would have had
17 with Inspector Cryan would be just courteous
18 conversations there. There wouldn't be any demands
19 that he was saying you must get to Swords and then me
20 not turning up to Swords or whatever. So he did make 14:19
21 -- we could have made an arrangement for me to turn up
22 in Swords the next day, just an arrangement between
23 ourselves, that I would hand over this document then.
24 540 Q. He says that you asked him had the original been found
25 in the house? 14:19
26 A. I don't recollect asking him that.
27 541 Q. Well, might you have asked that question?
28 A. I could have asked him that question, but I don't have
29 a recollection of it.

1 542 Q. And if you did, what was your thinking in asking that?
2 A. I don't know what my thinking was back then, but again,
3 it's -- we could have had a ten-minute conversation on
4 the phone and it could have been taken whatever context
5 it was taken in. If I said it -- he says I said it in 14:20
6 his notes, I don't have a recollection of it.

7 543 Q. The next day, the Wednesday the 22nd, he met you in
8 Swords at lunch hour again, do you remember this?
9 A. Yes, I was at -- I remember this vividly because I was
10 at a parent-teacher meeting in Skerries and I think it 14:20
11 was about 15 miles away from Swords station and I was
12 called -- I was contacted by Inspector Cryan to get to
13 the station as soon as possible.

14 544 Q. Yes, and what did he say?
15 A. I told him I'd make my way there. 14:20

16 545 Q. Right. And specifically, what did he say regarding the
17 victim impact?
18 A. Oh, he said he needed to get a copy of the victim
19 impact report that the Commissioner had directed that
20 I -- if I wasn't available to produce it that my 14:21
21 lockers would be forced or burst open.

22 546 Q. You recall him saying that, do you?
23 A. Yes, I do. I'll never forget that.

24 547 Q. And you are clear on that?
25 A. I am absolutely clear on that. 14:21

26 548 Q. All right. I just wonder is it possible - and I am
27 putting it no higher - is it possible that you may be
28 mistaken about that and that you are superimposing on
29 your memory something that you happened to learn much

1 later?

2 A. No, I am actually very clear on that, in that he said
3 that the Commissioner said that my locker would be
4 forced open, or burst open, if I didn't turn up in
5 Swords Garda Station.

14:21

6 549 Q. Because, you see, Inspector Cryan's instructions to me
7 are that he noted what was relayed to him by Chief
8 Phillips as to what Assistant Commissioner McHugh had
9 said, indicating he was desirous of the report being
10 got - I'm going to call that the locker threat, okay -
11 but he didn't relay it to you?

14:22

12 A. Sorry, he relayed to me that the Commissioner, he just
13 used the word Commissioner, he didn't say Assistant
14 Commissioner. He said the word Commissioner.

15 550 Q. And I am suggesting to you that this graphic picture of
16 a threat to burst open a locker is something that you
17 have latched onto because you saw a record to indicate
18 that much later on, and you have managed to infuse your
19 memory with it?

14:22

20 A. I am absolutely clear I drove all the way in from
21 Skerries into Swords with that image in my mind, that
22 the Commissioner was seeking to force open my locker to
23 obtain a document.

14:22

24 551 Q. It is agreed from my client's side that you -- it was
25 indicated to you that the victim impact was being
26 sought, and Inspector Cryan says that he had learned
27 about the victim impact and had asked you for it, but
28 in fact didn't relay what you say in relation to the
29 locker threat?

14:23

1 A. He is saying that he didn't relay that, is it?

2 552 Q. Yes.

3 A. No, that's untrue. I'll never forget that statement

4 that he made.

5 553 Q. All right. My instructions are that you gave him the 14:23

6 victim impact report and you then told him what

7 happened in the visit of Baiba Saulite on the 14th

8 November to the station?

9 A. Yes, we had a conversation at Swords station.

10 554 Q. And he says that he asked you -- this now, this is 14:23

11 person to person, isn't it?

12 A. Person to person.

13 555 Q. Yeah.

14 A. At the community police office in Swords.

15 556 Q. Yes. And I think there is a lot of common ground in 14:24

16 relation to this. Well, I'll just start, this may not

17 be common ground. He says that your hands were

18 shaking, you looked very stressed out, you looked tired

19 and you were very clearly nervous.

20 A. I was very nervous. 14:24

21 557 Q. Were you shaking?

22 A. I was nervous. I was in a state of shock at the

23 developments in relation to the apparent focus of

24 attention all of a sudden on the victim impact report.

25 558 Q. I'm wondering is that a retrospective impression you 14:24

26 formed?

27 A. No, absolutely not.

28 559 Q. He advised you to see a doctor, you looked that unwell?

29 A. I don't recollect him saying that, but I wouldn't

1 dispute it if that's the case.

2 560 Q. All right. You gave him -- you asked him to write down
3 an account on your behalf, isn't that right?

4 A. That's correct.

5 561 Q. So this was him taking down what you were saying? 14:25

6 A. Yes.

7 562 Q. All right. And you recorded -- you asked him to record
8 what your recollection was of Ms. Saulite's visit to
9 the station on the 14th?

10 A. In that written report he was taking from me, yes. 14:25

11 563 Q. Yes. Could I ask you - and in fairness to you, you
12 should see it - would you mind looking at his note at
13 page 741.

14 A. 741, yes.

15 564 Q. Just while we're waiting for that to come up, I think 14:26
16 it's -- you relayed these portions are not, I think,
17 controversial -- you explained to him that she had
18 called in by appointment to see yourself and Garda
19 Nyhan regarding the victim impact. She produced the
20 12-page handwritten document on Great Southern Hotel 14:26
21 paper, unsigned and undated?

22 A. That's correct.

23 565 Q. You told him that you had skimmed through it, and you
24 could see a lot of it was not admissible as a victim
25 impact report? 14:26

26 A. Yes, that's correct.

27 566 Q. You told him that you told her this and that you
28 advised her to see a doctor regarding her, what's
29 termed, physiological condition, as it's put?

1 A. Yes, that's correct.

2 567 Q. You said to him that -- it was agreed to make a second
3 appointment for the following week starting the 20th
4 November. There we are, I think we have it up all
5 right. If we could scroll down please, Mr. Kavanagh, 14:27
6 towards the bottom of the page. Do you see there
7 14/11/06?

8 A. I do.

9 568 Q. So this is the record of what he took down -- what he
10 says he took down at your behest. And if we could -- 14:27
11 could I ask you to look at five lines -- six lines
12 down:
13
14 "Sergeant Hughes discussed Mr. A with her and how he
15 was after a plea of guilty and what his demeanour was." 14:27
16
17 Do you see that?

18 A. Yes, I do.

19 569 Q. It continues:
20 14:27
21 "She told them she had stopped bringing the kids to see
22 him. Changed SIM card in phone. She was positive and
23 upbeat, had a great confidence in herself. Asked how
24 she was and she said he never stopped talking about
25 John Hennessy and Liam Hughes, that they were 14:28
26 responsible for putting him in prison."
27
28 This next bit I just want to ask you about:
29

1 "Sergeant Hughes asked what did she mean and she said
2 she feared for her own safety, Declan's safety, John's
3 safety and Liam's safety."
4

5 Do you see that there?

14:28

6 A. I do.

7 570 Q. How did it come to pass that the inspector taking down
8 what you were saying has noted that?

9 A. Well, I don't know how he included that because she
10 never said to us in any shape or form that she feared
11 for her own safety, and never made any formal complaint
12 in that regard or remarks like that. If she had, and I
13 understood from what she was saying that she was making
14 a formal complaint, I would have investigated it.

14:28

15 571 Q. But, sergeant, I mean it's not hugely controversial.
16 She had been saying that over -- over 2005 and a bit of
17 2006, hadn't she?

14:28

18 A. Yes, but she didn't say it to -- I didn't relate that
19 to Inspector Cryan that morning. I related to him what
20 she had said to us on the 14th, was that she -- that
21 she feared for John Hennessy and myself and possibly
22 Declan Nyhan.

14:29

23 572 Q. How could it possibly be there?

24 A. Well, I mean Declan Nyhan, but not her, not her.

25 573 Q. Well, you were watching him take it down and he
26 subsequently read it back to you, so I mean how is it
27 there if you didn't say it?

14:29

28 A. No, this is not the report he took down. I signed a
29 report that he took from me in relation to the victim

1 impact document.

2 574 Q. All right. Well, we might just go on. Towards the
3 bottom of the same page you see he records:
4
5 "She was there for about three quarters of an hour." 14:30
6
7 The very last line on screen, do you see it?
8 A. She was about three quarters of an hour, is it?
9 575 Q. Yes.
10 A. Yes. 14:30
11 576 Q. Then the next sentence, it goes over the page:
12
13 "Sergeant Hughes asked her did she want to make any
14 compl ai nt. "
15 14:30
16 Complaint about what?
17 A. Sorry, "Sergeant Hughes asked her did she want to make
18 any complaint and she did not".
19 577 Q. So did you tell him that you asked her did she want to
20 make a complaint? 14:30
21 A. I can't recall. These are Inspector Cryan's notes, but
22 I can't recall the -- I do know that he took down a
23 written report from me in relation to my full
24 interaction with Baiba on that date and I signed it.
25 578 Q. I'm just focussing on this for a moment. He records 14:30
26 you saying to him that you asked her, on the 14th --
27 A. Oh, on the 14th, yes.
28 579 Q. -- did she want to make a complaint, and she had
29 responded she did not.

1 A. Well, that's in line with what I said earlier on about
2 my interaction with Baiba on the 14th, yes.

3 580 Q. Okay. So, the note is correct about that, is it?
4 A. It would be, yes.

5 581 Q. Yeah. So what did she want to make a complaint about? 14:31
6 A. Well, when we had the casual conversation with her
7 after discussing the victim impact report, as I said
8 earlier, we just started speaking about -- she started
9 bringing up matters that were already known to the
10 detective branch, and I asked her did she want to make 14:31
11 any complaint to us about anything and she said no and
12 she was happy enough for the detectives to deal with
13 it.

14 582 Q. All right. Do you see in the next two lines down,
15 there is one-liner and it says: 14:31
16
17 "Sergeant Hughes read the account I had written down
18 and was happy with it."
19
20 Do you see that? 14:31

21 A. Sorry, where is that?

22 583 Q. Three lines down, it's a line on its own, just where
23 the cursor is: "Sergeant Hughes read the account I had
24 written down and was happy with it."
25 A. Is this the account that he wrote down? 14:32

26 584 Q. Yes. It's the typed version of it.
27 A. I thought I signed it actually, so...
28 585 Q. All right.
29 A. In a separate sheet of paper like a report.

1 586 Q. All right. well, we will endeavour to pull that up in
2 a little while.

3

4

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29

In the next paragraph you'll see, if we scroll down,
that he said you looked very stressed out, tired, your
hands were shaking, nervous, up and down out of the
seat.

14:32

"He requested I write all this down as he wanted to do
a report but said he couldn't concentrate or write."

14:32

Do you accept that?

A. well, the position was, there was a power failure
within Swords Garda Station at the time. I am far
better using a PC than writing, my handwriting wouldn't
be great anyway, so that's why I asked for him to just
write it down himself and I would dictate it for him.

14:32

587 Q. And was part of your purpose to get on record your
defence to any potential criticism that you had failed
to act knowing what you knew?

14:33

A. well, the report, I think, that I gave to Inspector
Cryan that I signed, outlines what my intent was at the
time.

588 Q. well, was it to get down your position, to defend your
position?

14:33

A. well, it was to outline the facts surrounding the -- my
procurement of the Victim Impact Statement.

589 Q. This is now your account of what you wanted on the
record. It's the wednesday, three days after the

1 murder, and eight days after Baiba Saulite's visit to
2 the station. why is there no mention of what you claim
3 walter O'sullivan told you?

4 A. Again, I feel that I had that information but walter
5 O'sullivan, sorry, primarily had that information, and 14:33
6 he was processing that as far as I was concerned.

7 590 Q. I beg your pardon? He was?

8 A. He was processing that information, that was his
9 information that he had in relation to the Commissioner
10 and the refusal to -- or the refusal to provide 14:34
11 protection for John Hennessy and Baiba.

12 591 Q. No, but you are committing -- you are asking the fellow
13 and he is giving you help and you are in need of help,
14 if I may suggest. He is recording your position --

15 A. Yes. 14:34

16 592 Q. -- to defend your position?

17 A. Yes.

18 593 Q. Chief among the points you'd want him to note down is
19 the startling information from Inspector O'sullivan.
20 It's not there. Can you explain that? 14:34

21 A. I can't explain why I didn't actually tell him then,
22 but I didn't tell him a lot more in relation to what I
23 perceived to be a systems failure in relation to a lot
24 of matters got to do with the John Hennessy, Baiba
25 Saulite investigations. 14:34

26 594 Q. well, did you tell -- I should have asked you simply:
27 Did you tell Michael Cryan, inspector, what walter
28 O'sullivan had said to you on your case?

29 A. I don't recall that I did on that occasion.

1 595 Q. Pardon?
2 A. I don't recall that I did on that occasion.
3 596 Q. Well, did you do it on some other occasion?
4 A. Well, I reported to -- when I was reporting the systems
5 failure there to -- sorry, in the confidential 14:35
6 recipient reports and the disciplinary reports, that's
7 when I made my first written reports in that regard.
8 597 Q. In 2008?
9 A. In 2008, yes.
10 598 Q. You didn't tell Michael Cryan then? 14:35
11 A. I don't think I did, no, on that occasion.
12 599 Q. Just I want to be fair to you, sergeant. I think in
13 the materials you claim that you did tell Michael
14 Cryan?
15 A. Well, which materials is that, sorry? 14:35
16 600 Q. In your own statement of interview to the Tribunal.
17 A. In the statement to the Tribunal here?
18 601 Q. Yes.
19 A. Yes, I can't recollect whether I actually discussed it
20 with him on that occasion. I am talking about the 14:36
21 Walter O'Sullivan comments.
22 602 Q. Yeah. Did you tell the Tribunal investigators that you
23 had told Michael Cryan what you claim Walter O'Sullivan
24 had told you?
25 A. I can't recollect, no, whether I did. 14:36
26 603 Q. We might have page 11 on screen, please.
27 A. I see here that I said I did relay to Inspector Cryan.
28 At the time of making my statement to the Tribunal I
29 said that but --

1 604 Q. Just if we locate it first of all. So about five lines
2 from the top of page 11, towards the end of the line it
3 commences:

4
5 "He then rang me and said to get there as soon as 14:37
6 possible as the Commissioner had instructed that if I
7 didn't get there my lockers were to be burst open."

8
9 Do you see that there?

10 A. I do. 14:37

11 605 Q. And your interview continues:

12
13 "I made my way to Swords Garda Station and handed over
14 the 12-page document to Inspector Cryan, who took a
15 written report from me about how I came into possession 14:37
16 of the 12-page report. I was very anxious hearing
17 about that instruction and that there were now appeared
18 to be a huge focus on this 12-page document. I did
19 relay to Inspector Cryan my conversation I had with
20 Detective Inspector O'Sullivan in regard to this 14:37
21 matter."

22 A. Yes, I see that.

23 606 Q. Now, I asked you before lunch whom had you told, and
24 you said Declan Nyhan, full stop.

25 A. Yes. 14:37

26 607 Q. You are saying something else here. Which is correct?

27 A. I am saying something else there. And to the best of
28 my recollection, when I was making my statement to the
29 investigators of the Tribunal that's what I said to

1 the point, but I'm not certain that it's obvious. Are
2 you saying it should be the case?

3 MR. O'HIGGINS: No, I am saying that the witness seems
4 to interpret it that he had, in fact, during this
5 discussion with the interviewer told -- maintained the 14:40
6 position that he had said it to Michael Cryan. He has
7 interpreted it in that way, at my prompting admittedly.

8 CHAIRMAN: Hold on. Let's back up a tiny bit. Is
9 there a conflict, the question that we are addressing
10 and that you are addressing, fairly - I am not 14:40
11 suggesting any unfairness - the question you are
12 addressing is this: is there a conflict between what
13 Sergeant Hughes said to the Tribunal investigator and
14 his evidence? That's what you are saying: Is there a
15 conflict? Because his evidence has been the only 14:40
16 people he told prior to 2008 for two years, the only
17 people he told -- the only person he told was Garda
18 Nyhan, isn't that so? That's the evidence we have.
19 And you are saying, did he also -- but did he make a
20 different -- tell a different story when he was talking 14:41
21 to the investigators?

22 MR. O'HIGGINS: Yes.

23 CHAIRMAN: Okay. Now, I'm not certain that when he
24 says I did relay to Inspector Cryan my conversation I
25 had with Detective Inspector O'Sullivan in regard to 14:41
26 this matter, it's not obvious to me that that includes
27 the thing, maybe you could explore that I mean, but --

28 MR. O'HIGGINS: Fair enough. I will do that, Chairman.

29 CHAIRMAN: No, it's just what's not obvious to me,

1 maybe I'm just not seeing it and maybe it's clearly
2 there, but just to let you know it's not obvious to me.

3 MR. O'HIGGINS: Thank you Chairman.

4 CHAIRMAN: Okay. Do you understand that? I am just
5 explaining --

14:41

6 A. I do, Mr. Chairman.

7 CHAIRMAN: So that we are all on the same track. It
8 may be my mistake, it may be I am just not seeing it.
9 But Mr. O'Higgins is now going to clarify it with you.

10 612 Q. MR. O'HIGGINS: On foot of the Chairman's question --

14:42

11 questions, sergeant, did you intend to convey to the
12 interviewer, the Tribunal, that you had relayed to
13 Inspector Cryan that Walter O'Sullivan had told you
14 that there had been a request for protection for Baiba
15 Saulite and it had been refused by Garda management?

14:42

16 Is that what -- did you intend to indicate that
17 position to the Tribunal investigator?

18 A. No. And thanks for clarifying it, because I can see it
19 here, it's written. My reference to Detective
20 Inspector O'Sullivan refers to the 12-page document,
21 not to the conversation I had with him when he was
22 standing at the door of the office in relation to
23 protection matters. It's got to do with the 12-page
24 document. And I said, I did relay to Inspector Cryan
25 my conversation I had with Detective Inspector
26 O'Sullivan in that regard to this matter, which is the
27 12-page document.

14:42

14:42

28 613 Q. Sergeant, would you mind reading the next two sentences
29 on your interview? It says:

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

A. Yes. 14:43

614 Q. "I wish to add that the particular information disclosed by Detective Inspector O'Sullivan to me was worrying as I had not been informed of any of this, i.e. a request for the protection of Baiba Saulite."

A. Yes. "I wished to add that the particular information 14:43

disclosed by --" That's when I was telling the investigators that at the time I was worried that they were looking for the 12-page document even though Detective Inspector O'Sullivan had commented on the 12-page document itself, that's what I discussed with Inspector Cryan, where I said "I wish to add that the particular information disclosed by Detective Inspector O'Sullivan to me was worrying as I had not been informed of any of this request for protection of Baiba Saulite." And that's a fact. 14:43

615 Q. So is it your evidence that what is said there recorded in your interview with the Tribunal investigator does not amount to a claim by you that you had told Michael Cryan about the - I'm just going to call it for shorthand reasons - bombshell information from Walter O'Sullivan? 14:44

A. That would be -- that would appear to be what I was saying to the Tribunal investigators.

616 Q. So you were saying it now, it's your --

1 A. Yes.

2 617 Q. It's your revelation?

3 A. Yes.

4 618 Q. It's your disclosure?

5 A. Yes. 14:44

6 619 Q. It seems to be clear, if I may say, from the next, the
7 sentence we've just read out, where you say what the
8 conversation with Inspector O'Sullivan was, it appears
9 to be you telling the interviewer of the disclosure, of
10 the bombshell, isn't it plain as a pikestaff? 14:44

11 A. Sorry? It was? Sorry, could you repeat that?

12 620 Q. It is clear that you were claiming to the interviewer
13 that Michael Cryan had been told by you of the
14 bombshell?

15 A. Well, I have no record of actually telling Michael 14:44
16 Cryan on the morning of the 22nd November that I had
17 that conversation with Detective Inspector O'Sullivan.
18 So, I could -- I wouldn't back up -- I couldn't
19 actually go on and tell the investigators then that I
20 had that conversation. 14:45

21 621 Q. Just so you are clear, for the avoidance of doubt,
22 Inspector Cryan says you did not claim to him that you
23 had any such conversation with Inspector O'Sullivan?

24 A. Well, that's true then. That's true.

25 622 Q. And you accept that's the case? 14:45

26 A. I accept that.

27 623 Q. Now, the disciplinary investigation obviously is the
28 first question on the Issue Paper that the Tribunal are
29 looking into. And the question asks, just to remind

1 ourselves: Did Assistant Commissioner Al McHugh or
2 Chief Superintendent Michael Feehan target you because
3 you made a protected disclosure to Superintendent Mark
4 Curran? And it breaks it down into three:
5 (a) is by initiating the disciplinary investigation in 14:46
6 June '07; by continuing it from 2008 onwards; and
7 lastly, by protracting the investigation, as you claim,
8 unreasonably.

9
10 I want to suggest to you that Assistant Commissioner 14:46
11 McHugh needed to establish a level of knowledge or the
12 level of knowledge regarding the alleged threat posed
13 to Baiba Saulite's life that was in possession of Garda
14 prior to her murder.

15 A. Yes. 14:46

16 624 Q. He needed to do that?

17 A. Yes.

18 625 Q. And it was legitimate for him to direct the carrying
19 out of a fact-finding to that end?

20 A. That's accepted. Yeah, that's correct. 14:47

21 626 Q. So, he asked Chief Superintendent Feehan to carry out
22 the fact-finding. And I'm suggesting to you
23 fact-findings are actually quite common in An Garda
24 Síochána, fact-finding investigations?

25 A. Yes, I'd accept that. 14:47

26 627 Q. And I'm suggesting to you that for the reasons already
27 that we have gone over, identified by Inspector Mangan,
28 there was a legitimate rationale for further inquiry
29 after the initial fact-finding?

1 A. Absolutely.

2 628 Q. Could I ask you to look at Chief Superintendent
3 Feehan's statement to the Tribunal, which is at page
4 821. And if we might go to page 824, Chief
5 Superintendent Feehan refers to the conclusions reached 14:48
6 by Detective Inspector Mangan. And so half-way down
7 that page, in the paragraph starting "In his report
8 dated the 2nd February" if Mr. Kavanagh would scroll
9 down please. So just there.

10

14:48

11 "In his report dated 2nd February 2007, Detective
12 Inspector Mangan states that the handwritten document
13 provided by Bai ba Sauli te could not be used by the
14 Gardaí to investigate or instigate a prosecution
15 against Mr. A. The Detective Inspector concludes by 14:48
16 stating that: 'There certainly was knowledge in
17 existence and available to the Gardaí in relation to
18 threats from Mr. A to Bai ba Sauli te. The members of An
19 Garda Síochána involved with Bai ba Sauli te readily
20 admit this in their reports. In order to clearly 14:49
21 outline the facts in existence, I respectfully suggest
22 that the matter be formally investigated.' "

23

24 Then he says of his own position:

25

14:49

26 "I subsequently reported on the fact-finding
27 investigation to A/c Al McHugh on the 26th March 2007.
28 I provided background material on Ms. Sauli te as
29 reported to me by Detective Inspector Mangan. I

1 reported that Garda records held on the PULSE system
2 were examined which refer to Ms. Saulite. I outlined
3 the content of those records and appended them to my
4 report."

14:49

5
6 And if we scroll on there he says:

7
8 "I reported that on a number of occasions when Bai ba
9 Saulite had contact with members of An Garda Síochána
10 she indicated that she had been the subject of violence 14:49
11 by Mr. A or that Mr. A was threatening her with
12 violence. My report set out details in relation to
13 these matters, which had been included in two
14 statements taken from Ms. Saulite as part of the
15 investigation into the abduction of her two children by 14:50
16 Mr. A. Both of these statements were included in a
17 file compiled by Sergeant Hughes and which was
18 forwarded to the superintendent in Coolock for
19 transmission to the DPP for directions. In his
20 covering report on the file Sergeant Hughes recommended 14:50
21 that two charges under section 17 of the Non-Fatal
22 Offences Against the Person Act should be preferred
23 against Mr. A.

24
25 I reported that on the 14th November 2006 --" 14:50

26
27 And there is further, I won't read it all out there,
28 but that's a fairly faithful reprise of Inspector
29 Mangan's scoping conclusions, isn't that right?

1 A. It's an overview, it's an overview of the scoping
2 exercise, yes.

3 629 Q. Right. If we see down, the paragraph starting "In the
4 conclusion to my report on the fact-finding
5 investigation..." we now have Chief Superintendent 14:51
6 Feehan, as it were, speaking and it's about half-way
7 down page 825, if we continue. There we are.

8
9 So this is C/S Feehan saying:

10
11 "In conclusion to my report --" we have there "-- on 14:51
12 fact-finding I stated that it was apparent that there
13 was knowledge in existence and available to An Garda
14 Síochána in relation to threats from Mr. A to Bai ba
15 Saulite and that the members of An Garda Síochána 14:51
16 readily admit this in their reports. In my report I
17 went on to state that 'In order to fully outline the
18 facts in existence and the level of actions taken as a
19 result of this knowledge coming into the possession of
20 on members of An Garda Síochána I recommended that a 14:51
21 full investigation should be carried out into this
22 matter.' "

23
24 He says:

25
26 "My thinking in making this recommendation was informed 14:51
27 by the fact that Sergeant Hughes had acknowledged in
28 his report that he was in possession of the 12-page
29 document which Bai ba Saulite had provided to him, with

1 the intention that it be used as a Victim Impact
2 Statement, and wherein she had stated that: 'At the
3 moment I am very scared for my life because Mr. A is
4 blaming me for everything that has gone wrong in his
5 life.' Ms. Saulite had expressed similar concerns for 14:52
6 other own safety in the statement she made on the 4th
7 January 2005 as part of the investigation into the
8 abduction of her two children, details of which are set
9 out above. In the 16-page report which he provided to
10 Detective Inspector Mangan, Sergeant Hughes stated that 14:52
11 in the absence of any Garda intelligence to the
12 contrary, he had no reason to believe her fears about
13 Mr. A were of much significance. Sergeant Hughes went
14 on to state that: 'In fact, the things she referred to
15 were not untypical of conversations we had had on 14:52
16 numerous occasions in the past.' In that report,
17 Sergeant Hughes stated that he had read the various
18 intel reports on file and went on to state that 'apart
19 from one report from Garda Campbell, I had no reason to
20 suspect that I was dealing with a dangerous criminal'. 14:53
21 Taking all of these matters into consideration, I
22 believe that my view that there was knowledge of a
23 possible threat to the safety of Ms. Saulite was
24 reasonable and that there were compelling grounds for
25 recommending further investigations into the matter." 14:53
26

27 All right. So that was his thinking. I take it you
28 have no difficulty with that reasonable conclusion?

29 A. The -- yeah, that's Chief Feehan's recollections of

1 matters there prior to the instigation of the
2 disciplinary process. I think that I agree that a full
3 investigation should have been carried out in relation
4 to the level and knowledge of all members of the Garda
5 Síochána prior to the murder. 14:53

6 630 Q. So, the fact that there was to be an investigation that
7 included you, you have no -- you have no difficulty
8 with?

9 A. I have no difficulty at all with any member of the
10 Garda Síochána, retired or not, being interviewed in 14:54
11 relation to the level of knowledge in their possession
12 relating to Baiba Saulite before she was murdered.

13 631 Q. You are aware, aren't you, that it was necessary for
14 Chief Superintendent Feehan to report on the
15 fact-finding to Assistant Commissioner MCHugh, and he 14:54
16 did this in March of 2007?

17 A. I was aware of his responsibility, is it?

18 632 Q. Yes.

19 A. Yes.

20 633 Q. And as part of the fact-finding, Chief Superintendent 14:54
21 Feehan examined relevant case law in relation to the
22 responsibilities of police to individuals that are
23 known to be under a specific threat?

24 A. He went into case law, yes, I see that in his
25 statement, yes. 14:54

26 634 Q. And he looked also at law from the European Court of
27 Human Rights?

28 A. I think so, yes.

29 635 Q. And the gist of that law indicated that where

1 authorities know or ought to know at the time of the
2 existence of a real and immediate risk to the life of
3 an individual they had a duty in those circumstances to
4 take all measures within the scope of their powers that
5 might be expected to avoid such risk? 14:55

6 A. Yes.

7 636 Q. You are aware, aren't you, that in the conclusion to
8 his initial report on the fact-finding, his conclusion
9 was that it was apparent there was knowledge in
10 existence and available to Gardaí in relation to 14:55
11 threats from Mr. A to Baiba Saulite?

12 A. There was -- in the knowledge of the Gardaí?

13 637 Q. Yes.

14 A. I don't know how he arrived at that conclusion because
15 if he is referring to the victim impact report, he 14:55
16 would have known, and I made it very clear in the
17 report to Inspector Mangan, that I hadn't read the
18 report. So if I hadn't read it, I wouldn't have
19 knowledge of the allegations that she made.

20 638 Q. We may be at cross purposes. 14:56

21 A. Sorry.

22 639 Q. It was apparent to him, and I am suggesting to
23 anybody --

24 A. Yes.

25 640 Q. -- looking at it reasonably, that there was knowledge 14:56
26 in existence that was available to An Garda Síochána,
27 just being neutral about it, regarding threats made by
28 Mr. A to Ms. Saulite --

29 A. Okay.

1 641 Q. -- over the whole period.

2 A. Okay. I accept that.

3 642 Q. And that this was readily admitted by you and your
4 colleague, Garda Nyhan, to your credit, in your report?

5 A. Yes. Okay, yes. 14:56

6 643 Q. It was to be expected, therefore - and this is what I'm
7 building up to ask you -- therefore, you would have
8 expected that there'll be a full investigation needed
9 to be carried out?

10 A. Yes. And when I say a full investigation I mean that 14:56
11 all members of An Garda Síochána who had knowledge of
12 their dealings with Baiba Saulite prior to her murder
13 should have been interviewed before an assessment could
14 be made.

15 644 Q. We know, sergeant, that on the 2nd May '07 Chief 14:57
16 Superintendent Feehan is appointed by Commissioner
17 McHugh to investigate an alleged breach of discipline
18 by you?

19 A. Yes.

20 645 Q. And we can see the wording of the disciplinary 14:57
21 allegation. I wonder might we have page 908 of the
22 materials please, which is Chief Superintendent
23 Feehan's report on the disciplinary investigation. And
24 this document is dated the 3rd June 2009. It starts I
25 think at 907. We might scroll up one page, please, 14:58
26 nine, zero, seven. Just give the date there - so it is
27 the top right-hand corn - 3rd June '09. And just to
28 locate it for you, sergeant, this is Michael Feehan's
29 report in the disciplinary process.

1 A. Yes, indeed.

2 646 Q. And if we go to the next page of it, page 908, we have
3 the wording of the disciplinary investigation that was
4 being carried out, and it says:

5
6 "It appears that --" 14:59

7
8 The bit in italics. Sorry, this is how it's phrased,
9 taking it in its context.

10 14:59

11 "On the 2nd May 2007 Assistant Commissioner McHugh,
12 DMR, appointed Chief Superintendent Michael Feehan in
13 accordance with regulation 8 of the discipline
14 regulations of 1989 to investigate the following
15 alleged breach of discipline. 14:59

16 'It appears that Sergeant William Hughes was in
17 possession of documentation and information as a result
18 meetings with Ms. Baiba Saulite, and being in
19 possession of same knew or ought to have known at the
20 time of the existence of a real and immediate risk to 14:59
21 the life of Ms. Baiba Saulite, and failed in his duty
22 to take measures that might have been expected to avoid
23 that risk.' "

24
25 Now, the wording of the disciplinary allegation 14:59
26 indicates that, as it's put there, "it appears" you
27 were in possession of documentation and information.
28 And you were in possession of documentation and
29 information as a result of your meetings with Baiba

1 Saulite.

2 A. I was in possession of the victim impact report and
3 also the child abduction investigation file.

4 647 Q. Yes. And I don't mean that any way critically, all
5 right. Honestly, take it, it's no part of my purpose 15:00
6 or desire to suggest you were guilty of this because
7 you were exonerated one hundred percent of the charge.

8 A. Yes, I understand.

9 648 Q. But I am dealing now with what is the correct
10 characterisation of what the investigation was, that's 15:00
11 where I'm going with this. And, I'm suggesting to you
12 that being in possession of that information, which you
13 accept you were in possession of, what was being
14 investigated was whether you ought to have known at the
15 time of the existence of a real and immediate risk to 15:01
16 the life of Baiba Saulite. That's what was being
17 investigated?

18 A. Yes.

19 649 Q. And secondly, if you were so aware, they were
20 investigating whether you had failed to take measures 15:01
21 that might have been expected to avoid that risk?

22 A. Yes.

23 650 Q. So, it was a two-pronged investigation, all right?

24 A. Yes.

25 651 Q. You'd agree with me, that's not the laying of a 15:01
26 criminal charge manslaughter?

27 A. Well, I disagree. I'd say it's, at least it's
28 recklessness -- alleging recklessness on my behalf that
29 caused or led to her death and it was interpreted by my

1 legal people as being tantamount to manslaughter, a
2 manslaughter investigation.

3 652 Q. It was interpreted by?

4 A. My legal people.

5 653 Q. Was that Mr. Hennessy?

15:02

6 A. The first person I showed it to was -- the first legal
7 person I showed it to was John Hennessy and he had the
8 same conclusion immediately, and then also John
9 Hennessy and counsel.

10 654 Q. So you felt the commencement of the investigation that
11 Chief Superintendent Feehan was tasked to carry out was
12 tantamount to the laying of the criminal charge of
13 manslaughter?

15:02

14 A. It looked very much like that to me. And on the
15 occasion of the service of the documents I sought
16 clarification from Chief Superintendent Feehan at the
17 time, and asked him what is involved here? And what I
18 meant by that was: what could happen to me if there's
19 findings in that regard? And he didn't rule out
20 dismissal for a start.

15:02

15:03

21 655 Q. Can I suggest to you that in viewing it that way, that
22 is illustrative of what I'm suggesting is a lack of
23 perspective and a deterioration in your perspective on
24 the whole issue?

25 A. No, my perspective was very clear. I could read it
26 myself. And, you know, having worked in prosecuting
27 people over the years and laying charges, this here,
28 obviously the Commissioner -- or, sorry, the Assistant
29 Commissioner believed that I had taken some action or

15:03

1 inaction in relation to Baiba Saulite that presented a
2 real and immediate risk to her life. It's as clear to
3 me, and I think anybody reading it there can see that
4 it's a very serious allegation, when I say -- or matter
5 that I was being investigated for. 15:04

6 656 Q. You are aware -- we looked at his rationale; he had
7 looked at the ECHR law, the Court of Human Rights
8 Law --

9 A. Yes.

10 657 Q. -- which asked those questions: was it real and 15:04
11 immediate, the risk to the person? And secondly, was
12 there a breach of a duty to take steps to ameliorate
13 the risk?

14 A. Yes.

15 658 Q. That's the approach they took -- 15:04

16 A. Yes.

17 659 Q. -- when looking at whether there is exposure for a
18 police organisation, all right? It isn't the laying of
19 a criminal charge. It's a legitimate inquiry actually
20 following the template of case law. 15:04

21 A. Yes. "I knew or ought to have known." Now, they were
22 aware, through my report in the Inspector Mangan
23 investigation, that I hadn't read that particular
24 passage --

25 660 Q. CHAIRMAN: That was suggesting you should have read it. 15:04

26 A. They are suggesting?

27 661 Q. CHAIRMAN: He's suggesting you should have read it.

28 A. Yes. I suppose that could be the interpretation.

29 662 Q. CHAIRMAN: You knew or ought to have known. It doesn't

1 mean it's right.

2 A. Yes.

3 663 Q. CHAIRMAN: But it's not enough to say I didn't know
4 because I didn't read it, because they are suggesting
5 maybe you should have read it. 15:05

6 A. Yes.

7 664 Q. CHAIRMAN: Now, don't get me wrong, don't think I am
8 saying you should have read it.

9 A. Yes.

10 665 Q. CHAIRMAN: I'm not saying anything of the kind. But I 15:05
11 mean, I am reading this, I am understanding this to say
12 that the suggestion is maybe you should have read it.

13 A. Yes. And I think that clarification in that regard
14 could have been obtained through just routine enquiry
15 without the imposition of the disciplinary process. 15:05
16 Just a routine questioning, probably 10, 15 minutes
17 questioning of me in relation to what I had read or
18 what I hadn't read would have clarified a lot of
19 matters there without having to go down the
20 disciplinary route. 15:05

21 666 Q. MR. O'HIGGINS: Let's just take the Chairman's
22 intervention there. It covers whether you did or ought
23 to have read it, right?

24 CHAIRMAN: I didn't think there was anything
25 controversial about when I said -- 15:06

26 MR. O'HIGGINS: Nothing.

27 CHAIRMAN: -- I thought that was fairly -- I'm sorry if
28 I am interfering with your cross-examination.

29 MR. O'HIGGINS: No, well, I didn't mean intervention.

1 667 Q. I am suggesting to you that's perfectly legitimate to
2 look into that because you yourself felt there were
3 problems for you because you hadn't read it.
4 A. Yeah.

5 668 Q. In other words, that you ought to have read it. 15:06
6 A. Yes, there was several matters to be looked into in
7 relation to Baiba, but in relation to this here, just a
8 cursory review of my report to Inspector Mangan, a
9 re-interview of me on a cursory level could have
10 established for them quite clearly the fact behind it 15:06
11 that was discovered two years later.

12 669 Q. CHAIRMAN: Do you think you should have read it?
13 A. In hindsight, I certainly should have.

14 670 Q. CHAIRMAN: Okay. In hindsight?
15 A. Yes, in hindsight. Obviously the matter -- maybe if I 15:06
16 had tackled it on the Friday before she died, I
17 probably would have recognised this and then kind of
18 consulted with her, but that's all conjecture.

19 671 Q. CHAIRMAN: I mean, I appreciate that it's easy for any
20 of us to look in hindsight. 15:07
21 A. Yes.

22 672 Q. CHAIRMAN: But for what it's worth.
23 A. Yes.

24 673 Q. MR. O'HIGGINS: The appointment of the chief
25 superintendent under the regulations was only to 15:07
26 investigate whether you and Declan Nyhan may have been
27 in breach. There was no predetermined, let's do the
28 two lads down. It was, they were looking into the
29 possibility that you may have been in breach, no more.

1 So, that has to be read in conjunction with the actual
2 terms of the order that was made at the time, and I am
3 just highlighting that because it seems to me that, in
4 fairness to the witness, that was within his knowledge
5 also at the time.

15:09

6 CHAIRMAN: I am not understanding that, Mr. Marrinan.
7 What's the practical application in respect of the
8 question?

9 MR. MARRINAN: What I am pointing out is, that that has
10 to be read in conjunction with the terms of the order
11 that was made giving rise to the inquiry.

15:09

12 CHAIRMAN: Yes. Okay. Thank you very much.

13 674 Q. MR. O'HIGGINS: Sergeant, just to, you may be aware of
14 this, and I don't have the page reference, but under
15 regulation 8, I'll just suggest -- I'll read out to you
16 what the wording is:

15:10

17
18 "Subject to representation 7 --"

19
20 which I don't think troubles us.

15:10

21
22 "-- where it appears that there may have been a breach
23 of discipline the matter shall be investigated as soon
24 as practicable by a member not below the rank of
25 inspector."

15:10

26
27 So, the regulation 8 investigation is where it appears
28 there may have been a breach of discipline; it's not
29 the preferring of a disciplinary finding, or anything

1 of that nature. It's couched very tentatively "may
2 have been a breach of discipline". And I am suggesting
3 to you that the wording we looked at page 908 of Chief
4 Superintendent Feehan's report breaks down actually
5 what the allegation being inquired into was. And we 15:10
6 see on page 908, that it was:

7
8 "It appears Sergeant William Hughes was in possession
9 of documentation and information as a result of
10 meetings with Ms. Baiba Saulite --" 15:11

11
12 And then it says:

13
14 "-- and being in possession of same, knew or ought to
15 have known at the time of the existence of a real and 15:11
16 immediate risk to the life of Ms. Baiba Saulite."

17
18 So that's how it was framed, and I'm suggesting to
19 you - well, you have heard me on this already - that
20 simply wasn't tantamount to a criminal charge. It may 15:11
21 have been an unpleasant thing to have to have looked
22 into, but it was a reasonable inquiry based upon what
23 was already found in the preliminary basis in the
24 scoping exercise.

25 CHAIRMAN: Mr. O'Higgins, I am going to suggest that 15:11
26 the meaning of the inquiry, of the brief for the
27 inquiry, is really a matter of interpretation and, if
28 necessary, legal submission. Sergeant Hughes says,
29 look, I was told this was tantamount to an accusation

1 of manslaughter. On the face of it, that seems
2 somewhat extravagant. On the face of it. There may be
3 a logic to it, there may be a reason to it, but his
4 evidence is: listen, I was worried about it and that's
5 what I was told, so my fears were confirmed. Now, if 15:12
6 I'm understanding, I don't see any point - if I may
7 respectfully suggest it - in debating with Sergeant
8 Hughes the finer points of the law of manslaughter or
9 whatever, or the meaning of the actual interpretation
10 of the statement. Subject to what anybody else says, 15:12
11 it doesn't seem to me to be terribly profitable because
12 he says, look that's what -- I was worried about it, I
13 thought it was very serious, and that was confirmed by
14 legal advisors.

15
16 So, there we stand. There we have it. And it doesn't
17 mean that they were right. We can debate whether they
18 were right or they were wrong, whether it is
19 extravagant or not extravagant or whatever. And I
20 mean, the lawyers here will know the process under 15:13
21 Garda regulations that it comes to, and if there is
22 another step, then they may set up a board of
23 inquiry -- if I'm understanding correctly, they may set
24 up a board of inquiry and that may have an allegation.
25 But we don't need to worry about all that. In due 15:13
26 course, we can all -- the lawyers can make a submission
27 about that and we can sort it out.

28 MR. O'HIGGINS: Thank you, Chairman. That's helpful.
29 I'll move and and I will--

1 CHAIRMAN: Sorry to make a long speech, but that does
2 strike me as being fair to everybody, all right?

3 MR. O'HIGGINS: Thank you, Chairman.

4 675 Q. Can I ask you to look at page 923, please, sergeant,
5 which is the penultimate page of Assistant
6 Commissioner's Feehan's report in the disciplinary
7 investigation. And he says there:

15:13

8
9 "On the 20th October 2006 Sergeant Hughes forwarded a
10 report to superintendent Coolock expressing his
11 concerns for Ms. Saulite and her solicitor, Mr. John
12 Hennessy. In the report he outlines how the two
13 witnesses in the forthcoming trial of Mr. A - namely,
14 Baiba Saulite and Mr. John Hennessy - had been the
15 victims of recent arson attacks. The member reported
16 that Mr. A was suspected of having been concerned in
17 the attack on Mr. Hennessy's home and that preliminary
18 findings indicate that he was involved in the attack on
19 Ms. Saulite."

15:14

15:14

20
21 Then if we just go to the next paragraph, he says:

15:14

22
23 "With regard to the handwritten report that Ms. Saulite
24 handed to Sergeant Hughes on the 14th November wherein
25 she stated, inter alia, 'At the moment I am very scared
26 for my life because Mr. A is blaming me for everything
27 that has gone wrong in his life', the following matters
28 should be borne in mind:

15:14

29 (i) Sergeant Hughes had already apprised his district

1 officer of his concerns regarding the safety of
2 Ms. Saulite by way of his report of the 20th October
3 2006."

4
5 I am going to pause there. It was fair and reasonable, 15:15
6 wasn't it, for Michael Feehan to include that reference
7 therein (i)?

8 A. Yes, indeed.

9 676 Q. Because, in fairness to you, you had sent up the report
10 of the 20th October '06? 15:15

11 A. I had.

12 677 Q. We can pass from (ii) because it's not terribly
13 germane, underneath it, and if we go to the final
14 paragraph on the next page, we have -- if we just
15 scroll down a little bit -- we have the final paragraph 15:15
16 reads as follows:

17
18 "This investigation has not established that the member
19 concerned was aware 'of the existence of a real and
20 immediate risk to the life of Ms. Baiba Saulite'. On 15:16
21 the 20th October 2006, Sergeant Hughes advised his
22 district officer of his concerns for Ms. Saulite,
23 however, there was nothing to indicate that her was
24 under threat. Sergeant Hughes denies having read the
25 victim impact report, wherein she actually states that 15:16
26 she feared for her life, and there is no evidence to
27 hand that would indicate otherwise. Even if he had
28 read the report in full it is unlikely that the
29 contents could be interpreted as a real and immediate

1 risk to the life of Ms. Baiba Saulite."

2

3 So there's a number of important things in there that
4 are, if I can use this shorthand, exonerating you?

5 A. Yes, indeed.

15:16

6 678 Q. He points -- he looks at it from the perspective of the
7 fact you hadn't read the VIR, you hadn't read the
8 victim impact. He says there was nothing to indicate
9 her life was under threat in it, notwithstanding the
10 express concern she puts into it?

15:17

11 A. Yes.

12 679 Q. CHAIRMAN: So what do you say to to that?

13 A. This decision, Mr. Chairman, was arrived at nearly two
14 years after the imposition of the disciplinary process.
15 And I feel these decisions could have been arrived at
16 before --

15:17

17 680 Q. CHAIRMAN: Yes. So, that could have been arrived at
18 earlier, you say?

19 A. Much earlier. Before the imposition of the
20 disciplinary process.

15:17

21 681 Q. CHAIRMAN: Yes, that's basically it?

22 A. That's it in a nut schedule.

23 682 Q. CHAIRMAN: But as far as it goes, that doesn't seem
24 like an unfair conclusion, does it?

25 A. This is a very good assessment that could have been
26 arrived at much earlier.

15:17

27 683 Q. CHAIRMAN: And can I just ask you this: if he was
28 targeting you, would he have arrived at that
29 conclusion?

1 A. Eh...

2 684 Q. CHAIRMAN: I mean, if he was going to target you,
3 surely he would have nailed you a bit better than that?

4 A. I don't think there was any basis for targeting me in
5 the first place. 15:18

6 685 Q. CHAIRMAN: I understand that. But if -- assuming that
7 he was targeting you, that chief superintendent, as he
8 was at the time, Chief Superintendent Feehan, assuming
9 he was targeting you, surely he'd have done a different
10 job than come to that conclusion? 15:18

11 A. Em, a different job?

12 686 Q. CHAIRMAN: what do you say to that?

13 A. A different job? Like?

14 687 Q. CHAIRMAN: Yeah, he'd have come to a different
15 conclusion, he'd have said you were at fault. In fact, 15:18
16 he exonerates you.

17 A. Yes. And I would say it might have -- with respect to
18 Chief Superintendent Feehan at the time, I think he
19 would have considerable difficulty in establishing a
20 fault because the evidence wasn't there from the first, 15:18
21 from the get-go.

22 CHAIRMAN: Okay.

23 688 Q. MR. O'HIGGINS: Is that fair, sergeant? It's not a
24 grudging technical clearance of you. It's a ringing
25 endorsement of steps you took. It's an exoneration of 15:19
26 you.

27 A. Yes. And the point I'm making is that the exoneration
28 could have been arrived at before the disciplinary
29 processed started.

1 689 Q. It's wholly inconsistent with the suggestion that he
2 was intent on targeting you, isn't it?
3 A. But I was targeted in the disciplinary process.
4 690 Q. In his questionnaire response to the Tribunal, Chief
5 Superintendent Gerry Phillips states that the 15:19
6 disciplinary investigation carried out by Michael
7 Feehan, then Chief Superintendent Michael Feehan, was a
8 balanced and proportionate action to investigate the
9 circumstances surrounding the receiving of the Victim
10 Impact Statement and to establish if there were other 15:20
11 issues. Would you agree with that?
12 A. I don't agree with that.
13 691 Q. You don't?
14 A. I don't.
15 692 Q. You don't think it was balanced? 15:20
16 A. The disciplinary investigation?
17 693 Q. The report that he did.
18 A. The report here that we have here that he did at the
19 end of it?
20 694 Q. Yes. 15:20
21 A. Yes. As I said earlier on, the report --
22 695 Q. The outcome?
23 A. -- the report here, if it had have been, if that
24 decision in the last paragraph had been arrived at as a
25 result of the fact-finding investigation then there 15:20
26 wouldn't have been any disciplinary process.
27 696 Q. But what I asked to you agree or disagree with, up to
28 you, was Chief Superintendent Gerry Phillips saying of
29 the disciplinary investigation report, and the

1 investigation, that it was balanced and proportionate,
2 do you differ with that?

3 A. I do.

4 697 Q. All right.

5 698 Q. CHAIRMAN: In what way was it not balanced or 15:20
6 proportionate?

7 A. well --

8 699 Q. CHAIRMAN: Do you understand? I accept -- you say,
9 look, it wasn't. Now, tell us how it wasn't balanced
10 or it wasn't proportionate. 15:21

11 A. When Chief Superintendent Phillips originally saw the
12 victim impact report himself before he reported it,
13 when he was reporting it to I think it was Assistant
14 Commissioner Al McHugh, on that occasion he intimated
15 to Commissioner McHugh that there was no case to answer 15:21
16 for either of myself or Garda Nyhan in the document.
17 He actually believed that at the time.

18 700 Q. MR. O'HIGGINS: And I think, just taking that, it's a
19 fair point, Michael -- Inspector Cryan relayed the
20 chief's view in that regard to you -- 15:21

21 A. To me.

22 701 Q. -- in his conversation with you, I can't remember was
23 it the Tuesday or the Wednesday after the murder?

24 A. That's correct.

25 702 Q. And that was done intentionally to put you at your 15:21
26 ease: tell Sergeant Hughes, as far as I am concerned,
27 there isn't a problem with the VIR for him?

28 A. That's correct.

29 703 Q. At this point in time, by the 22nd November certainly,

1 for better or for worse, you have formed the view that
2 you are being scapegoated?

3 A. Yes, following the release of the press release.

4 704 Q. Yes. Even though management up high, down through the 15:22
5 chain, are trying to reassure you: listen, stop beating
6 yourself up, the victim impact report, it's not a major
7 deal?

8 A. Yes.

9 705 Q. I'm suggesting to you that is wholly inconsistent with 15:22
10 the desire to target you or oppress you.

11 A. I disagree. And in the context of what we're talking
12 about, the divisional officer, Gerry Phillips, and his
13 assessment of the disciplinary investigations two years
14 later, he would have known, Chief Superintendent
15 Phillips would have known that the matter of the victim 15:23
16 impact and the controversial statement made in it,
17 could have been investigated without the imposition of
18 a disciplinary process at all.

19 706 Q. But you see, it wasn't just -- you focus exclusively on 15:23
20 the victim impact. It was also the fact of the
21 conversation and the contents of the conversation you
22 had with Baiba Saulite on the 14th. Again, I'm not
23 suggesting to you that it involved any breach, because
24 it didn't, but it was one of the matters in the round
25 that needed to be investigated? 15:23

26 A. Well, I think in his document there that was just read
27 there, by Mr. Marrinan there, he made it specific that
28 it was the actual document, the line in the document
29 that he was referring to, and not this conversation

1 afterwards.

2 707 Q. It contains in it - and we have been over this already
3 - an indication from her that she feared for her
4 safety, the victim impact that she made.

5 A. Yes. 15:24

6 708 Q. According to the note of Michael Cryan, which you
7 differ with, which I suggest to you is supported by the
8 note we'll look at in a minute from Superintendent
9 Denedy, in the conversation you had with Baiba Saulite
10 on the 14th November she also orally indicated a 15:24
11 concern for her own safety. You disagree with that?

12 A. Well, I don't think either of those officers appeared
13 as witnesses or there were statements taken from them
14 in relation to the disciplinary investigation. So,
15 their conversations were not subject -- or the alleged 15:24
16 conversations -- sorry, the alleged matters in the
17 conversations were not subject to the disciplinary
18 investigation. They simply focussed in on the couple
19 of lines there in the 12-page victim impact report.
20 The disciplinary investigation didn't involve 15:24
21 interviewing Inspector Cryan or Inspector Denedy, as
22 far as I am aware.

23 709 Q. All right. In terms of timing, sergeant, would you
24 agree with me that Assistant Commissioner McHugh had no
25 knowledge at the time of the disciplinary investigation 15:25
26 that you had made any whistleblowing complaint, he
27 didn't know that?

28 A. I didn't know that.

29 710 Q. Well, he says he wasn't aware. I take it you have no

1 reason to doubt that?

2 A. I really can't speak for Assistant Commissioner McHugh,
3 but I wouldn't know what he knew when he was setting up
4 the disciplinary inquiry.

5 711 Q. I see. So you the investigation itself, I suggest to 15:25
6 you that when one drills down into the chronology of
7 it, it was in fact not unduly delayed; that is to say
8 there was a lot of time taken up with the fact that you
9 were off sick, and also by the delay occasioned by
10 seeking to ascertain whether you were fit to be 15:26
11 interviewed.

12 A. Yes, in relation to the approach made to me in November
13 2007 -- I don't want to be getting mixed up with my
14 years here.

15 CHAIRMAN: All right. 15:26

16 A. -- at that point I was very low and not feeling great
17 at all. And I then reported to the Tribunal that my
18 impression of the contacts that were made between Chief
19 Superintendent Feehan and the CMO's office, it must be
20 remembered that I was totally in the dark in relation 15:26
21 to any communications that were going on between Chief
22 Feehan and the CMO's office. I was also extremely wary
23 of the fact that the disciplinary process and the
24 motivations behind it, I was extremely wary of the
25 process itself, and I'm sure that if maybe I was told 15:27
26 that there were difficulties in getting communications
27 and there was feedback in relation to that, I could
28 have assisted further in the speeding up of the --
29 expediting of the disciplinary process.

1 712 Q. Well, you'd agree with me, I presume, that -- at least
2 you'd accept that the investigation team were anxious
3 to interview you to progress the investigation, and on
4 the 1st November of '07 you were asked to attend Store
5 Street for an interview?

15:27

6 A. That's correct.

7 713 Q. And your solicitor responded, on the 8th November, that
8 you were unfit to attend, do you recall that?

9 A. Yes. And if I can qualify that, please, in relation to
10 the way I'd be feeling probably in the autumn of 2007.

15:27

11 Remember, that the disciplinary papers were served on
12 June 15th and the first contact that was made with me
13 was in November, or basically around November of the
14 same year, and I was extremely concerned as to why it
15 took so long for the first contact to be made by the
16 disciplinary team. And eventually, when I did meet
17 with the disciplinary team, and I think there was
18 probably half a dozen questions they needed to ask me,
19 most of which were answered in the fact-finding
20 investigation, and, you know, if I thought that was the
21 level of the inquiries that were necessary to bring it
22 to the end I would have actually made it my business to
23 actually contact the disciplinary team to finish the
24 matter.

15:28

15:28

25 714 Q. Sergeant, I hope we can get through this reasonably
26 quickly, and it may be common position between us, but
27 from my look at the timeline, it appears that the
28 period from November '07 into February '08, when
29 Inspector Dwyer was tasked with contacting the CMO

15:28

1 office to ascertain, to push on the situation as to
2 whether you were or were not fit for interview, that
3 issue took up quite a period of months, through
4 nobody's fault?

5 A. It did. 15:29

6 715 Q. Through nobody's fault?

7 A. Sorry?

8 716 Q. Through nobody's fault?

9 A. Well, I can't understand how much more expeditious
10 communications couldn't have been conducted in that 15:29
11 regard.

12 717 Q. Well to be blunt, I mean it stemmed from the fact that
13 it was initially indicated you were unfit for
14 interview. So, the interview that you maintain you
15 were demanding to have, you were -- your solicitor was 15:29
16 offering the position you were unfit. So that created
17 a difficulty for the management, do you see what I
18 mean?

19 A. Yes, but having said that, should it take three or four
20 months to receive a response from the CMO? I mean -- I 15:29
21 don't know.

22 718 Q. CHAIRMAN: Did you ever say I am fit to be interviewed?

23 A. Excuse me?

24 719 Q. CHAIRMAN: Did you ever get your solicitor to write and
25 say I'm fit to be interviewed? 15:29

26 A. I think we did send correspondence to that effect. In
27 other words, if they want to even send the questions to
28 us and --

29 720 Q. CHAIRMAN: But they had to send the questions in

1 advance and you'd give them a written reply.

2 A. Yes.

3 721 Q. CHAIRMAN: Do you think that's what they had in mind?

4 A. Do you think that's --

5 722 Q. CHAIRMAN: That they'd send you a written 15:30
6 questionnaire?

7 A. Well, that would have been very helpful.

8 CHAIRMAN: Yeah, okay.

9 723 Q. MR. O'HIGGINS: And as we moved into April, Chief
10 Superintendent Feehan was corresponding, and 15:30
11 Mr. Marrinan brought the Tribunal over this in his
12 examination of the relevant correspondence, but on the
13 29th April Chief Superintendent Feehan corresponded
14 with A/C HRM, so Assistant Commissioner's Human
15 Resources, indicating that he had not received advices 15:30
16 yet from the CMO and highlighting his obligation to
17 carry out the disciplinary investigation as soon as
18 possible, and he asked if the CMO didn't revert quickly
19 should he proceed to interview you anyway? All right?
20 Do you remember that? 15:30

21 A. I recall that correspondence, yes.

22 724 Q. And in September, some months later, the human
23 resources office wrote that the CMO had recommended
24 that the disciplinary investigation be dealt with as
25 soon as possible. And this was interpreted by the 15:31
26 human resources side that it should thus be taken that
27 you were fit for interview and to proceed with the
28 interview.

29 A. I believe that's the correspondence, yes.

1 725 Q. And that, as it were, seemed to unblock the logjam and
2 at least allow the interview happen?
3 A. Yes.
4 726 Q. All right. I am suggesting to you that nobody could
5 say that that period of, you might even regard it as 15:31
6 inefficiency, and ideally oughtn't to have happened,
7 that period of delay, if delay it be, that isn't
8 targeting, nor is it harassment? It's just the
9 processing of a file.
10 A. Yes, it took almost a year to actually get a response 15:31
11 from the CMO -- or the HRM in that regard. I think
12 it's a long time.
13 727 Q. I am going to be -- the CMO is going to give his
14 evidence --
15 A. Sorry? 15:31
16 728 Q. The CMO is going to give his evidence and doubtless
17 will be pleased that part of your allegations against
18 him appear to have fallen away. But just dealing with
19 the CMO's position and the Garda management position,
20 do you agree with me that though there was a period of 15:32
21 interval of time/delay involved, it wasn't targeting of
22 you?
23 A. What I say is that the overall disciplinary process and
24 the conduct of the disciplinary process and the delay
25 in the disciplinary process was a targeting of me. 15:32
26 729 Q. How was the delay targeting of you?
27 A. Well, if, as I said, the papers were served in June
28 2008, there was absolutely no reason why, so far as I
29 could see, that within six weeks, as was suggested at

1 the time, of the service of the papers, that he would
2 actually have the matter wrapped up within six weeks.
3 That didn't happen. So I can't see why there was a
4 delay from June 2008 until October/November 2008 when
5 the information that they sought was pretty concise and 15:33
6 concise answers could have been provided.

7 730 Q. Can I draw a distinction? I understand your case that
8 it was inefficient or undesirable or ought not to have
9 happened - the delay - I understand that.

10 A. Yes. 15:33

11 731 Q. I'm not conceding it, but I understand it. I want to
12 ask you: how could it possibly be said to be targeting
13 of it? How is it malicious?

14 A. Well, in the first place, I believe - and I still
15 believe - that the disciplinary process should never 15:33
16 have been undertaken in the form that it was taken, and
17 that it targeted myself and Garda Nyhan from the
18 outset, when there were other failures within An Garda
19 Síochána relating to Baiba Saulite which were not taken
20 into account. 15:33

21 732 Q. Moving the timeline on, sergeant, on the 29th October
22 2008, you were interviewed at the office of your
23 solicitor by Inspector Dwyer and Inspector Sweeney?

24 A. That's correct.

25 733 Q. You provided a pre-prepared 25-page statement? 15:34
26 A. Yes, which I'd hoped would help their inquiry.

27 734 Q. On the 30th October, the next day, the inspector wrote
28 to Assistant Commissioner McHugh, and Assistant
29 Commissioner McHugh asked that the matters in your

1 25-page statement which fell outside the disciplinary
2 investigation regarding bullying and misconduct and so
3 forth, the issue arose as to whether they should be
4 dealt with separately, isn't that right?

5 A. We were told that they were not within the ambit of 15:34
6 their disciplinary investigation.

7 735 Q. Yeah. And that was a reasonable position, wasn't it?

8 A. I don't think so.

9 736 Q. I see. In December, on the 8th December, Inspector
10 Dwyer phoned you requesting a meeting, and you 15:35
11 responded that the matter should go through your
12 solicitor?

13 A. A meeting in connection with, sorry, if you can remind
14 me?

15 737 Q. To clarify matters arising from the statement, I 15:35
16 presume.

17 A. I don't recall saying, strictly speaking, it should go
18 through my solicitor. I could have suggested, could he
19 correspond with Sean Costello on that matter.

20 738 Q. All right. On the 9th December 2008, my understanding 15:35
21 is that Inspector Dwyer wrote to your solicitor seeking
22 to meet you to clarify matters in the statement, and I
23 think we have already been over this through
24 Mr. Marrinan's hands, and there was no response
25 forthcoming to two pieces of correspondence. 15:35

26 A. I can't account for that at the moment, you know.

27 739 Q. I just wonder, I mean is there a degree of unfairness
28 in your thinking there? You can't account for inaction
29 on your side of the fence, but if there was delay on

1 the Garda side, that's targeting?

2 A. Well, we're talking about -- sorry, we're talking about
3 two meetings which were requested, is it, by Inspector
4 Dwyer?

5 740 Q. Yes. 15:36

6 A. I'd really have to check to see what my recollection is
7 on that as to why -- there would be a good reason, if
8 they weren't answered, there was some reason for it. I
9 don't know what it is.

10 741 Q. You are aware that in January of 2009, Inspector Dwyer 15:36
11 wrote to your solicitor and indicated that a number of
12 matters in your statement, the pre-prepared statement
13 you had provided, did not come within the remit of the
14 disciplinary investigation?

15 A. Within the ambit, yes. 15:36

16 742 Q. And that was the position that was communicated clearly
17 to your solicitor?

18 A. That's correct.

19 743 Q. On the 29th January, the inspector wrote again and
20 requested a meeting, do you recall that? 15:36

21 A. Em, I don't recall it at the moment, no.

22 744 Q. The meeting, when it eventually happened, happened on
23 the 10th February '09?

24 A. Okay.

25 745 Q. And two days later, the 11th February -- sorry, the 15:37
26 next day, the 11th February, Inspector Dwyer forwarded
27 notes of the meeting to your solicitor and asked for a
28 response.

29 A. Yes, okay.

1 746 Q. That was, again, a fair and reasonable, into accordance
2 with fair procedures, process that he operated?
3 A. Yeah, I don't disagree with that.

4 747 Q. I take it you have no complaint about the fairness of
5 the procedures, leaving aside the delay, and you have 15:37
6 made that point in fairness to you, but other than
7 that, you have no quibble in relation to the fairness
8 of the procedures that were accorded to you?
9 A. The procedures that?

10 748 Q. The fair procedures that were accorded to you in the 15:37
11 process?
12 A. Towards the end, is it, with Fergus Dwyer?

13 749 Q. The whole thing.
14 A. No, I think the whole thing, initially the imposition
15 of the disciplinary process was -- 15:38

16 750 Q. Sorry, I have that point. No, I mean the actual
17 interviewing of you, the carrying out of the
18 investigation, the looking into matters, you have no
19 complaint about that?
20 A. Well, the the 25-page report I furnished to Inspector 15:38
21 Dwyer was of some relevance to his inquiry and provided
22 a background, it provided evidence that there could be
23 matters elsewhere that could be looked into, as well as
24 the allegations of bullying and harassment arising from
25 the different situations I found myself in following 15:38
26 Baiba's murder. And, I wouldn't say it was entirely
27 fair for Inspector Dwyer, with the greatest respect to
28 the man, to actually have said that -- or sought
29 directions and agree with the fact that most of the

1 matters were not within the ambit of his investigation.
2 I think if you were to look at the 25-page report you'd
3 probably see that indeed a lot of the matters in that
4 report were relevant to the investigation.

5 751 Q. Didn't part of the report of your statement, at least 15:39
6 to the investigators, didn't part of it cover
7 historical bullying and harassment allegations that you
8 had made?

9 A. It did. I provided that as a backdrop to the child
10 abduction case -- that was part of the report. 15:39

11 752 Q. That had nothing to do with the disciplinary matter
12 that was being discussed?

13 A. Well it provided a picture of the -- a backdrop to the
14 disciplinary process -- or sorry, the child abduction
15 case, and the ongoing -- I think I expressed it in that 15:39
16 report, the fact that I felt I was being bullied as a
17 result of imposition of the disciplinary matter.

18 753 Q. The file indicates that on the 3rd April 2009, that
19 some months later, your solicitor provided further
20 communication in relation to the matters raised 15:40
21 regarding the linking of your bullying and harassment
22 allegations to the disciplinary investigation.

23 A. Yes.

24 754 Q. And seven days later, on the 20th April, Inspector
25 Dwyer wrote back and stated in correspondence there was 15:40
26 no link between the bullying and harassment case and
27 the disciplinary investigation, and he sought
28 clarification for your views on the motive for the
29 disciplinary investigation.

1 A. Yes.

2 755 Q. We might just look at that, please. Page 968. And
3 this is from the inspector -- "I have been directed by
4 Assistant Commissioner Feehan to acknowledge receipt of
5 your correspondence of the 3rd ... 15:41

6
7 Clarification is sought with regard to the following:
8 From investigation to date there appears to be no link
9 with the matters referred to in the numerous items to
10 wit allegations of bullying and the matters that are 15:41
11 the subject of this disciplinary investigation.

12
13 As you have previously requested that cognisance be
14 taken of the matters referred to in the correspondence,
15 I would be most grateful if you could, for the 15:41
16 avoidance of doubt, detail what your client believes is
17 a connection between the two matters.

18
19 In the correspondence of the 19th June 2007, reference
20 is made to the regulation 9 notice which was served on 15:41
21 your client shortly after the commencement of this
22 discipline investigation, wherein you state, inter
23 alia, 'On our client's instructions the motive behind
24 the service of such a notice on our client is quite
25 clear' . " 15:41

26
27 So what I want to canvass with you, sergeant, is: it
28 would appear that the passage of time that
29 unfortunately elapsed here, at least some of it is

1 explained by the hair being raised by you that there
2 was a link between historical bullying and harassment
3 allegations and the disciplinary investigation that was
4 taking place, and that slowed everything down?

5 A. No, I don't agree with that. 15:42

6 756 Q. All right. Moving the timeline on. On the 16th April
7 '09, your solicitor wrote back that you had already
8 elaborated on the matter, and that was it. On the 30th
9 April, your solicitor wrote amending -- with his
10 amendments of the note of the meeting that had been 15:42
11 furnished, isn't that right?

12 A. Sorry, a note of a meeting?

13 757 Q. On the 30th April, your solicitor wrote providing his
14 amendments to the note of the meeting.

15 A. Okay, yes. 15:42

16 758 Q. And on the 3rd June 2009, the report of the
17 disciplinary investigation was forwarded by Chief
18 Superintendent Feehan to Assistant Commissioner McHugh,
19 and we have seen that already. And then we know that
20 the following month, in July, the disciplinary 15:43
21 investigation was subsequently discontinued on foot of
22 Chief Superintendent Feehan's report.

23 A. Yes, indeed.

24 CHAIRMAN: Say that again. Did you say something
25 there? 15:43

26 A. No, I said "yes indeed".

27 759 Q. MR. O'HIGGINS: You'd agree with me that whilst there
28 was an investigation, ultimately -- I think this is
29 probably common case -- there was no breach of

1 discipline ever preferred against you; you were
2 ultimately just exonerated?

3 A. I was. After two years, yes.

4 760 Q. Thank you. Now, can I bring you now to the CMO
5 process, and Mr. Marrinan brought you over some medical 15:43
6 reports which are relevant under a number of different
7 headings, a number of questions that the Tribunal is
8 looking into. The first of these is the statement of
9 Dr. Richard Quigley, who has been mentioned in
10 despatches, and his statement is at page 1331. 15:44
11 Now, can I ask you this: Dr. Quigley indicates that in
12 his meeting with you, in September of 2007 --

13 A. That's correct.

14 761 Q. -- 19th September, he took an extensive history from
15 you and considered your presentation. So, took a 15:45
16 history, and it wasn't a quick in-and-out job, it was
17 quite extensive?

18 A. Em, yes, my recollection is I met with him and
19 explained my difficulties to him.

20 762 Q. Yes. You told him that you had been referred to a 15:45
21 psychiatrist, Dr. Joseph Fernandez --

22 A. No, sorry, this is prior to seeing Dr. Quigley.

23 763 Q. Yes.

24 A. Yes, by my own doctor, yes.

25 764 Q. By your own GP? 15:45
26 A. Yes.

27 765 Q. Dr. James Reilly?

28 A. Yes.

29 766 Q. And no medication was prescribed, is that right?

1 A. No, I don't think he arrived at a diagnosis either.

2 767 Q. Pardon?

3 A. I don't think he arrived at a diagnosis in relation to
4 just -- in relation that the matters were work related,
5 I think. 15:46

6 768 Q. Well, just we might -- just while we're on it, we might
7 move to page 6769, which is Dr. Reilly's report. Am
8 I correct in my understanding -- just again I don't
9 mean this pejoratively in any sense -- but you were
10 having difficulties in the spring of -- February period 15:46
11 in '07, and you weren't able to cope, and you were, you
12 yourself were anxious for a psychiatric opinion?

13 A. No. I went to see Dr. Reilly in December 2006, and as
14 part of the consultation -- I think I had one or two
15 consultations with him -- he decided just to refer me 15:47
16 to Dr. Fernandez just for assessment.

17 769 Q. Is that correct?

18 A. Yes.

19 770 Q. You see, he saw you on the 16th February '07, at which
20 time you were back at work for a couple of days and 15:47
21 found you could not cope. You see it says that?

22 A. No, there was a prior appointment with Dr. Fernandez.

23 771 Q. I beg your pardon?

24 A. I had a prior appointment with Dr. Fernandez before
25 returning to work. 15:47

26 772 Q. Well, the GP says: "At that point he was anxious for a
27 psychiatric opinion."

28 A. Where is that?

29 773 Q. Do you see the paragraph starting "I referred him to a

1 counselor... " ?
2
3 "William was seen again on the 16th December 2006 and
4 again he was somewhat hypertensive and stressed. He
5 was given a note for work until 14th February '07." 15:47
6 A. Yes.
7 774 Q. "He was seen once again on the 16th February 2007 at
8 which time he was back at work for a couple of days and
9 found he could not cope."
10 A. That was for a couple of days, yes. I don't -- I'd 15:48
11 just have to check the dates on that.
12 775 Q. My question to you is: at this time, in February '07,
13 were you unable to cope at work?
14 A. Well, I was under severe stress at work.
15 776 Q. Yeah... 15:48
16 A. Yes.
17 777 Q. So you don't take issue with that?
18 A. Well, I was under fierce stress at work and that's why
19 I went to see the doctor, yes.
20 778 Q. Do you take issue with the next sentence: you were 15:48
21 anxious for a psychiatric opinion?
22 A. No, I don't recall being -- I recall that I was
23 referred by Dr. Reilly, just on his suggestion, to see
24 Dr. Fernandez. That's my recollection of that anyway.
25 779 Q. You went to see Dr. Fernandez in March, was it? 15:48
26 A. In March.
27 780 Q. You told him that you felt partly responsible for the
28 circumstances of Ms. Saulite's death?
29 A. Em... In that I would have conveyed to him that I was

1 dealing with her before her murder and that there were
2 circumstances that maybe if I had been made aware of,
3 leading up to her death, that maybe I would have taken
4 a different course; that would have been the
5 conversation I had with Dr. Fernandez at the time.

15:49

6 781 Q. You were blaming yourself?

7 A. Well, it was -- I think the Garda Síochána are
8 ultimately responsible for failures with Baiba Saulite,
9 and I was dealing with her at the time, so I think the
10 appropriate thing at the time was to actually carry out
11 a full debriefing of all members there to find out what
12 happened, what went wrong, and I just felt that wasn't
13 happening at the time.

15:49

14 782 Q. Sergeant, you were blaming yourself in the history you
15 gave to the psychiatrist, you were blaming yourself,
16 partly, for her death?

15:50

17 A. No, I wasn't blaming myself for her death. I was
18 blaming myself for probably being involved with Baiba
19 to the extent of subpoenaing her to the court in
20 relation to the child abduction case, I was asking
21 myself questions as to whether, even though it's my
22 duty, as to whether it was the best course of action to
23 have taken in such a volatile situation in relation to
24 the lady.

15:50

25 783 Q. You see, I wonder is this actually getting to the root
26 of things? You were blaming yourself and you were
27 being extremely harsh on yourself, and you reported to
28 your own doctor, your psychiatrist, that you were
29 partly responsible?

15:50

1 A. No, I didn't -- I don't remember using that language to
2 the psychiatrist that I was partly responsible.
3 CHAIRMAN: Where is that in the report, in the
4 psychiatric report? I mean I remember reading it but I
5 think, to be fair, we should look at it. 15:51
6 MR. O'HIGGINS: Page 1358, Chairman.
7 CHAIRMAN: Page 1358. Thank you. I think Dr.
8 Fernandez is deceased, is that correct? Dr. Joseph
9 Fernandez is no longer with us, is that right? Or is
10 he? 15:51
11 A. I am not sure.
12 784 Q. CHAIRMAN: Yes, no? Is there any agreement on this?
13 Do you not know, Sergeant Hughes? Is the man still
14 alive or is he not?
15 A. I haven't heard from him in all these years. 15:51
16 CHAIRMAN: You don't know. All right.
17 MR. MARRINAN: No, he is deceased a considerable period
18 of time, Chairman.
19 CHAIRMAN: Very good. Now!
20 MR. O'HIGGINS: Just it's a reference in Dr. Quigley's 15:52
21 report -- it's why I have picked up on this.
22 CHAIRMAN: Let's find the reference, Mr. O'Higgins. I
23 think it's better that we know exactly where it is.
24 MR. O'HIGGINS: So, if we have -- this is a report of
25 the 4th March 2008, Chairman. If we just scroll up, 15:52
26 we'll see the date of it. Yes, the 4th March --
27 4/3/08 -- and if we go down towards the bottom of the
28 page, the paragraph commencing "I feel at that Mr.
29 Hughes's presentation..." about two thirds of the way

1 down that paragraph towards --

2 CHAIRMAN: So this is Sergeant Hughes talking to

3 Dr. Quigley?

4 MR. O'HIGGINS: No, this is -- yes, this is a report

5 from Dr. Fernandez to Dr. Quigley. 15:52

6 CHAIRMAN: well let's have a look. Sorry, don't keep

7 scrolling it. Sorry, go back to where we were. Oh,

8 Dr. J Fernandez -- this is Dr. Fernandez, I am sorry.

9 MR. O'HIGGINS: It's to Dr. Quigley, the Assistant CMO.

10 CHAIRMAN: Sorry, this is Dr. Fernandez writing? 15:53

11 MR. O'HIGGINS: Yes.

12 CHAIRMAN: Thank you very much. Okay.

13 785 Q. CHAIRMAN: Now, do you see that, Sergeant Hughes?

14 A. Yes, I do.

15 MR. O'HIGGINS: Just to put it in context and not to 15:53

16 take it out of context, the paragraph reads:

17

18 "I feel that Mr. Hughes's presentation in February 2007

19 was precipitated by the assassination of a female

20 emigrant from eastern Europe which in turn was linked 15:53

21 to the provision of 24-hour Garda protection to her

22 solicitor because of fear for the latter's safety. Mr.

23 Hughes was personally involved in bringing in the then

24 deceased emigrant's children and was resentful of the

25 fact that he had not been made aware of the 15:53

26 international connections of her male partner who was

27 believed to be implicated in her murder while

28 incarcerated in a state prison. Mr. Hughes claimed

29 that he felt "partly responsible" for the circumstances

1 of the above lady's death. Mr. Hughes stated that he
2 felt "threatened personally" by the aforementioned
3 events and was resentful of the fact that he had been
4 "left out in the cold" by his superiors with "no
5 communication" and with no formal acknowledgment of his 15:54
6 predicament."

7 CHAIRMAN: Okay.

8 786 Q. MR. O'HIGGINS: My question to you, sergeant, is that
9 would appear to indicate that -- to your own
10 psychiatrist -- you were indicating that you felt 15:54
11 partly responsible for the events leading to her death?

12 A. Well in the context, and dealing with Dr. Fernandez, we
13 had a discussion there in relation to that obviously,
14 and my feeling back then, in early 2007 and late 2006,
15 was that there had been a systems failure with regard 15:54
16 to the investigation, the correlation and the
17 coordination of investigations in respect of Baiba
18 prior to her murder, and particularly from October the
19 11th 2006, there were serious measures being adopted in
20 relation to Mr. John Hennessy, and I was of the mind 15:55
21 that similar measures should have been taken in respect
22 of Baiba Saulite, and maybe I was -- perhaps I was
23 thinking then, like I was thinking now, that if similar
24 measures had have been taken in relation to Baiba
25 Saulite, perhaps her murder could have been prevented, 15:55
26 and maybe I should have raised this issue prior to the
27 murder that when I sent a report up to the DPP's office
28 in relation to the forthcoming trial, maybe I should
29 have highlighted that matter that if John Hennessy is

1 getting this type of protection, crime prevention
2 advice, visited by senior ranking members of the Garda
3 Síochána for extended periods of time, I don't know how
4 the differentiation came to arise between himself and
5 Baiba's situation.

15:56

6 787 Q. This report would appear to indicate that you felt
7 guilt, I am suggesting to you unreasonable guilt,
8 actually unfair on yourself, but you felt it
9 nonetheless?

10 A. No, not unreasonable. Just sorry that -- at the way
11 things had developed.

15:56

12 788 Q. That's not what it says. It says "partly responsible"?

13 A. Well that's his choice of words. I don't recall saying
14 that I was partly responsible.

15 789 Q. CHAIRMAN: well it's hard to think that you would
16 actually remember exactly what was said.

15:56

17 A. Yes.

18 790 Q. CHAIRMAN: But as far as I am concerned, this is a
19 report by a psychiatrist, and I think I have to take it
20 as meaning what it says.

15:56

21 A. Yes. I can't remember.

22 CHAIRMAN: I mean I don't think that I am in a position
23 to say well, you said something different to him and he
24 has got it wrong. I don't know. Maybe somebody would
25 suggest to me that there is a basis for saying it's
26 wrong, but I mean for what it says is, he says you felt
27 partly responsible. It doesn't mean you were partly
28 responsible, it doesn't mean he was right that it was
29 correct, as Mr. O'Higgins is very careful, in fairness,

15:57

1 to point out, he is making it absolutely clear that he
2 actually thinks that that was making it hard on
3 yourself. But it's an indication of -- it's an
4 indication of a state of mind that's in need of help.
5 It's an indication of a state of mind of a person who 15:57
6 is out of work because of illness. I mean, you are not
7 out of work for nothing. You are out of work because
8 you are not well. You are not well because you have a
9 problem. I appreciate that you are very uncomfortable
10 about saying mental illness, but there is something 15:57
11 wrong and he is reporting on what's wrong and he says
12 you feel partly responsible. That might be an
13 indication of the extent of your illness. It's in no
14 way a sort of determination that you were to blame, do
15 you know what I mean? I mean, in fact many people 15:58
16 might argue that it goes absolutely the opposite way;
17 it shows somebody feeling terrible because, you know,
18 looking at a situation, and nobody else has blamed you
19 -- in fact the very things we're talking about, the
20 disciplinary investigation you say shouldn't have taken 15:58
21 place came out and said no, there is no reason for this
22 man to be indicted for --
23 Anyway, I'm sorry for making a speech. All I'm saying
24 is, if that's what it says in Dr. Fernandez's report, I
25 think I have to take it that that's what he said, and 15:58
26 if he records you as saying that, then unless there is
27 a good reason for thinking you didn't say it, I believe
28 I have to take it that you did say it. But, somebody
29 may suggest that I have to prefer the evidence of the

1 witness to the evidence of the document. If so, please
2 let me have it. But you might as well know that's my
3 approach at this moment until shown that I'm wrong.
4 Okay.
5 But it's in no way -- I think it's in no way -- it's 15:59
6 not Dr. Fernandez saying that you are responsible.
7 A. Yes.
8 791 Q. CHAIRMAN: If you follow me, after all that long
9 diatribe from me.
10 A. I think, Mr. Chairman, obviously I don't remember the 15:59
11 conversation I had with the late doctor, but I might
12 have come from a position if I hadn't managed that
13 child abduction investigation and it was left without
14 following up on the recovery of the children from the
15 Lebanon, would matters have turned out a bit 15:59
16 differently? You know, and that's the context that I
17 would say, you know --
18 792 Q. CHAIRMAN: That's part of the background, that might be
19 part of what fed into the feelings. Who knows? Yeah,
20 exactly. I mean don't worry, I am... 16:00
21 A. Yes.
22 793 Q. CHAIRMAN: I'm not jumping to conclusions about this.
23 In fairness, neither is Mr. O'Higgins, in fairness, is
24 not also saying that; he is making clear that this is
25 not what he is saying. 16:00
26 A. Sure.
27 MR. O'HIGGINS: A final question for you at this stage,
28 sergeant, is, just while we're on that report, do you
29 see the next paragraph starting "The latter predicament

1 ..." it seems to indicate that you also reported in
2 your history to the psychiatrist that your difficulties
3 had -- your antecedents, going back over the previous
4 three and a half years, during which you felt you were
5 a victim of bullying and harassment at work? 16:00

6 A. Yeah that would be my feelings at the time in late 2006
7 and 2007.

8 794 Q. All right. So, a root for your difficulties was also
9 the -- the legacy issues, the row with the detective
10 side in the station? 16:01

11 A. Yes, and I believe that they were unresolved at the
12 time.

13 795 Q. All right.

14 796 Q. CHAIRMAN: You believe what?

15 A. To my satisfaction anyway. I had recognised on the 16:01
16 that they were unresolved to my satisfaction.

17 797 Q. CHAIRMAN: I understand. That seems pretty clear here,
18 exactly. But they were in the background. Look, we
19 are not investigating anything of that kind, and we're
20 not investigating bullying or harassment arising out of 16:01
21 that. But if I understand correctly, you say: Look,
22 there was a background. Yeah, there were issues there,
23 they weren't resolved satisfactorily, and obviously
24 when something else came along that didn't make it any
25 easier for you. 16:01

26 A. Correct.

27 CHAIRMAN: Okay. Is that a convenient spot to...

28 MR. O' HIGGINS: Yes, Chairman.

29 CHAIRMAN: Okay. Thanks very much. Thanks people.

1 Thank you very much.

2
3 THE HEARING ADJOURNED UNTIL TUESDAY, 8TH FEBRUARY 2022
4 AS 10:30 A.M.

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