

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 WEDNESDAY, 9TH FEBRUARY 2022 - DAY 164

164

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

GWEN MALONE STENOGRAPHY
SERVICES

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FORMER PRESIDENT OF THE COURT OF
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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, AS FOLLOWS, ON WEDNESDAY, 9TH
2 FEBRUARY 2022:

3
4 CHAIRMAN: Good morning.

5 THE WITNESS: Good morning. 10:29

6
7 SERGEANT WILLIAM HUGHES CONTINUED TO BE CROSS-EXAMINED
8 BY MR. O' HIGGINS, AS FOLLOWS:

9
10 1 Q. MR. O' HIGGINS: Sergeant, good morning? 10:29

11 A. Morning.

12 2 Q. I want to ask you about the period for a moment, the
13 period after your court case was settled?

14 A. Yes.

15 3 Q. Am I correct that just prior to that, on the 17th June 10:30
16 2011, as part of your court proceedings in the civil
17 matter that, I suppose, parallel was brought by your
18 colleague, Garda Nyhan, who also brought his claim, you
19 served an additional notice of, I won't say grievances,
20 but additional Notice for Particulars of your 10:30
21 allegation, isn't that right, in a formal pleading?

22 A. Yes, I will have to be reminded of that one, please.

23 4 Q. All right. We might just very briefly look at it.
24 It's particulars of claim of the 17th June 2011.

25 Actually my document I have here doesn't have the 10:31
26 Tribunal pagination number. I can't put it up on
27 screen there, but it is -- it made allegations at this
28 point in June 2011 that the actions of -- sorry 5308.
29 I am obliged to Ms. Horan. 5308 for the particulars.

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Chairman, there seems to be a problem with the --

CHAIRMAN: why don't you ask the questions,

Mr. O'Higgins -- oh here we have it, it's coming up.

5 Q. MR. O'HIGGINS: So, if we just scroll down please, and 10:32
we will see this is the action that Sergeant Hughes
brought against the Commissioner and the Minister for
Justice equality and law reform?

CHAIRMAN: Don't mind all that. I'm sorry,

Mr. O'Higgins. He served additional particulars and 10:32
you want to refer to the additional particulars.

MR. O'HIGGINS: That's it. Under the heading of "the
grounds" you will see we have them broken down into
alphabetical pleas. So A is:

10:32
"The actions and activities on the part of the
first-named defendant (the Commissioner) his servants
or agents were willfully done and were calculated to
cause the plaintiff injury and damage. B, a plan was
hatched and pursued with the object of scapegoating the 10:32
plaintiff, that steps taken in the furtherance thereof
were conscious and deliberate and/or conducted in
reckless disregard of the plaintiff. C, a wanton abuse
of authority. D, actions were malicious."

10:32
Skip over E and F.

"G. Activities were perpetrated by persons in position
of trust. I, perpetrated in condtramedius disregard of

1 the plaintiff's legal, human and personal rights."

2 CHAIRMAN: In what? In contramedius? Well there is a
3 new one on me. They might possibly mean contumelious
4 but contramedius, I stand corrected, but that is a new
5 one on me. Contramedius. How dare you contramedius,
6 I'll have you know. 10:33

7
8 I am sorry, I am a pedant when it comes to these
9 things.

10 MR. O'HIGGINS: "J, necessarily became involved in the 10:33
11 distortion of facts or the suppression of facts and/or
12 the concealment of fact. K, outrageous abuse of
13 process."

14
15 L I think is directed to the fact that a defence was 10:34
16 put in. And the last one:

17
18 "The actions and activities were corrupt and were
19 criminal in character."

20 10:34
21 So, it is pretty high, the case you're making; you
22 know, hatching of a plan by, you know, the top, the
23 Commissioner. As I understand it, Garda Nyhan pulled
24 back on that, I appreciate yours is a different case,
25 but I just wonder could I ask you, from your point of 10:34
26 view, Garda Nyhan actually ultimately did not persevere
27 with that to that extent and that was commented upon by
28 the High Court judge who heard the case, which again is
29 not directly relevant but that was the context. And I

1 am just wondering, do you differ with Garda Nyhan?
2 would you be happy to pull back from any of these?

3 A. No, that was my case going into court and on settlement
4 I wasn't asked to withdraw any of those allegations.

5 6 Q. I see. Well my question now to you is, would you be 10:35
6 happy now at this remove, now having had the overview,
7 the helicopter view of all the correspondence, all the
8 medical reports, the steps that were taken to try and
9 help you, all of that, do you want to pull back on any
10 of this or do you want to leave it? 10:35

11 A. I don't think so, no.

12 7 Q. All right. Can I ask you then to deal with the period
13 after you settled your High Court proceedings? You
14 settled, am I right in May of 2012?

15 A. That's correct. 10:35

16 8 Q. All right. And then would it be fair to say you
17 embarked upon a process of bringing your campaign to a
18 wider audience?

19 A. Following retirement, yes.

20 9 Q. Yes. And you entered into a lengthy series of 10:35
21 correspondence, particularly the Department of Justice?

22 A. That's correct.

23 10 Q. And the Minister's office. And that was, broadly
24 speaking, from 2013 to 2017?

25 A. I think so, yes. 10:36

26 11 Q. The Garda Inspectorate in 2013, and maybe later, you
27 were also writing to them?

28 A. I think so, yes.

29 12 Q. The policing authority 2016?

1 A. Correct, yes.

2 13 Q. A four-year period between 2014 and 2018, as I
3 understand it you were also writing to the Office of
4 the Taoiseach and also a range of parliamentarians?

5 A. That's correct. 10:36

6 14 Q. Did you seek meetings with parliamentarians?

7 A. I did, yes.

8 15 Q. You obtained meetings with, I think I saw reference in
9 your letters to Clare Daly TD, and no criticism of her
10 for that, but you met her, did you? 10:36

11 A. No, I never met her personally, just e-mails.

12 16 Q. Just e-mails, all right?

13 A. Yes.

14 17 Q. And I don't mean to pick her unduly, but a range of
15 other TDs you had correspondence with, you were seeking
16 to lobby to promote your cause, is that fair? 10:36

17 A. That's correct.

18 18 Q. All right. The purpose of all of that, I mean on one
19 view it might be thought that the settling of your High
20 Court action in 2012, perhaps most particularly from
21 your point of view, might bring a degree of closure,
22 you know what I mean? Might, might - 10:37

23 A. I understand what you are saying, yes.

24 19 Q. - might put some sort of balm on the wounds. That
25 wasn't the case. You went bigger, you went wider. 10:37

26 A. I remain consistent in my views in relation to what I
27 perceived to be the systems failure within the
28 organisation that exposed Baiba Saulite and John
29 Hennessy to a viable peril, and that would be the core

1 element of the -- and, of course, then the treatment of
2 me by Garda management as a result of my raising those
3 issues.

4 20 Q. Can I ask you to look at just very small bits of the
5 correspondence because it is relevant to the issues the 10:38
6 Tribunal is investigating. Could I ask you to look at
7 a letter you wrote to then Minister Alan Shatter on the
8 22nd May 2013. We might have page 271 on the screen,
9 please. This is book 2. So this is a letter, if we
10 might scroll up the top, there's a slightly indistinct 10:38
11 date on the top right-hand but hopefully it'll give the
12 date. Maybe it didn't come out, there it is,
13 22/5/2013.

14 A. That's correct.

15 21 Q. And it's writing to, as I say, Alan Shatter TD, 10:38
16 Minister, who at that time I think was the Minister for
17 Justice?

18 A. Correct.

19 22 Q. It sets out the context at the beginning. The bit I am
20 going to ask you to deal with, sergeant, is a few pages 10:39
21 in, on page 274 of the materials, I think it's four
22 pages in to the letter, 274, and the paragraph
23 commencing:
24
25 "I do not understand why..." 10:39
26
27 We have it there. It reads:
28
29 "I do not understand why given my personal involvement

1 with the abduction case which preceded Bai ba Sauli te's
2 murder and the fact that I was one of the last Garda
3 witnesses to have dealings personally with her I was
4 not subsequently required to provide a witness
5 statement as part of the murder investigation file 10:39
6 which was forwarded to the DPP in respect of the
7 murder.

8
9 I was approached in 2007 by a member of senior
10 management in that regard and I informed him that I 10:40
11 wished to include my concerns in my statement of
12 evidence. No statement was taken and I was not asked
13 for a statement subsequently."

14
15 Sergeant, I suggest to you that letter, that contents 10:40
16 there that you were providing to the Minister is
17 seriously misleading and incomplete.

18 A. No, that's the way things happened at the time.

19 23 Q. That you didn't understand why you were not required to
20 provide a witness statement as part of the murder 10:40
21 investigation. Are you standing over that? You were
22 not required to provide a witness statement?

23 A. Yes, and if I can qualify that: In 2008, in the papers
24 there, I approached Superintendent Curran in the same
25 vein and he sent a report to Chief Superintendent 10:40
26 Phillips stating that Sergeant Hughes wants to be
27 interviewed in relation to the murder investigation and
28 that correspondence remained unanswered.

29 24 Q. You know very well, don't you, that the murder

1 investigation assigned a specific job number, job
2 number 734 and tasked a senior member with getting a
3 statement from you, you know that?

4 A. Yes, I see that.

5 25 Q. The incident room coordinator created the assignment 10:41
6 and issued it to Inspector Walter O'Sullivan on the 4th
7 July?

8 A. Yes.

9 26 Q. 2007. The job was called at conference on a number of
10 dates, July, September, October and November of 2007? 10:41

11 A. I see that in the papers, yes.

12 27 Q. Walter O'Sullivan rang you on the 20th September '07
13 and requested you prepare a formal statement,
14 comprehensively outlining your dealings with Mr. A and
15 Baiba Saulite and covering the investigation undertaken 10:41
16 by you in relation to the abduction of the children,
17 isn't that so?

18 A. I don't recall that narrative, but I do recall him
19 requesting a statement from me, yes.

20 28 Q. And this was for inclusion in the file to go to the 10:42
21 DPP?

22 A. Yes.

23 29 Q. And you had useful information because you were, on
24 your own case, central to the lead prosecutor in the
25 abduction and you perhaps were the person best placed 10:42
26 to say and give background detail of the relationship
27 between Mr. A and the deceased, isn't that so?

28 A. Yes.

29 30 Q. So do you recall now the call of the 20th September?

1 A. I do.

2 31 Q. Can you tell us what was said, please?

3 A. I received a call. I was in a house in Clonee at the
4 time and the call -- when I answered the call it was
5 Detective Inspector O'Sullivan was saying that he had a 10:42
6 job sheet and he required a statement from me. And as
7 I've said previously, I told him I had absolutely no
8 problem providing a statement and I would be
9 structuring it in such a way that I will be including
10 details of what I perceive to be the systems failure 10:43
11 surrounding the murder of Baiba Saulite. And he said
12 he would get back in touch with me in relation to that
13 and I received no further call.

14

15 And just to qualify that, if there was -- 10:43

16 32 Q. Sorry, can I ask you this, how was it left at the end?

17 A. That he would get back in touch with me.

18 33 Q. All right. Have you left anything out?

19 A. Em...

20 34 Q. Was that the extent of the call? 10:43

21 A. Excuse me, sorry?

22 35 Q. Was that the extent of the call?

23 A. That he would -- he rang me on another occasion then
24 and --

25 36 Q. No, no, that call. Don't move off that call? 10:43

26 A. Sorry.

27 37 Q. Was that the extent of that call?

28 A. I think so, yes, subject to recollection.

29 38 Q. Did you not answer Inspector O'Sullivan by saying you'd

1 have to take legal advice on the matter?

2 A. No, I did not. I don't think so. No. I can't recall
3 if I said that or not.

4 39 Q. Well, might you have said that, that you'll have to
5 take legal advice? 10:44

6 A. No.

7 40 Q. Well, can I ask you this: were you happy to give a
8 statement?

9 A. Absolutely.

10 41 Q. Because isn't it curious, therefore, that at the end of 10:44
11 the day everybody is agreed you didn't give a
12 statement?

13 A. I didn't.

14 42 Q. Yes.

15 A. Is correct, yes. 10:44

16 43 Q. Yes.

17 A. But if I can qualify that: He was to contact me again
18 in relation to the matter and if there was anything
19 untoward he just need lift the phone to my
20 superintendent, my line manager and discuss it with him 10:44
21 if there was any difficulties. And I would have been
22 called in by Mark Curran or Inspector waters at the
23 time and I would have discussed any difficulties in
24 that regard. There were no difficulties.

25 44 Q. Didn't walter O'Sullivan chase you up for the statement 10:44
26 subsequently?

27 A. He did. And I repeated the matter about the systems
28 failure in the telephone call he made to me, or sorry
29 the statement he made in the office that morning and

1 his response was, I didn't exactly use those words, I
2 didn't use those exact words.

3 45 Q. It's just that in your Tribunal statement, in the
4 interview, you don't mention the detail that he chased
5 you up for the statement? 10:45

6 A. No. I don't. No. But they're my --

7 46 Q. why has that been left out?

8 A. Well, the subject-matter of my statement to the
9 Tribunal was that he may contact me in relation to
10 obtaining a statement, and the subject-matter of my 10:45
11 response is there, and his response.

12 47 Q. Let's go through it. In early October didn't he ring
13 you and ask you to make a statement?

14 A. Well, that would have been a second phone call, yes,
15 when he said -- he used that term, I didn't use those 10:45
16 exact words.

17 48 Q. No, no. So we are agreed, there is a phone call where
18 is phoning you proactively, not you phoning him, he's
19 phoning you, can I have a statement?

20 A. Yes. And my response to him would be, do you want me 10:45
21 to include the systems failure in the statement? And
22 you know, what I perceived to be the systems failure.
23 And he said he'd get back to me. But at no point did
24 he say, look, are you receiving to make a statement or
25 there was no communication like that. 10:46

26 49 Q. Didn't you state in this phone call, the statement was
27 with your solicitor and that you'd hand him the
28 statement within the next week or so?

29 A. There was never a statement I made for the murder

1 investigation file. I never created statement.

2 50 Q. Did you indicate the statement or the matter was with
3 your solicitor?

4 A. I can't recall that, no. I can't recall.

5 CHAIRMAN: Sorry which, the matter is with -- is that 10:46
6 what you are saying?

7 51 Q. MR. O'HIGGINS: what I am putting actually, in
8 fairness, is: You said the statement was with your
9 solicitor?

10 A. No, I never created a statement in the respective 10:46
11 murder inquiry.

12 52 Q. All right. Just slightly broaden that, in case there
13 is a misunderstanding: Did you say that the issue or
14 the matter was with your solicitor?

15 A. well, I -- 10:46

16 53 Q. That you were waiting to hear from your solicitor?

17 A. I don't recall discussing, you know, at this juncture,
18 that I suggested -- I said anything about my solicitor
19 to Detective Inspector O'Sullivan.

20 54 Q. well, you see, I wish to suggest to you that you did 10:47
21 because he came back again in October, chased it up
22 again, and I am talking now about the middle of
23 October. I don't have the precise date, but the middle
24 of October; is that right?

25 A. well, I can't recollect the precise dates but I do know 10:47
26 that I was in conversation with him in relation to the
27 matter and he was to get back in touch with me in
28 relation to clarifications as to what should be
29 included in the statement.

1 55 Q. And I am suggesting to you that it was during this
2 third call that you now slipped into the conversation,
3 the conversation you claim that you and he had
4 regarding the bombshell information on the 20th
5 November 2006, you now sought to weave that into the 10:47
6 call and suggest to him that he had said that, for the
7 first time?
8 A. My recollections are that there was two calls and I did
9 actually discuss that aspect with him then.

10 56 Q. CHAIRMAN: Sergeant, do you agree there was a third 10:48
11 call? what Mr. O'Higgins is saying is, call number
12 one, 20th September '07; call number two, early
13 October; call number three, when he says he alleges
14 that the statement is with my solicitor or the issue is
15 with my solicitor, something like that; and then call 10:48
16 number three, mid October - do you agree that that is
17 the sequence?
18 A. I only recollect two calls.

19 57 Q. CHAIRMAN: You only remember two calls?
20 A. Two calls. 10:48

21 58 Q. MR. O'HIGGINS: If you are mistaken about that,
22 wouldn't it tend to indicate that Inspector O'Sullivan
23 is coming back to you looking for the thing?
24 A. Yes, but I looked for clarifications from him and the
25 clarifications didn't arrive. 10:48

26 59 Q. CHAIRMAN: You looked for clarification, what was the
27 clarification you were looking for sergeant?
28 A. Clarification as to what should be included in the
29 statement, what structure it should form and whether it

1 should include -- would I include my allegations that I
2 had already made in relation to systems failures, et
3 cetera.

4 60 Q. CHAIRMAN: And why were you asking his permission to
5 put that in? 10:49

6 A. well, that's the questions I asked him. I told him of
7 my concerns in relation to a systems failure and that I
8 wanted to include it in the statement and he said he'd
9 get back to me. And that's the way both conversations
10 ended; that he would actually look for clarification. 10:49

11 61 Q. CHAIRMAN: So you say the ball was in his court in the
12 end of the day, is that the system?

13 A. Precisely.

14 62 Q. CHAIRMAN: I'm sorry, the ball was in his court at the
15 end of the day? 10:49

16 A. And just to qualify it, Mr. Chairman: If he thought
17 there was anything irregular about me not cooperating
18 with him, he would take it up with my supervisor, who
19 would call me and ask me to account for myself, which
20 never happened. 10:49

21 63 Q. MR. O'HIGGINS: Is there any reason you waited a full
22 11 months before, on your case, revisiting the
23 conversation, the bombshell conversation?

24 A. Sorry, the bombshell conversation? The conversation I
25 had with him in the office on that day? Sorry, can you 10:50
26 clarify when --

27 64 Q. Yes, I am suggesting to you that in this third call,
28 that's the occasion on which you bring up for the first
29 time the bombshell information and you seek to persuade

1 him that he had told you this?

2 A. Yes. And he replied, well, I wouldn't have used those
3 exact words. That was his response.

4 65 Q. And you know his position, that that is not what he
5 said, he made it perfectly plain to you he had said no 10:50
6 such thing.

7 A. No. What he said was, he didn't use those exact words.

8 66 Q. And you know there's a dispute about that?

9 A. There is a dispute certainly, yes.

10 67 Q. My question to you was: what has happened in your life 10:50
11 or in your chronology that has caused you now, and
12 let's locate it in the chronology, because it's not too
13 far away from the date of the conversation, the 8th
14 November 2007, when you also had the disputed
15 conversation with Chief Superintendent Michael Feehan, 10:51
16 in which you asserted and we dealt with it yesterday,
17 that you had claimed you had told him you wanted to
18 know why you were being targeted when it was obvious
19 there were system errors - do you remember that?

20 A. I do. 10:51

21 68 Q. We went over that yesterday?

22 A. I recall that, yes.

23 69 Q. That was the 8th November 2007, that disputed all?

24 CHAIRMAN: The 8th November '07?

25 MR. O'HIGGINS: The 8th November. 10:51

26 CHAIRMAN: Thank you, yes.

27 70 Q. MR. O'HIGGINS: This disputed call is mid October '07,
28 so three or four weeks back?

29 A. Yes.

1 71 Q. Am I correct that you're off work at this time on sick
2 leave?
3 A. That's correct.

4 72 Q. You're ruminating obsessively at this time, it would
5 seem, from the medical reports? 10:52
6 A. I am deeply concerned as to the issues within the
7 workplace at that time.

8 73 Q. You're drinking heavily?
9 A. No. Not --

10 74 Q. You're getting Séan Costello to write letters to HRM 10:52
11 raising issues about your salary, and I don't criticise
12 you for that, about your salary reduction?
13 A. That's correct.

14 75 Q. It's hugely in your mind, and you feel you're being
15 oppressed? 10:52
16 A. I feel?

17 76 Q. You are being oppressed?
18 A. Yes, indeed.

19 77 Q. So what trigger causes you around this time to now for
20 the first time, 11 months later, bring this up with 10:52
21 Walter O'Sullivan and for the first time claim to him
22 that he had said these things?
23 A. Well, I think it's the first time he had contacted me
24 in relation to any matter concerning the investigation,
25 so when he contacted me that's what I told him. 10:52

26 78 Q. So was it -- are you asking the Chairman to accept that
27 it was the first opportunity you had to --
28 A. Well, nobody had spoken to me in relation to any
29 matters really apart from the fact-find investigation

1 and the discipline -- the service of the disciplinary
2 papers, so there was no contact being made by other
3 members in authority in relation to this matter.

4 79 Q. You see this, is a phone call that he had placed?
5 A. Yes, I understand. 10:53

6 80 Q. This wasn't one where you had sought him out to get
7 this bombshell off your chest, you deployed it in the
8 call where he was chasing you up for the statement,
9 isn't that right?

10 A. Yes. 10:53

11 81 Q. Can we move to a separate matter please, and that is
12 the 16-page report you gave to Inspector Mangan and
13 more particularly the later report that you provided to
14 the Tribunal as exhibit WH 10 to your statement. We
15 might have, please, page 482 of the materials. And 10:54
16 just to locate it for you, sergeant: As you are
17 probably aware, as distinct from being a 16-page
18 report, this is the 19-page report that you furnished
19 to the Tribunal?

20 A. Oh yes. 10:54

21 82 Q. Though it carries the same date on the top right-hand
22 corner, we see there. So when did you complete this
23 document?

24 A. This particular document here?

25 83 Q. Yes. 10:55

26 A. This is the one I furnished to the Tribunal, is it.

27 84 Q. Yes.

28 A. Yes. The substantive content of that document was
29 completed prior to meeting with Inspector Mangan in

1 Store Street.

2 85 Q. Yes. When did you complete this document?

3 A. This particular document for the Tribunal, I would have

4 just sourced it from my records.

5 86 Q. When did you complete this document? 10:55

6 A. I can't recall when I actually completed this

7 particular document.

8 87 Q. Would you mind looking at some of the differences and

9 we can do this fairly briefly. You have added in, you

10 will be aware of this yourself I think, you have added 10:56

11 in the word 'isolation' in dispatches within the report

12 that was not original that was given to Inspector

13 Mangan; isn't that so?

14 A. That's correct.

15 88 Q. You might look, for instance, at page 491. The 10:56

16 paragraph starting "a few weeks later", if we could

17 scroll down a little bit. You see there, the last line

18 of that paragraph reads:

19

20 "Matter was attended to by the DDU Swords." 10:56

21

22 And then in brackets "isolation" and then to help you

23 the next paragraph commencing "over the following

24 months" the last line:

25 10:57

26 "Baiba Saulite arising from these developments --"

27

28 And then in brackets "(isolation)" and then control

29 down a little bit:

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"I then learned of an ores on attack."

And then last line:

10:57

"I was not approached at all concerning this incident."

And then "isolation."

So when did you add those words in and when did you add those words in? 10:57

A. I can't recollect when I actually added those words to the document, but I think I made a statement to the Tribunal investigators late last year clarifying that issue as to why those words appeared and effectively I think they're in papers at the moment, the response I gave to the Tribunal investigators. 10:57

89 Q. If we go a few pages on, to page 493, we have it there, so the paragraph commencing "I contacted the DPP's office..." 10:58

Ending with the words "Coolock for onward transmission to blank."

You have added in "(no response)" there. 10:58

A. That's correct, that would have been in line with the work I was doing with the document at the time, I added in the words isolation.

90 Q. There are other changes, we needn't perhaps dwell on

1 this too long, but would it not have been better to --
2 first of all, because you want to rely on this, you're
3 going to rely on this later on and had provided it to
4 the Tribunal, was there was not a danger that you might
5 inadvertently give them to understand that this was in 10:58
6 the original?

7 A. Em, it was an error on my behalf, which is explained in
8 my statement to the Tribunal in that regard, and I
9 agree that the document produced by An Garda Síochána
10 was the actual document I produced to Inspector Mangan 10:58
11 in December 2006 to allay any confusion in that regard.

12 91 Q. Was this part of the ruminating that you were going
13 back to this document repeatedly over a long period?

14 A. No, I would have relied on that document there with
15 transactions in other documents then further on 10:59
16 throughout the process over the three or four years and
17 unfortunately that was a draft rather than the actual
18 statement or the report I gave to Inspector Mangan.
19 But as I said, I agreed with the investigators that the
20 one that they produced on behalf of An Garda Síochána 10:59
21 was the one, the actual report I furnished to Inspector
22 Mangan.

23 92 Q. And I think it's the case that, if we look at page 16
24 of this report, page 497, it's pretty well at that
25 point that you have added on completely new material 10:59
26 that is wholly absent from the original?

27 CHAIRMAN: 497? Okay.

28 93 Q. MR. O'HIGGINS: Maybe the bottom of 496 will -- we see
29 the sign off, I think that was in the original

1 document, the last line there:
2
3 "On the 19th November 2006, Baiba Saulite was murdered
4 at her home at blank."
5 11:00
6 Am I correct?
7 A. Yes, I think that's at the end of the original
8 document, yes.
9 94 Q. Yes. So thereafter, pages 16, 17, 18, 19 of this
10 additional report, of this later report is all new? 11:00
11 A. Yes. And if we were to look at the disciplinary
12 investigation report you will see that type of content
13 is in it there, so obviously I just cross contaminated
14 those two.
15 95 Q. CHAIRMAN: Sorry, can I just clarify: "The following 11:01
16 morning I attended at" is that in the original?
17 A. Not in the original report given to Inspector Mangan.
18 96 Q. CHAIRMAN: Yes. "And later that morning I contacted",
19 is that new?
20 A. That's new to the Mangan report, yes, it's not included 11:01
21 in the original Mangan report. The Mangan fact-find
22 was only concerned with matters up to the murder of
23 Baiba Saulite.
24 97 Q. CHAIRMAN: Okay. Anything you want to ask,
25 Mr. O'Higgins? 11:01
26 98 Q. MR. O'HIGGINS: So the new material is covering
27 conversations you're having with Inspector O'Sullivan,
28 Inspector Cryan and other matters that postdate the
29 murder?

1 A. Postdate?

2 99 Q. Postdate the murder?

3 A. That's correct.

4 100 Q. CHAIRMAN: Sorry, can I ask a question? I understood 11:02
5 when I saw this document first, I thought it looks like
6 there's a commentary here because it's different from
7 the original, there's extra material in it and it's
8 written in a different font, in a different typeface.
9 So, it struck me, I suggest it struck other people in
10 the Tribunal, that there was no question -- sorry, on 11:02
11 the face of it, it did not appear that there was any
12 question of misleading?

13 A. Oh no.

14 101 Q. CHAIRMAN: If you follow me?

15 A. I do. 11:02

16 102 Q. CHAIRMAN: I am just saying what it looked like. And
17 the investigator, Mr. Ryan, invited you in to confirm
18 that that was the position and that in fact happened,
19 isn't that right?

20 A. That's correct. 11:03

21 103 Q. CHAIRMAN: Okay. But why did you use a different
22 typeface for the following morning, a point I missed
23 when I was reading it "the following morning I
24 attended", why did you include material in the original
25 typeface and then the commentary? I see the point 11:03
26 about the commentary because it's in a different
27 typeface and it is obvious to anybody reading it?

28 A. Yes.

29 104 Q. CHAIRMAN: But why did you put in the original stuff,

1 if you know what I mean, similar to the original
2 typeface?

3 A. It's just the word processing of a draft over the years
4 following the submission of the report to Inspector
5 Mangan, it obviously became -- I can't explain, but 11:03
6 obviously I saved it along with Inspector Mangan's
7 report as onto the original, but, em, I can't explain
8 the font.

9 105 Q. CHAIRMAN: But you had it up on a word processor?
10 A. Yes, I did. 11:03

11 106 Q. CHAIRMAN: Okay. And when it came to the sort of gloss
12 or commentary, you used what appears to be a
13 different --

14 A. Yes.

15 107 Q. CHAIRMAN: Did you use a different colour or something 11:04
16 like that? I am not sure that the typeface is all --
17 but it looks as if the typeface is different. Do you
18 know what typeface you used, as it happens? I mean it
19 is not Calibri, I know that, it's probably aerial or
20 something like that? 11:04

21 A. I can't explain it, Mr. Chairman, when I was
22 cooperating with the Tribunal inquiry there I just
23 downloaded it, I didn't read it in its entirety.

24 108 Q. CHAIRMAN: Okay. My question is: why would you use
25 different ones? Sorry, did you do it at a different 11:04
26 time?

27 A. Yes, that's what I am saying. I am saying when -- for
28 instance, when I was preparing --

29 109 Q. CHAIRMAN: Do you know what I mean?

1 A. Yes.

2 110 Q. CHAIRMAN: I just want to get to the bottom of it if I
3 can. I am not sure there is any big significance of
4 it, frankly.

5 A. Yes. 11:04

6 111 Q. CHAIRMAN: But let me ask you this: we have changes in
7 this document -- -

8 A. Yes.

9 112 Q. CHAIRMAN: -- additions to it --

10 A. Yes. 11:05

11 113 Q. CHAIRMAN: -- did you do all the additions, whenever
12 you did it, did you do them all at the same time?

13 A. Well, Mr. Chairman --

14 114 Q. CHAIRMAN: As best you can remember?

15 A. -- I created a number of documents with similar type 11:05
16 narrative in it and obviously I used the introduction
17 part of the Mangan report up to the end of -- sorry, up
18 to the murder of Baiba Saulite, that narrative, and
19 obviously when I was saving it, I saved this additional
20 material into it under a different font. I can't 11:05
21 explain it.

22 115 Q. CHAIRMAN: Did you do some cutting and pasting in it?

23 A. Yes, I would have done cutting and pasting.

24 CHAIRMAN: Maybe that's the explanation.

25 A. Yes. 11:05

26 CHAIRMAN: Okay. Anyway, if there is anything you want
27 to ask, Mr. O'Higgins, feel free. I am now realising
28 something that I didn't realise before, is that the
29 additional material appears to be in the same font as

1 originally, so it looks like it was done at different
2 times.

3 A. Yes.

4 CHAIRMAN: Maybe, that's the way it looks to me.

5 116 Q. MR. O'HIGGINS: My last question on that document, 11:05
6 sergeant is: Did it occur to you as an experienced
7 officer providing statements for investigations, that
8 it might be useful and appropriate to note the date
9 upon which you're making the substantive changes?

10 A. No. It didn't occur to me then in relation to that. 11:06
11 As I said, I was working off the Mangan report as a
12 draft for developing other reports, rather than having
13 to retype the whole thing again, and obviously there
14 was a cross contamination between the two.

15 117 Q. Can I ask you to look at a separate document 11:06
16 altogether, it's in the same booklet, page 284, please.
17 This is a letter sent to the private secretary of the
18 Minister for Justice in November of 2013. Towards the
19 beginning of what I am suggesting is a very lengthy
20 correspondence that we won't be going through in any 11:06
21 extensive way. But it begins, and I am just wondering,
22 was this the pattern, this was now the seventh
23 anniversary of the murder of Baiba Saulite, you're into
24 your retirement and you're writing letters to public
25 bodies. 11:07

26 A. That's correct.

27 118 Q. You're urging the Minister to take certain steps, to
28 carry out a review of your case, is that it?

29 A. That's correct.

1 119 Q. I think I saw in later correspondence you repeated the
2 exercise on another anniversary of Baiba Saulite's
3 death, was that a feature?
4 A. It was that I wasn't receiving the responses that I
5 thought were appropriate and I was actually writing 11:07
6 back to say well this is another year gone by, more or
7 less, you know, and any chance of getting a full
8 response in that regard.
9 120 Q. We might look at that. Page 289, please. Another
10 letter to Mr. Quattrociochi, I think is his name, in 11:08
11 any event a public servant in the Department of
12 Justice, whom you sent a letter to on the 8th May, this
13 is something in the nature of an upbraiding or a
14 scolding of the department for not, as far as you're
15 concerned, dealing properly with your complaints, is 11:08
16 that right? You're giving out to them?
17 A. Did you say scolding, is it?
18 121 Q. Yes, I used the word upbraiding, you're scolding them?
19 A. Well, I just said I'm entirely unhappy with the quality
20 of the response received. 11:08
21 122 Q. You say there in the second paragraph down:
22
23 "It's over a year now since I first raised the issues
24 with the previous Minister and I am entirely unhappy
25 with the quality of response received in this extremely 11:08
26 important matter.
27
28 I cannot understand why it has taken so long for the
29 justice department to procure the necessary information

1 from the Garda authorities that would possibly permit
2 the answering of the enquiries I have made and also --"

3
4 I think it may be a typo.

5
6 " -- I have made and also to address the Parliamentary
7 Question already placed on record by Clare Daly TD. "

8
9 Had you got TDs to place things on record in the Dáil?

10 A. I did, yes. 11:09

11 123 Q. And I think if we turn over to page 300, you're giving
12 out further and you write a letter, I'm not clear to
13 whom, I think it's the department as well, in September
14 2014, 23rd September. And you say:

15
16 "I must state that I found the level of response from
17 The Department of Justice and Equality to be entirely
18 unsatisfactory. "

19
20 A few paragraphs down: 11:09

21
22 "The one-line response to my last e-mail along with
23 receiving now follow-up inquiry since regarding the
24 issues raised clearly demonstrates to me a couldn't be
25 bothered attitude from the Department of Justice and
26 equality. " 11:10

27
28 You weren't happy with the response you were getting?

29 A. No.

1 124 Q. I think if we look over the page to page 302, you're
2 again giving out to them in November of 2014:

3

4 "I am writing to you on the eighth anniversary of the
5 murder of Baiba Saulite to ask if there has been any 11:10
6 progress made towards having the serious allegations
7 independently reviewed as referred to in your
8 correspondence of August '14. I wish to bring to your
9 attention the fact that your office has not responded
10 to the queries I put forward." 11:10

11

12 Then in the next sentence:

13

14 "I wish to again ask, will the Minister forward the
15 reported allegations of malpractice, corruption, et 11:10
16 cetera to the Garda Inspectorate for examination given
17 that the allegations concern alleged serious failings
18 in internal Garda command and control structures."

19

20 Am I correct, you were looking for the Garda 11:11
21 Inspectorate to get involved in matters?

22 A. Yes. I had communicated with the Garda Inspectorate
23 and they informed me that they couldn't take any
24 initiative unless they were requested to do so by the
25 Minister for Justice. 11:11

26 125 Q. And lest the department be criticised, I think they
27 were responding to you throughout this period and at
28 page 304 --

29 CHAIRMAN: Am I concerned with this, Mr. O'Higgins? I

1 mean, am I concerned with whether the nature of the
2 response of the department, whether it was good or bad,
3 or whether Sergeant Hughes was criticising or
4 complaining, am I correct with any of that?

5 MR. O'HIGGINS: I think it is relevant in this way, 11:11
6 Chairman.

7 CHAIRMAN: Yes.

8 MR. O'HIGGINS: The correspondence is going to show,
9 and I am not going to go through it extensively, the
10 department actually took a proactive step and sent, the 11:11
11 materials will show, the materials that were furnished
12 by Sergeant Hughes to an independent review mechanism.

13 CHAIRMAN: Yes.

14 MR. O'HIGGINS: This is where I am going with this and
15 I needn't really dwell on it much more than that. But 11:12
16 to show that in fact there was a further independent
17 appraisal of matters and it remained the case that --

18 CHAIRMAN: Okay. I see your point, okay, thank you.
19 Thanks for that.

20 126 Q. MR. O'HIGGINS: So just looking at page 304 there, 11:12
21 sergeant, this is the department writing back to you in
22 December of 2014. It's alerting you to the fact that
23 the Minister, second paragraph, established a mechanism
24 following a Government decision that an independent
25 review of allegations of Garda misconduct or 11:12
26 inadequacies be undertaken by an independent panel of
27 counsel, of barristers, isn't that right?

28 A. I see that, yes.

29 127 Q. I think on page 306, you're responding to that and

1 you're indicating your anxiety that that would happen.
2 But I think you were giving out in the third line,
3 third paragraph down:

4
5 "I wish to reiterate that I welcome any process 11:13
6 available --"

7
8 Do you see it there?

9
10 "I wish to reiterate that I welcome any process 11:13
11 available that would progress the issues at hand.
12 However, the correspondence from your office states the
13 review will consist of an examination of papers in the
14 complaint and does not involve oral evidence, hearings
15 or any other form of investigation." 11:13

16
17 So, am I to take it, you weren't content with an
18 independent review by a panel of independent
19 barristers, that wasn't good enough?

20 A. No. I just wanted to -- I was enquiring into the 11:13
21 mechanism involved and would I be interviewed
22 personally and would statements be required and it
23 didn't seem to be that case.

24 128 Q. I think if we move matters on to page 320, we have the
25 final decision made by the Department of Justice, you 11:14
26 having sent on what you asserted was your evidence of
27 your assertion of conspiracy --

28 A. Yes.

29 129 Q. -- and cover-up. This is a letter from the Department

1 of Justice, private secretary to the Tánaiste and
2 Minister for Justice and Equality. You see page 321
3 that it is dated 13th July 2016. And it says:

4
5 "I refer to your complaint against Garda management in 11:14
6 particular to my letter to you of the 22nd January
7 2016, requesting that you forward evidence which you
8 said you possessed in relation to your complaint. Your
9 complaint was referred to the independent review
10 mechanism established by the Government. The purpose 11:14
11 of the independent review mechanism was to provide an
12 independent assessment of outstanding allegations of
13 Garda misconduct.

14
15 A panel of barristers was appointed to conduct the 11:15
16 review."

17
18 If we skip down to the next line:

19
20 "The additional material which you provided was also 11:15
21 forwarded to counsel. Having considered this
22 additional material, counsel has now issued a
23 recommendation in your case.

24
25 With regard to your complaint, counsel summarised the 11:15
26 issues as concerning allegations that you were
27 scapegoated for a systems failure within An Garda
28 Síochána in dealing with information against the
29 endangered life of a citizen and that subject to the

1 death of the citizen you believe that this systems
2 failure was covered up by Gardaí."

3
4 And this is the recommendation:

5
6 "Having considered all of the papers provided in your
7 case, counsel does not recommend further action by the
8 Minister.
9

10 The reasons for the decision are that the matters 11:15
11 complained of have been ventilated in the High Court
12 and settled or compromised by you. In these
13 circumstances it would not be appropriate to reopen the
14 matter. In addition, the matter of alleged systems
15 failure are outside the remit of the IRM. The Minister 11:15
16 has asked me to let you know that she has accepted the
17 recommendation of counsel."
18

19 And that was the determination, isn't that right?

20 A. That's the reply I received, yes. 11:16

21 130 Q. And I think that kick started a further round of
22 correspondence that perhaps we needn't go into. You
23 were unhappy with that and that led you to writing a
24 further ream of correspondence to the Department of
25 Justice? 11:16

26 A. Yes. I think the settlement or the decision there was
27 to say that it was ventilated in the High Court and it
28 was my understanding that matters of such gravity
29 reported to the Minister should have been reported to

1 GSOC perhaps, you know, for independent investigation.
2 That's really the nub of it.

3 131 Q. And you said that, if we just look briefly at page 339?
4 A. Yes.

5 132 Q. At this point you had written to the Taoiseach 11:16
6 concerning the matter and also to Micheál Martin?
7 A. That's correct.

8 133 Q. This is a letter of November 2017, more up-to-date.
9 You say in this correspondence:
10 11:17
11 "I believe that the uninvestigated allegations are more
12 serious than those raised in the McCabe matters."
13 A. That's -- Yes, that's what I said at the time, yes.

14 134 Q. That's a reference to Sergeant McCabe, I take it, is
15 it, Maurice McCabe? 11:17
16 A. Maurice McCabe, yes.

17 135 Q. Yes. And then you embarked upon a series of
18 correspondence with the Attorney General, isn't that
19 right? Page 342, February 2017. You include in this a
20 reference that you were not formally requested or 11:17
21 approached to make a statement following the murder, do
22 you remember that?
23 A. Yes, if I have it in that.

24 136 Q. So you were telling people, public bodies, public
25 officials, that you were not approached to take a 11:18
26 statement?
27 A. Sorry, where's that in this here?

28 137 Q. Isn't that right?
29 A. Is that in this document here?

1 138 Q. I just wonder, is that fair from what we have seen,
2 what I understand you to be accepting concerning your
3 contact with Walter O'Sullivan when he was trying to
4 implement the assignment of the job number, getting a
5 statement from you? 11:18

6 A. Sorry, is it in this document here?

7 139 Q. Are you holding to the position --

8 CHAIRMAN: Mr. O'Higgins, sorry, in fairness, you've
9 cited this document and produced it, and you've said
10 something that's in it, and Sergeant Hughes has said 11:18
11 please refer me to it. I don't know, in the bit that
12 is before me, I can't see it, is there a bit in it and
13 should Mr. Kavanagh scroll down?

14 MR. O'HIGGINS: I am sorry, of course, Chairman, at the
15 bottom of page 343. 11:19

16 CHAIRMAN: Thanks very much.

17 MR. O'HIGGINS: The Baiba Saulite murder, do you see
18 the last paragraph there?

19 CHAIRMAN: Thanks very much. You see that, Sergeant
20 Hughes. 11:19

21 THE WITNESS: Yes, I do.

22 140 Q. MR. O'HIGGINS: Two lines down?
23
24 "As the leading officer involved with the child
25 abduction case, I was not formally approached to make a 11:19
26 statement following her murder. It is worthwhile
27 noting that immediately following the murder I began
28 raising the issues."
29

1 And my question to you: whatever about the wording of
2 that, isn't it just really unfair now? You're turning,
3 what I am suggesting to you was, actually bluntly your
4 failure to assist the investigation and you're twisting
5 it and you're saying to public officials years later, 11:19
6 they didn't bother getting a statement from me - isn't
7 that a twisting and --

8 CHAIRMAN: well, let him answer that, Mr. O'Higgins.

9 A. I don't agree with that at all. That formatted -- what
10 I'm putting there, I wasn't formally approached in 11:20
11 relation to the murder investigation to obtain a
12 statement, was also reported in the confidential
13 recipient process, was also reported in the
14 disciplinary process, was also reported to
15 Superintendent Curran who actually conveyed that to 11:20
16 Chief Superintendent Phillips in 2009, I think it was.

17 CHAIRMAN: Sergeant Hughes.

18 A. And all of those requests were --

19 141 Q. CHAIRMAN: Sergeant Hughes, can I stop you for a
20 second? 11:20

21 A. Sorry.

22 142 Q. CHAIRMAN: Mr. O'Higgins' question is simple: was that
23 sentence true?

24 A. The sentence was true insofar as they didn't make a
25 formal request for a statement, in that, what I 11:20
26 received from Walter O'Sullivan I wouldn't consider a
27 formal request in that he had to come back with
28 clarifications for me.

29 143 Q. CHAIRMAN: Do you think that gave a true picture to the

1 Attorney General of what happened?

2 A. Possibly I -- what I wanted to convey to the Attorney
3 General was that a statement wasn't taken from me in
4 the murder investigation.

5 144 Q. CHAIRMAN: Do you think that gave a true picture to the 11:21
6 Attorney General?

7 MR. LYNN: Sorry to interrupt, Chairman.

8 CHAIRMAN: Mr. Lynn, sorry.

9 MR. LYNN: I haven't interrupted yet and I wish to
10 interrupt. 11:21

11 CHAIRMAN: No problem.

12 MR. LYNN: Could the italicised part be read out?

13 CHAIRMAN: I can't hear you, sorry, say again.

14 MR. LYNN: Could the remainder of the paragraph be read
15 out, please. 11:21

16 CHAIRMAN: Certainly. Mr. O'Higgins, please read out
17 the remainder of the paragraph. Thank you, Mr. Lynn.

18 MR. O'HIGGINS: "It's worthwhile noting that
19 immediately following the murder I began raising issues
20 with Garda management that there had been in my view a 11:21
21 systems failure that had exposed Baiba Saulite and her
22 solicitor to avoidable peril. I made the Garda
23 authorities aware that I would be including details of
24 the perceived systems failure in my statement of
25 evidence for the murder investigation file. 11:21

26

27 I am aware of other Garda members who were --"

28

29

1 CHAIRMAN: I think that is sufficient, Mr. Lynn. That
2 does qualify it, Mr. O'Higgins, doesn't it? It does
3 qualify the declaration that he wasn't approached
4 formally. When you read on, Mr. Lynn's implicit point
5 is that it does qualify the simple declaration, which, 11:22
6 I have to say, I am not sure I regard as a correct
7 statement.
8 MR. O'HIGGINS: In my submission, Chairman, it is --
9 CHAIRMAN: For what it's worth.
10 MR. O'HIGGINS: But it is legitimate for Mr. Lynn to 11:22
11 ask for that to be read.
12 CHAIRMAN: I think so too. Okay. Thank you, Mr. Lynn.
13 That seems to be a fair qualification to put on it.
14 Anyway. And this is at a much later stage, isn't it?
15 MR. O'HIGGINS: It is. 11:22
16 CHAIRMAN: Have you much more to do on this topic?
17 MR. O'HIGGINS: No, I am going to leave that
18 correspondence.
19 CHAIRMAN: Thank you very much.
20 MR. O'HIGGINS: We'll move off that. Sergeant, you may 11:23
21 be glad to hear I am moving towards the end of my
22 cross-examination.
23 A. Thank you.
24 145 Q. You are aware, aren't you, that on foot of particularly
25 your CRO investigation -- the Brian McCarthy 11:23
26 investigation --
27 A. Yes.
28 146 Q. -- that that necessarily triggered a situation where my
29 clients, a number of my clients were probed and asked

1 for statements by the investigators tasked with
2 investigating your complaints to Mr. McCarthy?

3 A. That's correct.

4 147 Q. And that was stressful for those members and in some
5 cases there would have been tension arising from that, 11:23
6 understandably, Garda officers investigating and
7 probing and questioning their colleagues arising from
8 allegations you had made that were ultimately found to
9 be unfounded, isn't that so?

10 A. I'm not sure in relation to that, about the stress, but 11:24
11 I'd see that there was a lot of members approached all
12 right in the investigation.

13 148 Q. And they had to fill out questionnaire responses and
14 answer for their position, isn't that right?

15 A. They completed those questionnaires, I understand, yes. 11:24

16 149 Q. Yes. You see, I am just wondering, did you at any
17 point stop to think - and I am not in any sense taking
18 from the agreed position that you suffered in the wake
19 of the murder of Baiba Saulite and it caused very
20 considerable distress to you personally, I am not 11:24
21 taking from that - but did you stop to think that when
22 you embarked upon your path of seeking to draw other
23 people into your difficulties and when that hardened
24 into making allegations against colleagues and
25 management, that that would cause stress upon them? 11:25

26 A. Em, of course, it caused stress -- it's a stressful
27 situation when the Garda organisation has to account
28 for itself and it should account fully. This was a
29 mechanism I engaged with and subsequently I received no

1 feedback in relation to what was actually happening in
2 the background on these investigations. Like,
3 obviously any stress on any individual is regrettable,
4 but the aim of the exercise was just to establish facts
5 in relation to the matters pertaining to Baiba Saulite 11:25
6 and John Hennessy prior to her murder.

7 150 Q. I am suggesting to you in conclusion, sergeant, that
8 your view towards management became so poisoned,
9 particularly perhaps after the instigation of the
10 disciplinary investigation, that no matter what 11:26
11 management did for you in terms of finding you an
12 alternative role, with lighter duties, with a weekend
13 allowance, no matter what steps they took to keep you
14 involved, even though you were off sick away from the
15 station, no matter what efforts they made to assist 11:26
16 you, you weren't happy and you embarked upon a campaign
17 of actually, of actually making serious, unfounded
18 allegations against them.

19 A. I don't agree. I think my allegations are
20 well-founded. 11:26

21 151 Q. And I wish to suggest to you, on behalf of not just the
22 Garda members whom you made unfounded allegations
23 against, I suggest, but the civilian members of An
24 Garda Síochána whom I also represent, and perhaps I
25 shouldn't list them all, but the likes of Assistant 11:27
26 Commissioner Clancy; Assistant Commissioner Feehan;
27 Detective Inspector Mangan; Superintendent Curran;
28 Assistant Commissioner MCHugh; Dr. Quigley, the
29 assistant CMO; then Inspector Dwyer; Chief

1 Superintendent Phillips; Commissioners Conroy and
2 Murphy; I don't act for him, but also acting
3 Superintendent Donal Waters; then inspector, now
4 Detective Superintendent Cryan Cryan; Detective
5 Sergeant Ciaran NcEneany; Detective Inspector, then 11:27
6 Inspector Walter O'Sullivan, now retired, now formerly
7 superintendent; even Mr. McCarthy, the CRO himself, and
8 any other persons whom you criticised in your long
9 vendetta, I suggest to you your allegations were
10 unfounded and were grossly unfair to those members? 11:28

11 A. I disagree entirely.

12 152 Q. Thanks very much?

13 A. Thank you very much.

14

15 END OF CROSS-EXAMINATION 11:28

16

17 CHAIRMAN: Thank you very much. Now, how are you
18 doing? Are you still able for a bit more questioning?

19 THE WITNESS: Yes, Mr. Chairman.

20 CHAIRMAN: Okay. would you like a break, or are you 11:28
21 okay?

22 THE WITNESS: It's up to the Chair.

23 CHAIRMAN: Okay. well listen, if you feel you need a
24 break, let me know.

25 THE WITNESS: Thank you very much Chairman. 11:28

26 CHAIRMAN: Okay Mr. Lynn, now.

27

28

29

1 SERGEANT WILLIAM HUGHES WAS EXAMINED BY MR. LYNN , AS
2 FOLLOWS:

3
4 153 Q. MR. LYNN: Sergeant Hughes, I want to do two things in
5 my examination with you, deal with some of the issues 11:29
6 that Mr. O'Higgins raised in his cross-examination and
7 also turn to some other matters that haven't really
8 been raised yet. But to reassure the Tribunal, you're
9 fully aware that the Tribunal is not investigating
10 whether there was a systems failure, that's not part of 11:29
11 its remit. However, as Mr. O'Higgins, opening his
12 cross-examination on Monday said, context needs to be
13 set. He in fact brought you back to the end of 2004.
14 Now, I am not going to go back that far, but I want to
15 pick up on events in 2006. 11:29

16
17 There were serious threats to John Hennessy. You're
18 aware of all of this?

19 A. I am, indeed.

20 154 Q. Yes. There was information that there was a conspiracy 11:30
21 to murder him in January 2006?

22 A. That's correct.

23 155 Q. Do you know what that information was?

24 A. There was money offered to an individual to assassinate
25 John Hennessy and that information was received in the 11:30
26 DMR western division in January 2006.

27 156 Q. In the DMR?

28 A. Western, that'd be Blanchardstown station, yes.

29 157 Q. It was received in Blanchardstown station?

1 A. Yes.

2 158 Q. And how was that information then disseminated?

3 A. Em, I remember reading a copy in the, what's called
4 occurrence book, in the main station room in Swords
5 Garda Station and it set out the particulars of the 11:31
6 threat to John at that time.

7 159 Q. So was it placed on Pulse?

8 A. I don't recall that it was placed on Pulse.

9 160 Q. Just so we understand the system, how was it circulated
10 to other gardaí then? 11:31

11 A. Back then, it was paper copy, hard copy sent to the
12 district office in Coolock and it would be sent down to
13 Swords station then to be appended to the occurrence
14 book.

15 161 Q. Sorry, to be appended to what? 11:31

16 A. The occurrence book, it's called. It's a large book in
17 the office, in the public office of Swords Garda
18 Station.

19 162 Q. What are gardaí expected to do with the occurrence
20 book? 11:31

21 A. Well, I can't remember the particulars of the report
22 but it would be, generally there would be instructions
23 to pay passing attention to the business or whatever
24 was deemed appropriate at the time, his business
25 premises and his home. 11:32

26 163 Q. But the occurrence book, was this information drawn to
27 your attention?

28 A. Not personally, no. I found it when I took up duty and
29 I read it. But it was generally known in the station,

1 this development was generally known.

2 164 Q. But were you briefed or instructed in respect of it?

3 A. No.

4 165 Q. Now the following month, on the 27th February of 2006,
5 there was an arson on John Hennessy's home? 11:32

6 A. That's correct.

7 166 Q. Who dealt with that? What gardaí dealt with that?

8 A. It was our district detective unit that dealt with
9 that.

10 167 Q. And I think that was recorded on Pulse? 11:33

11 A. It certainly was, yes.

12 168 Q. As criminal damage/arson?

13 A. It was recorded in a category of criminal damage/arson.

14 169 Q. And again, were you consulted in respect of this?

15 A. No. As I said, I was aware of the occurrence but I 11:33
16 wasn't personally approached by any of the
17 investigating members in that regard.

18 170 Q. We'll come to the third piece of information in respect
19 of Mr. Hennessy, and that was information to do with
20 another conspiracy to murder him on the 13th October 11:33
21 2006?

22 A. Yes, on the 11th October information was received --

23 171 Q. 11th sorry?

24 A. -- at Blanchardstown station. Sorry, between
25 Blanchardstown and Swords Garda Station in relation to 11:34
26 a further conspiracy to murder John.

27 172 Q. That information came to Blanchardstown, did it?

28 A. I believe that it was sourced in Swords [REDACTED]
29 [REDACTED] and it transferred to Blanchardstown station

1 then for processing.

2 173 Q. And were you involved in that?

3 A. No, I wasn't aware of that at all, at the time.

4 174 Q. And was there interaction with [REDACTED] in respect
5 of this particular information? 11:34

6 A. Yes, indeed. [REDACTED]
7 [REDACTED]

8 CHAIRMAN: I don't think this is a good idea.

9 MR. O'HIGGINS: No.

10 CHAIRMAN: I don't think it is relevant and it's 11:35
11 dangerous. We have no notice of it and, Mr. Lynn, we
12 shouldn't be going into this already.

13 MR. LYNN: All right, all right.

14 CHAIRMAN: Sergeant Hughes should know that we
15 shouldn't be going into this area. People could be 11:35
16 endangered by evidence we give here, casually and so
17 on. Mr. Lynn, we have the story, we know the events
18 that have happened, we know the threats, we know the
19 case that Sergeant Hughes made and makes about a series
20 of events, we do not need to -- you are perfectly right 11:35
21 in saying that I am not concerned with assessing,
22 evaluating the Garda response. I don't want to be
23 critical, but I am apprehensive. So I am ruling out
24 this evidence and I hope we can move on briskly,
25 because an awful lot of this has actually been given in 11:36
26 evidence. I am sympathetic to what you need to do, but
27 I am very concerned certainly and I think everybody in
28 this room will be aware of the risks that we could run
29 if we pursue this matter. So I think Mr. O'Higgins's

1 concern is entirely justified.

2 MR. O'HIGGINS: I should indicate --

3 CHAIRMAN: Sergeant Hughes, please understand, we have
4 to be very careful here.

5 MR. O'HIGGINS: I appreciate you are dealing with the 11:36
6 matter, Chairman. On behalf of An Garda Síochána can I
7 indicate in the strongest of terms that a grave concern
8 -- there was grave concern --

9 CHAIRMAN: I heard that. What have I just done,
10 Mr. O'Higgins? I have just agreed with you, I have 11:36
11 just explained why it is important and I have just
12 explained that we're not going to have any more of it.

13 MR. O'HIGGINS: And I am content with that, Chairman,
14 thank you.

15 CHAIRMAN: So I don't need your further endorsement of 11:37
16 it. Okay, Mr. Lynn, we know what the situation is.

17 MR. LYNN: I am sorry.

18 CHAIRMAN: There is no personal or professional
19 criticism intended. It is just to say here be perils,
20 let's be careful, let's move on, deal in general terms, 11:37
21 please, bear in mind also, I do know what the case is
22 about.

23 175 Q. MR. LYNN: Sergeant Hughes, we need no more information
24 in respect of this, but was this placed on the Pulse
25 system? I don't need to know the information, but was 11:37
26 the information placed on the Pulse system? That is
27 the sole question I am asking you about it.

28 A. I didn't see it being placed on the Pulse system.

29 176 Q. How did you learn of the information, without telling

1 us what the information is?

2 A. I was off for a few days at the time and when I arrived
3 at my office I discovered a report addressed to
4 sergeant -- or CPU was written on it, along with all
5 the other units in the station, there's six other units 11:38
6 in the station.

7 CHAIRMAN: Community policing unit.

8 A. Community policing unit, CPU was written on it at the
9 time.

10 177 Q. CHAIRMAN: So it was left for your attention? 11:38

11 A. Yes.

12 178 Q. CHAIRMAN: You were the CPU?

13 A. CPU, yes.

14 CHAIRMAN: Okay.

15 179 Q. MR. LYNN: Were you consulted about the information? 11:38

16 A. No, I was not.

17 180 Q. Now, we know there was an arson attack on Ms. Saulite's
18 car on the 18th August 2006?

19 A. That's right.

20 181 Q. And what station investigated that? 11:38

21 A. It's Malahide Garda Station.

22 182 Q. Were you briefed or instructed in respect of that?

23 A. Not personally briefed, no.

24 183 Q. Was that information disseminated?

25 A. The sergeant in charge of that investigation along with 11:39
26 his three staff, I think, they sent a report to the
27 superintendent Coolock in that regard.

28 184 Q. How did you learn about it?

29 A. I became aware of it and I visited Baiba at an address

1 that she had prior to her address. So I visited her
2 and spoke to her in relation to it. And I also spoke
3 with the sergeant in charge of the investigation, who I
4 knew very well.

5 185 Q. But how did you learn about it? 11:39

6 A. I don't recall exactly how I learned about it, I became
7 aware of it though in the days afterwards.

8 186 Q. And you spoke to Sergeant Ambrose, was it?

9 A. Sergeant Ambrose, yes.

10 187 Q. Now, I want to take you to a document in the papers at 11:40
11 page 1956, if Mr. Kavanagh could -- It's not entirely
12 clear to us what this document is but we think by the
13 typeface and the format that it may be part of the
14 confidential recipient report. I want to take you
15 through it, because you are mentioned in it and there's 11:40
16 another relevant part of it. But it starts by saying
17 that:

18
19 "The investigation into the report received from the
20 confidential recipient did not find that any formal 11:41
21 crime prevention advice was imparted to Ms. Saulite,
22 neither has it found any reports or directions
23 emanating from the divisional and district officers
24 regarding this issue."

25 11:41
26 That's despite the press release, which we will return
27 to in due course, which the Tribunal is fully aware of.
28 If we could scroll down a little to the next paragraph:
29

1 "During the course of the child abduction case Sergeant
2 William Hughes assisted Ms. Saulite in obtaining
3 accommodation in an effort to distance herself from
4 Mr. A."

11:41

6 I think you already referred to that in the
7 cross-examination from Mr. O'Higgins. Was that part of
8 your community policing duties or simply the fact that
9 you had an involvement with the child abduction case?

10 A. It wouldn't be strictly speaking a Garda function, but 11:41
11 we decided, myself and Garda Nyhan, to actually
12 intervene and contact the council, Fingal County
13 Council in that regard.

14 188 Q. And then:

11:42

16 "She was also advised to report any alleged
17 mistreatment towards her by Mr. A. This advice was
18 given in the context of the investigation undertaken by
19 Sergeant Hughes and his team and it did not include any
20 specific threat to the life of Ms. Saulite emanating 11:42
21 from either a confidential source or from Ms. Baiba
22 Saulite herself."

24 If we can go down please, Mr. Kavanagh. Thank you.

11:42

26 "Ex Chief Superintendent Noel McLoughlin stated that
27 Sergeant William Hughes was the primary investigator in
28 the child abduction case and therefore the primary
29 point of contact for Ms. Baiba Saulite. He stated that

1 Sergeant Hughes should have given crime prevention
2 advice to Ms. Saulite. Stated that he reinforced on
3 numerous occasions to his staff in general to give
4 appropriate crime prevention advice to the relevant
5 parties. On the many meetings he held with Sergeant 11:43
6 Hughes, he reinforced the instruction to him."

7
8 I think that was dealt with yesterday as well, so if we
9 can continue to scroll down, please.

10 11:43
11 "Sergeant William Hughes informed the investigation
12 into the report received from the Garda confidential
13 recipient concerning the investigation that in the
14 course of the child abduction investigation Ms. Saulite
15 was continually advised to immediately report any 11:43
16 matters to the gardaí concerning Mr. A's alleged
17 misbehaviour towards her. Stated that Ms. Saulite was
18 assisted by the investigating members of the child
19 abduction case in being rehoused by the local authority
20 in an effort to distance herself from Mr. A. Sergeant 11:43
21 Hughes stated that Ms. Saulite was advised and assisted
22 in every way necessary by members of the child
23 abduction case. That Ms. Saulite received every
24 assistance, courtesy and guidance appropriate in the
25 circumstances in the course of the child abduction 11:43
26 investigation."

27
28 I take it you don't take any issue with that?

29 A. I don't, no.

1 189 Q. Again, if we can continue down please.

2

3

"There was no specific threat or intelligence
4 indicating that there was a real threat to the life of
5 Ms. Baiba Saulite. Instructions were issued to the 11:44
6 district force that any calls to Ms. Saulite's home
7 were to be responded to as a priority."

8

9 Then there is reference to the report of the 24th
10 August 2005 that you had forwarded. And if we could 11:44
11 continue down. I think we can actually keep going
12 down. Then just stop at this bit:

13

14 "Detective Chief Superintendent Kevin Donoghue, who was
15 at the time the Garda Press Officer, stated that all 11:44
16 information contained in the press releases was
17 obtained in advance from senior investigators involved
18 in the investigation of the murder of Ms. Saulite.
19 Senior Garda management were at all times aware of the
20 various investigations relating to Ms. Saulite and 11:44
21 Mr. A. Based on the content of the information in the
22 possession of An Garda Síochána, the question of the
23 provision of protection for Ms. Saulite had neither
24 arisen nor been considered or requested."

25

11:45

26 If we can continue down. Just go up again, sorry, to
27 the top of that page..

28

CHAIRMAN: Can I just clarify?

29

MR. LYNN: Yes.

1 CHAIRMAN: what is this document?
2 MR. LYNN: This is a document that's --
3 CHAIRMAN: I don't remember and I probably should
4 remember, what is it?
5 MR. LYNN: we think it's a document that is part of 11:45
6 the --
7 CHAIRMAN: we will find out now, very soon.
8 Mr. Marrinan, can you help.
9 MR. MARRINAN: It's chapter 11 of the Feehan report.
10 CHAIRMAN: Thank you very much. Yes. Thank you. And 11:45
11 what is the point of doing this, Mr. Lynn?
12 MR. LYNN: The point I am coming onto now is --
13 CHAIRMAN: I mean, there is a question coming, I am
14 sure.
15 MR. LYNN: The next passage -- 11:46
16 CHAIRMAN: Sorry, that sounds rude, I don't mean that.
17 I mean, what is the point of going through this?
18 MR. LYNN: You're going to see an interaction with --
19 CHAIRMAN: Thank you.
20 MR. LYNN: -- Ms. Saulite by another member of the 11:46
21 Gardaí.
22 CHAIRMAN: All right.
23 MR. LYNN: In fact, it is this next paragraph:
24
25 "Garda Murphy stated that when he had finished speaking 11:46
26 with Ms. Saulite he immediately telephoned Sergeant
27 Hughes on his mobile and he informed Sergeant Hughes of
28 the telephone conversation. Sergeant Hughes instructed
29 him to notify the station house officer as Sergeant

1 Hughes was not on duty. Garda Murphy stated that he
2 informed Sergeant Liam Cummins. "

3

4 Now, Sergeant Hughes, do you recall that?

5 A. I recall the telephone call, yes.

11:46

6 190 Q. And it was from a Garda Murphy?

7 A. That's correct.

8 191 Q. Do you recall in general terms what the conversation
9 was?

10 A. No. He didn't -- he just said that Baiba was on the
11 telephone looking for me at the station and I told him
12 to tell her I was off duty and to take a report from
13 her and submit it to his sergeant.

11:47

14 192 Q. So if we look to the next paragraph -- and Sergeant
15 Liam Cummins, he was the station house officer?

11:47

16 A. He was Garda Murphy's sergeant, yes.

17 193 Q. "Sergeant Cummins requested that Garda Murphy compile a
18 report outlining his conversation with Ms. Saulite.
19 Garda Murphy typed the report and handed the report to
20 sergeant Cummins.

11:47

21

22 Garda Murphy stated that when Sergeant Hughes returned
23 to duty, Sergeant Hughes asked him if he had notified
24 the station house officer as directed. Garda Murphy
25 stated that he did comply with the direction. "

11:47

26

27 Is that correct?

28 A. I seem to recollect that, yes.

29 194 Q. And then:

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"Garda Murphy stated that he has searched his records and cannot locate a copy of the report he made in November 2006. Garda Murphy stated that since creating the report he has not received any official communication in relation to the report."

11:48

And if we continue:

"Garda Murphy stated he does not recollect the exact date in November 2006 when he received the call but he is of the belief that it was received days in advance of the court case that was due on 7th November 2006. Garda Murphy stated that Garda Darragh Hynes was also in the community policing office when he received the phone call from Ms. Saulite."

11:48

11:48

So that's dating it at around about early November.

A. My recollection of it was that it was in the few days before Baiba was murdered.

11:49

195 Q. If we continue down:

"Sergeant Liam Cummins stated that he recalled Garda Thomas Murphy calling into the sergeant's office, where Garda Murphy informed him of the conversation with Ms. Baiba Saulite. Sergeant Cummins stated that he could not recollect the date of the conversation he held with Garda Murphy. Sergeant Cummins stated he informed Garda Murphy to commit in writing the

11:49

1 conversation he had with Ms. Saulite for the purposes
2 of submitting the report on the matter to the district
3 office for the attention of all relevant authorities.
4 Sergeant Cummins stated that Garda Murphy drafted the
5 report."

11:49

6
7 And then if we continue:

8
9 "Sergeant Cummins stated that he forwarded Garda
10 Murphy's report to the district office under his own
11 covering report. Sergeant Cummins stated that there is
12 no surviving copy of the report in Swords Garda Station
13 as in January 2008 a metal filing cabinet belonging to
14 him was inadvertently disposed and destroyed during a
15 refit of Swords Garda Station. This metal cabinet
16 contained a substantial amount of original
17 documentation belonging to Sergeant Cummins. No copy
18 of the report made by Garda Thomas Murphy was located
19 in Coolock district office."

11:50

11:50

20
21 That appears to be the position, that this report went
22 missing in 2008?

23 A. Yes.

24 CHAIRMAN: where are you going with this Mr. Lynn? We
25 have this document, there's nothing to stop you
26 referring to it, it's the report of Assistant
27 Commissioner Feehan, but what is the point of asking
28 Sergeant Hughes, what does it matter what he thinks of
29 it?

11:50

1 MR. LYNN: Because it is relevant, Chair, to what's
2 called the fact-find, by --

3 CHAIRMAN: In what way is it relevant, Mr. Lynn?

4 MR. LYNN: Because --

5 CHAIRMAN: I mean, I am not trying to be difficult 11:51
6 here.

7 MR. LYNN: No, no.

8 CHAIRMAN: But having you read extracts from this is a
9 pointless exercise, with respect. Because, you can
10 refer to the document, we can refer to it. Assistant 11:51
11 Commissioner Feehan will be giving evidence. If
12 there's any dispute about it, any disagreement, and
13 Sergeant Hughes complains that the report represents
14 targeting of him in any respect, there's no objection
15 to criticising it or anything like that, but I don't 11:51
16 see the point of me sitting here while you read this,
17 to be honest.

18 MR. LYNN: well --

19 CHAIRMAN: I mean, if you say, what's the relevance to
20 the fact-finding? 11:52

21 MR. LYNN: The relevance is the fact-finding scoping as
22 Mr. O'Higgins put it --

23 CHAIRMAN: Yes.

24 MR. LYNN: -- by Inspector Mangan and the subsequent
25 investigation into what knowledge -- 11:52

26 CHAIRMAN: The disciplinary -- yes.

27 MR. LYNN: -- was held.

28 CHAIRMAN: Yes.

29 MR. LYNN: Sergeant Hughes's position is that he was

1 scapegoated, he was targeted.

2 CHAIRMAN: Absolutely. Now how is it relevant what
3 Assistant Commissioner Feehan reported?

4 MR. LYNN: It is very --

5 CHAIRMAN: what's relevant in that? 11:52

6 MR. LYNN: It's very important context to know --

7 CHAIRMAN: I don't agree, Mr. Lynn.

8 MR. LYNN: -- what other --

9 CHAIRMAN: I don't agree. Let me make it clear:
10 There's nothing to stop you making any case you want to 11:52
11 by reference to the Feehan report, nothing to stop you
12 saying look here, look at what it says, that is
13 supporting material as to the scapegoating allegation.
14 No problem with that. Reading out this report to the
15 witness, who didn't write it, referring to different 11:53
16 people, is, with respect, a waste of time. And I don't
17 think there's any useful purpose in doing so. But it
18 is not to inhibit any possible case you wish to make
19 based on the report, either to agree with the report or
20 to challenge it. 11:53

21 MR. LYNN: well, firstly, the --

22 CHAIRMAN: Do you see -- I mean, am I making myself
23 clear? I am eager to establish that I am not trying to
24 make things difficult for you, but I simply don't see
25 the point of reading this report. 11:53

26 MR. LYNN: well, firstly, Sergeant Hughes is mentioned
27 in the report and it's only right and proper that he
28 has an opportunity to comment on what is recorded in
29 respect of his activities.

1 CHAIRMAN: If you want to ask him to agree or disagree
2 with what's in the report relating to him, that's not a
3 problem.

4 MR. LYNN: Yes. And that is part of the purpose -

5 CHAIRMAN: That's not a problem. 11:54

6 MR. LYNN: - of reading this out.

7 CHAIRMAN: I mean, if there is a statement referring to
8 him and you say, look, did you agree with that, did you
9 say this or did you not say this, that's not a problem.

10 MR. LYNN: Yes. And that is part of what I have done. 11:54
11 And Sergeant Hughes has confirmed that he took a call
12 from Garda Murphy.

13 CHAIRMAN: But does it matter if he took a call from
14 Garda Murphy? I mean, he doesn't disagree with this.

15 MR. LYNN: Yes. 11:54

16 CHAIRMAN: So he took a call from Garda Murphy.

17 MR. LYNN: Yes.

18 CHAIRMAN: So what?

19 MR. LYNN: well --

20 CHAIRMAN: what difference -- what possible relevance 11:54
21 could it have, good, bad or indifferent? Am I missing
22 something here, Mr. Lynn? I feel I am not -- I feel
23 there is a chasm of understanding that I am failing to
24 bridge. It's obviously my fault. I am not making
25 myself clear. I am trying to be helpful. But I don't 11:55
26 want to sit here while you read a report to Sergeant
27 Hughes that has little to do -- if there's anything he
28 disagrees with, that's not a problem. He disagrees
29 with the report, he disagrees with the findings, we

1 heard all that, he disagrees with that, and the officer
2 is going to be giving evidence.

3 MR. LYNN: well, the report refers to Sergeant Hughes
4 taking a call from Garda Murphy, I have asked him --

5 CHAIRMAN: If you think that is a logical basis for the 11:55
6 question, I am afraid we disagree. So, Sergeant Hughes
7 took a call, big deal. He doesn't disagree that he
8 took a call. But suppose he even said, I don't
9 remember taking a call and it says he took a call, what
10 difference does it make to anybody? 11:56

11 MR. LYNN: The relevance is that there was information
12 before other gardaí in respect of Ms. Saulite. She was
13 having --

14 CHAIRMAN: I am not concerned with that, as you fairly
15 pointed out at the beginning. What am I inquiring 11:56
16 into? I am inquiring into whether Sergeant Hughes was
17 targeted or discredited after making protected
18 disclosures. Now, can we please focus on that?

19 MR. LYNN: But an issue is, Chair, if I might just
20 continue this - 11:56

21 CHAIRMAN: Yeah.

22 MR. LYNN: - so that I am clear about the Tribunal's
23 position. An issue.

24 CHAIRMAN: Yes.

25 MR. LYNN: An issue is the manner in which the 11:57
26 fact-finding investigation into the knowledge of An
27 Garda Síochána.

28 CHAIRMAN: All right, let's get on to that.

29 MR. LYNN: Yes. And this report is evidence that at

1 least two other members of the force, Garda Murphy and
2 Sergeant Cummins had information about Ms. Saulite's
3 circumstances --
4 CHAIRMAN: Right.
5 MR. LYNN: -- in a period very close -- 11:57
6 CHAIRMAN: Okay.
7 MR. LYNN: -- to her murder, and would be officers to
8 be consulted, spoken to --
9 CHAIRMAN: In relation to the fact-finding.
10 MR. LYNN: -- by any investigating authority. 11:58
11 CHAIRMAN: Okay. All right. That seems reasonable
12 enough, okay.
13 MR. LYNN: well, what I will do is --
14 CHAIRMAN: That seems reasonable enough, I must say,
15 Mr. Lynn, that's fair enough. That's a rational basis 11:58
16 for asking a question.
17 MR. LYNN: Judge --
18 CHAIRMAN: But how can Sergeant Hughes help us on that?
19 MR. LYNN: well, he was --
20 CHAIRMAN: He got a phone call. Sorry, carry on, 11:58
21 Mr. Lynn, carry on. Yes, I see your point.
22 MR. LYNN: He has confirmed --
23 CHAIRMAN: I see your point.
24 MR. LYNN: -- this interaction with Ms. Saulite --
25 CHAIRMAN: I just agreed with you, Mr. Lynn, I see your 11:58
26 point.
27 MR. LYNN: She had asked to speak to him.
28 CHAIRMAN: what do I have to do, Mr. Lynn, to say I
29 agree with you, I accept your point and please carry

1 on.

2 196 Q. MR. LYNN: Now, yes, we have established that
3 unfortunately those records are no longer available.
4 To give another example of another officer who had
5 dealings with Ms. Saulite, the three or four Pulse 11:59
6 records that were handed to you on Monday by
7 Mr. O'Higgins' team included a Pulse record from
8 another -- I don't know whether those hard copies are
9 still --

10 A. I am actually familiar with them so, yeah. 12:00

11 197 Q. Okay. I can deal with it very quickly then. But
12 within those documents, which -- yes. There is a Pulse
13 record from -- and I say this is in the hard copies,
14 it's got 8462 written at the bottom right of the page,
15 the Pulse record from I think another Garda Murphy, a 12:01
16 different Garda Murphy, entered on the 15th February of
17 2006 and it states:
18
19 "Report received from District Sergeant Gerry Feeney
20 stating that --" 12:01
21
22 It's redacted
23
24 "A separated mother of two young [blank] resides at the
25 address...has expressed concern for her safety and the 12:02
26 safety of her children."
27
28 Now, if I could refer you to page 856, this was
29 referred to by Mr. O'Higgins I think on Monday,

1 Sergeant Hughes, 856, and this is the letter from
2 Inspector Mangan to Assistant Commissioner Feehan.
3 This is the summary of Inspector Mangan's
4 investigation. If we can -- the first paragraph says
5 when he was requested to do it, if we can spool down, 12:03
6 you will see at paragraph 3 he contacted Detective
7 Superintendent Michael Byrne. And paragraph 4, if we
8 can go down, you were requested to submit a report,
9 which you did, Sergeant Hughes. Garda Nyhan was
10 requested to submit a report, Detective Sergeant Ciaran 12:03
11 McEnaney was requested to submit a report. If we
12 continue down, he spoke to Inspector Donal Waters.
13 Then you see -- we are familiar with this document,
14 Sergeant Hughes, it was opened I think on Monday.
15 Paragraph 8, he researched the provisions relating to 12:04
16 victim impact reports. Examine and consider the victim
17 impact report. Looked at a case called DPP v.
18 O'Donoghue.
19
20 If we continue down, research and consider previous 12:04
21 victim impact statements, interrogated the Garda Pulse
22 information system, examined statements made to Garda
23 McNally, and spoke to Garda Alan Campbell.
24
25 Now, Sergeant Hughes, Mr. O'Higgins described this as 12:04
26 only a scoping exercise, just an initial dig to see if
27 there was further investigations required, and it was
28 decided that there should be a formal investigation.
29

1 Now, you complain of scapegoating and targeting, are
2 those -- is that scoping exercise in your view a fair
3 one?

4 A. In my view it's not, and if I can give reasons?

5 198 Q. Yes. 12:05

6 A. There were a large number of Garda personnel that were
7 omitted from this scoping exercise who had personal
8 dealings with Baiba Saulite prior to her death and they
9 were apparently left off the list. There are persons,
10 senior officers, that they were spoken to and they 12:05
11 denied having any knowledge in relation to Baiba
12 Saulite, when it's clear that they did have knowledge
13 of -- they were in positions of authority whereby
14 various reports and various occurrences would be known
15 to them in relation to Baiba Saulite, and they were in 12:06
16 a position to assist that inquiry. The level of
17 knowledge in relation to Baiba Saulite extended beyond
18 our district to other divisions. And as we can see, it
19 doesn't appear to have any input there from what I
20 would consider crucial members who had dealings with 12:06
21 Baiba Saulite prior to her murder.

22 199 Q. Can you be more specific about particular incidents or
23 members?

24 A. Well, I would start at, in our own district at the
25 time, detective -- sorry, retired Superintendent Noel 12:06
26 McLoughlin, who lives in the vicinity there, he would
27 have been available to that fact-finding inquiry, as
28 would retired Inspector Bob Melvin. Sergeant Patrick
29 Ambrose and three of his staff had dealings with Baiba

1 Saulite in relation to the arson attack on her car in
2 August 2006. They don't appear to have been approached
3 in this factfinding investigation.
4

5 If you move on then, you mentioned the collating 12:07
6 reports there, I think there was a Garda Joan Scott and
7 Garda Olivia Fleming also had dealings with Baiba and
8 they entered it on Pulse. I don't think they were
9 interviewed in this process.

10
11 Just to recollect then, the gardaí in Blanchardstown 12:07
12 who had information in relation to matters concerning
13 Baiba and John Hennessy were not interviewed in this
14 process. I may recollect some more, if I can add to
15 that later on, it is just not coming to my head at the 12:07
16 moment.

17 200 Q. And as I say, this is at the scoping stage and then
18 there's a formal investigation commences?

19 A. Yes, I saw that in the papers, yes.

20 201 Q. To the best of your knowledge, the officers you 12:08
21 mentioned, were they the subject of any interviews,
22 questioning, in the course of the formal investigation?

23 A. I don't have any knowledge of a formal investigation
24 following the scoping exercise. The senior officers I
25 referred to in the scoping exercise were merely asked 12:08
26 if they had any knowledge and the ones that were asked
27 said they hadn't.

28 202 Q. But is it your understanding that the only real
29 consequence of the formal investigation was the

1 disciplinary process against you and Garda Nyhan?

2 A. Yes. My -- obviously I didn't see documents in
3 relation to the scoping exercise or the fact-find
4 investigation until 2012, but I could clearly see that
5 it was really pointing towards the victim impact report 12:09
6 aspect of my investigation. Based on that
7 investigation, I think the basis of the disciplinary
8 process was based on this scoping exercise.

9 203 Q. Now just to go back a little to the press release,
10 that's at page 795. You've given evidence that you 12:09
11 felt scapegoated by this at a very early stage
12 following the murder. And if we look down just to the
13 final complete paragraph at the bottom of this page, it
14 says:

15
16 "Due to the links between Ms. Saulite and the solicitor
17 in question, Ms. Saulite was also given crime
18 prevention advice regarding her property and personal
19 safety."
20 12:10

21 Now, when you read that, you thought that was correct,
22 is that --

23 A. I thought it was -- I was puzzled, because it wasn't
24 brought to my attention that she had been given crime
25 prevention advice, and I mean, the formal crime 12:11
26 prevention advice that was provided for John Hennessy
27 in the weeks before the murder wasn't brought to my
28 attention at the time.

29 204 Q. Well, we now know in any event that that is inaccurate,

1 but if we read further on in the press release:

2
3 "At no time prior to her tragic death were gardaí aware
4 of any specific threat against the life of Ms. Baiba
5 Saulite and no complaints were received by gardaí from 12:11
6 any person in this regard."
7

8 And then it continues on:

9
10 "As part of the murder investigation, house to house 12:11
11 enquiries are ongoing in the area and the Gardaí have
12 now learned that Ms. Saulite expressed concerns to
13 friends and neighbours regarding her safety. We have
14 also established that in the course of preparing a
15 document for court use in the sentencing of her 12:11
16 husband, Ms. Saulite expressed concerns for her safety
17 and appeared to be somewhat in fear of him."
18

19 Now, how did you respond to that?

20 A. Yes, I could see that the article seemed to be ignoring 12:12
21 the fact that Baiba Saulite had reported on many
22 occasions that she was in fear of Mr. A and she
23 expressed that in the -- quite clearly in her opening
24 statement of the child abduction case, in the child
25 abduction case, which was -- the file was created two 12:12
26 years before her murder, she quite clearly stated and
27 stated that she was in fear for her life and her fears
28 was that she was going to be killed. This information
29 was with management at the time of the preparation of

1 this press release and it seems to ignore those
2 allegations, albeit that they were made a considerable
3 time before they issued the press release. But also
4 then with all the other reports that were received,
5 that Baiba had reported to individual members there, I 12:13
6 would imagine that if anybody had looked at the
7 information in its entirety, I don't think that
8 paragraph there relating that she'd only expressed
9 fears at a recent juncture is appropriate.

10 205 Q. When you say expressed fears, you mean expressed 12:13
11 concerns for her safety?

12 A. Yes, sorry. Yes. It says here "as part of the house
13 to house enquiries", that they understand that Baiba
14 had expressed concerns to friends and neighbours
15 regarding her safety. To me, my reading of that is 12:13
16 that that was probably the first time, according to the
17 Garda authorities, that she had expressed some concern
18 for her safety, when that was not true.

19 206 Q. Well in the next sentence Sergeant Hughes refers to the
20 document, the draft report? 12:14

21 A. Yes.

22 207 Q. So to summarise your evidence there, you're saying that
23 this gives the impression that this is the first
24 occasion on which the force became aware that she had
25 concerns for her safety? 12:14

26 A. Yes. And then it's pointing to the preparation of the
27 document, which obviously is the victim impact draft
28 statement. It's pointing to that. Which had been
29 procured that day from me at Swords Garda Station and

1 forwarded to the Commissioner.

2 208 Q. How did you feel when you read that?

3 A. I was shocked to read that. That, you know, it seemed
4 to be pointing just solely at my investigation and the
5 Garda Nyhan's investigation and our interaction with
6 Baiba in the days before her murder. 12:15

7 209 Q. All right, then there is the scoping exercise and then
8 the disciplinary process is commenced against you. And
9 just to return, and I know there has been fair
10 discussion on this, the wording of the disciplinary 12:15
11 allegation made and I think that's at page 908. If we
12 could spool down a little, please. And it's there in
13 italics, sorry to read out again, Chair?

14 CHAIRMAN: No, there is no problem. If it's relevant
15 there's no problem, Mr. Lynn. Don't have any 12:16
16 apprehensions about relevance, about reading anything
17 relevant.

18 210 Q. MR. LYNN: "It appears that Sergeant William Hughes was
19 in possession of documentation and information as a
20 result of meetings with Ms. Baiba Saulite and being in 12:16
21 possession of same knew or ought to have known at the
22 time of the existence of a real and immediate risk to
23 the life of Ms. Baiba Saulite and failed in his duty to
24 take measures that might have been expected to avoid
25 that risk." 12:16

26
27 Now again it's slightly repetitive but it's important,
28 you received legal advice that that was akin to
29 manslaughter

1 A. Yes, manslaughter, recklessness, yes.

2 211 Q. And the Chair has pointed out that that's a matter that
3 can be canvassed at a later date between the lawyers
4 and -- but Mr. O'Higgins explained to you that Chief
5 Superintendent Feehan had consulted European Convention 12:17
6 on Human Rights case law in drafting this; isn't that
7 right?

8 A. Yes.

9 212 Q. And that relates to a person's right to life and
10 whether that right has been violated? 12:18

11 A. I understand.

12 213 Q. And any suggestion that this would be something other
13 than very serious is something I know you would
14 discount.

15 A. That's correct. 12:18

16 214 Q. And as Mr. Marrinan pointed out and as was confirmed,
17 we don't need to go back to the correspondence, but it
18 is page 2106, it was actually alleged against you that
19 you had failed to take the necessary measures to avoid
20 the risk posed to Ms. Saulite. 12:18

21 A. That's correct.

22 215 Q. Now, I want to turn now and move on to the disciplinary
23 process and the interview. Now firstly, in your
24 evidence you have contended that there was no need for
25 a disciplinary inquiry and that this could have been 12:19
26 all dealt with within about six weeks.

27 A. That's correct.

28 216 Q. That was your evidence. And again, sorry to repeat,
29 and this was canvassed at length yesterday, you phoned

1 Chief Superintendent Feehan on the 8th November 2007,
2 you made contact with him?

3 A. That's correct.

4 217 Q. Now, you were interviewed on the 29th October of 2008?
5 A. Yes. 12:20

6 218 Q. And that's at page 954. Now, you recall this very
7 clearly, I think, Sergeant Hughes?
8 A. I do.

9 219 Q. And we can see Detective Inspector Sweeney, Inspector
10 Inspector Dwyer, Detective Sergeant Bailey are 12:20
11 assisting in the investigation. It was a short
12 interview, is it fair to say?
13 A. It was.

14 220 Q. Five questions?
15 A. Yes, that's correct. 12:21

16 221 Q. We will go through them.
17

18 "Q. Can you confirm that you were involved in the
19 investigation of the abduction of the children of Bai ba
20 Saulite by Mr. A?" 12:21
21

22 That was hardly a controversial question, was it?
23 A. It was known before the establishment of the
24 disciplinary inquiry.

25 222 Q. And then second question: 12:21
26

27 "In your report you make reference to a 12-page
28 report."
29

1 And Inspector Dwyer hands that to you and you are asked
2 to confirm it is a copy of the document and you say:

3
4 "It looks like it, we don't have the original for
5 comparison. 12:21

6 Q. Did you ever read the 12-page document in its
7 entirety?

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

9 Q. Why did you photocopy this document?

10 A. We were assisting the State in drawing up a victim 12:22
11 impact report, so we were not expecting Bai ba to arrive
12 at the station with such a detailed document. So in
13 the meantime she was going away to obtain a GP report
14 and we would go through that document and that anything
15 from it that was relevant to accompany the GP report to 12:22
16 help formulate a proposed victim impact report."
17

18 And that was then read over to you. Sergeant Hughes,
19 were you asked anything that you hadn't replied to
20 previously in interactions with officers? 12:22

21 A. The vast majority of those answers to those questions
22 were already included in the fact-find report I
23 submitted to Inspector Mangan in December 2006.

24 223 Q. Sorry, there's further questions here. The last
25 paragraph of the 12-page document was read to you and 12:23
26 you were asked had you read that and you said:

27
28 "The morning after Bai ba was killed."
29

1 And the report of Superintendent Walter O'Sullivan was
2 read over to you and you were asked:

3

4 "Can you comment on this?"

5 A. It was dealt with in my report. I was never 12:23
6 invited to be part of the investigation team, case
7 conference. I never said that this would lead to
8 professional difficulties for me. My report deals with
9 the issue. The substantive information that's
10 contained in my report was forwarded to Detective 12:23
11 Inspector Mangan, Store Street in mid December 2006."

12

13 So you're saying that you have already provided that
14 information?

15 A. I did, indeed, yes, and I could have clarified any 12:23
16 aspect of the report I furnished to Inspector Mangan in
17 that regard.

18 224 Q. And the memo is then read to you, and you agree it's
19 correct. Now, was that the extent of the interview
20 that afternoon? 12:24

21 A. That was it. I had furnished them with a 25-page
22 document I think as well and -- but as far as the
23 interview was concerned, that was the questions in
24 their entirety.

25 225 Q. The questions in their entirety? 12:24

26 A. That's it.

27 226 Q. And I know that the investigators spoke to a friend of
28 Ms. Saulite and Ms. Saulite's general practitioner, and
29 were you asked anything about those enquiries?

1 A. I wasn't. I understand the two witnesses were visited
2 after I had answered those questions, I think in 2009.

3 227 Q. It was after this interview?

4 A. After this interview, yes.

5 228 Q. And you've complained about, I think there was a small 12:25
6 error of record really, that one of the people
7 interviewed was informed that there was a disciplinary
8 action being taken against you?

9 A. That's correct. Her -- sorry, the statement was
10 prefaced with that, that I understand that I am making 12:25
11 this statement in connection with the disciplining of
12 Sergeant Liam Hughes, or words to that effect.

13 229 Q. I think yesterday you thought this was to do with the
14 inquiry into the article in the Star?

15 A. Yes, that was my mistake. 12:25

16 230 Q. It was an error. It's actually at page 2344. This is
17 a statement of a redacted name and you will see the
18 first, in normal typeface:
19

20 "I have been informed by Inspector Fergus Dwyer that he 12:26
21 is enquiring into an internal Garda disciplinary
22 investigation in respect of Sergeant Liam Hughes."
23

24 And you were unhappy about that.

25 A. I think so. I don't think it should have been included 12:26
26 in the statement. It wasn't relevant to the actual
27 taking of a statement, so it shouldn't have been
28 included because disciplinary matters are internal
29 affairs and not really for public consumption.

1 231 Q. Disciplinary matters you think are internal affairs,
2 they're not wholly confidential recipient surely
3 Sergeant Hughes?

4 A. I imagine not, I'd say word could get around, but this
5 is obviously a written record, where they entered into 12:27
6 a written record, and I think that shouldn't have
7 happened, in my view.

8 232 Q. And to the best of your knowledge in respect of your
9 internal disciplinary proceedings, to the best of your
10 knowledge would that have been well known to people or 12:27
11 was it relatively discreet?

12 A. It would have been known obviously to the people
13 involved in the investigation process. Not too many
14 people approached me and said it in that respect and
15 asked me questions in relation to it. So it was kept 12:27
16 pretty discreet, yes.

17 233 Q. So to the best of your knowledge it was kept discreet?

18 A. From my point of view, yes.

19 234 Q. But, of course, it found its way into the article in
20 the Star newspaper? 12:27

21 A. Yes, it did.

22 235 Q. All right. I want to bring you a -- to move on a
23 little to the confidential recipient investigation and
24 your complaint and a letter that hasn't been opened
25 that you wrote to Brian McCarthy on the 4th December of 12:28
26 2008. And it's at page 558 of the papers. Do you
27 recall this letter, Sergeant Hughes?

28 A. I certainly do, yes.

29 236 Q. And you say in the second paragraph, last sentence --

1 MR. O' HIGGINS: Chairman, I am sorry to interrupt
2 Mr. Lynn, I don't wish to knock his train of thought,
3 just I have an apprehension and I am sure it won't
4 arise, but there is a danger that this document may
5 lead us into the dangerous area that was spoken about 12:29
6 20 minutes ago. So I just think we need to be very
7 careful with this area altogether.

8 CHAIRMAN: I do not have that document, this document
9 in front of me, so if there's a question about it that
10 you think -- do you think it shouldn't be referred to, 12:29
11 is that what you are saying?

12 MR. O' HIGGINS: I think this is a document of the 4th
13 December 2008?

14 MR. LYNN: Yes.

15 CHAIRMAN: 4th December '08, yes. 12:29

16 MR. O' HIGGINS: To Mr. Brian McCarthy. So I do accept
17 the CRO communications are broadly speaking relevant.

18 CHAIRMAN: Yes.

19 MR. O' HIGGINS: But there is a reference in this
20 document, that I am aware of, that could lead into the 12:30
21 dangerous area we were speaking about earlier.

22 CHAIRMAN: Yes. Are you aware of that, Mr. Lynn? Do
23 you understand what Mr. O'Higgins is referring to?

24 MR. LYNN: I do. But I mean, I can see it's 12:30 and
25 what I could do is leave this over -- 12:30

26 CHAIRMAN: well no, if you can -- if this is not part
27 of your examination, then you can simply leave -- we
28 won't produce the document, but you can ask your
29 relevant questions without referring to the sensitive

1 matter that Mr. O'Higgins -- is that all right? Are
2 you happy with that?
3 MR. LYNN: Yes.
4 CHAIRMAN: And if anything arises that you think is
5 necessary to refer to the sensitive matter, then come 12:30
6 back to that.
7 MR. LYNN: Very good.
8 CHAIRMAN: But for the moment proceed. Is that okay?
9 MR. LYNN: Very good.
10 CHAIRMAN: Are you happy with that? 12:31
11 MR. O'HIGGINS: I am happy with that. Thank you,
12 Chairman.
13 CHAIRMAN: All right.
14 237 Q. MR. LYNN: Sergeant Hughes, we're not going to go into
15 the details of what is in the letter but the Tribunal 12:31
16 has the letter and they can see that you have conveyed
17 certain information to Mr. McCarthy.
18 A. That's correct.
19 238 Q. Now, the question for you is: Do you think, without
20 going into the information, that the information that 12:31
21 you relayed was properly dealt with?
22 A. I don't believe that.
23 239 Q. And why is that, without, if you can, going into the
24 actual nature of the information?
25 A. Well the individuals, the individual Garda members 12:31
26 referred to in the document at the first instance
27 weren't approached in the fact-find investigation and
28 neither were they seemingly approached in the
29 confidential recipient investigation process. And I

1 believe that information in that document there was
2 critical to Garda management's viewpoints in relation
3 to systems failure within the Garda Síochána, in
4 relation to John Hennessy and Baiba Saulite prior to
5 the murder. And I believe, I believe that a proper 12:32
6 investigation of the document there would have shone
7 the spotlight considerably and substantially towards
8 other members of An Garda Síochána, particularly of
9 senior rank.

10 240 Q. And when you review the final report, does it appear to 12:32
11 you that this information was engaged with at all?

12 A. It doesn't appear so.

13 CHAIRMAN: So the question can be, so to speak,
14 neutrally put in this way, I think, Mr. Lynn, if I am
15 understanding, that the information provided that 12:33
16 Sergeant Hughes provided information to the
17 confidential recipient and his complaint is that that
18 wasn't addressed in the Feehan report.

19 MR. LYNN: Yes.

20 CHAIRMAN: That's essentially the point. 12:33

21 MR. LYNN: Yes.

22 CHAIRMAN: Is that --

23 MR. LYNN: Yes.

24 CHAIRMAN: Everyone clear on that? Is that a
25 reasonable summary of the situation? And to the extent 12:33
26 that we need to, if necessary, delve more particularly
27 into it, that matter remains to be debated as to how it
28 might be done. Is that okay?

29 MR. LYNN: Very good. Thank you, Chairman.

1 CHAIRMAN: Everyone clear? Are you happy with that,
2 Mr. O'Higgins?
3 MR. O'HIGGINS: Yes, thank you, Chairman, thank you for
4 that.
5 CHAIRMAN: Okay. 12:33

6 241 Q. MR. LYNN: We will continue on the issue of this report
7 because Issue 3 in the opening statement of the
8 Tribunal asks whether you were targeted or discredited
9 by a failure to carry out a proper investigation into
10 the report you had made to the confidential recipient. 12:34
11 Now it's a broad question, Sergeant Hughes, I am sorry
12 to ask a broad question, we may tailor it as we go
13 along, but do you believe that there was a failure to
14 carry out a proper investigation?

15 A. I do. 12:34

16 242 Q. And can you say why?

17 A. On a number of counts there. I actually made notes
18 there, from my reading of the confidential recipient
19 report from Chief Superintendent Feehan, or Assistant
20 Commissioner Feehan at that time, to the Commissioner. 12:35
21 There are many aspects of the report which I have noted
22 should have been looked after, should have been
23 attended to or were not, or that I would have a
24 difference of opinion in relation to the decisions
25 arrived at in various elements of the report. I have 12:35
26 the notes there, I don't know whether it would be --
27 would it be permitted to actually refer to the notes as
28 we read through the report?

29 CHAIRMAN: The Tribunal asked for details of the

1 complaints that you made.

2 A. Yes, indeed.

3 243 Q. CHAIRMAN: And you gave them to us. You said:

4

5 "Please refer to the report submitted to Superintendent 12:35
6 Gabriel O'Gara and the report submitted to Inspector
7 O'Boyle in relation to the confidential recipient
8 investigation."

9

10 That's not terribly specific. Anyway. Then you say: 12:35

11

12 "The investigation failed to uncover irrefutable
13 wrongdoings with regard to the alleged lack of
14 investigation, correlation of crimes or offences prior
15 to the murder, pre November 2006." 12:36

16

17 I hope this is correct. I am referring to my note of
18 what the letter said, so you'll have to -- this is the
19 letter of particulars. And then:

20

21 "Once the systems failures had been established in
22 Chief Superintendent Feehan's investigation, then a
23 full and proper investigation of the remaining
24 allegations should have uncovered wrongdoings in
25 relation to misinformation in the Garda press release, 12:36
26 issues in the fact-finding investigation, issues in the
27 disciplinary investigation, lack of response from Garda
28 reports of systems failure, failure to investigate sick
29 leave absences, the grossly unfair act of reducing his

1 salary without proper --"
2
3 And so on. And then D was lack of feedback, and so on,
4 in respect of the confidential recipient investigation,
5 and failure to forward the file to others. Those are 12:37
6 the details that you gave us.
7
8 Now, are they all included in your list or is this a
9 new list?
10 A. That would cover the vast majority. 12:37
11 244 Q. CHAIRMAN: Yes.
12 A. But having read the report from the -- which I hadn't
13 got at the time of making the statement to the
14 Tribunal, having read the report from the confidential
15 recipient to the Commissioner, I just made notes there 12:37
16 which could assist me in -- if we are in the --
17 CHAIRMAN: That's okay. It's not a problem. Did you
18 tell those to Mr. Marrinan when he was asking but it, I
19 mean a few days ago?
20 A. No. 12:37
21 245 Q. CHAIRMAN: Let me tell you exactly what my concern is.
22 My concern is that if this is new material,
23 Mr. O'Higgins doesn't know about this material, so
24 we're sort of adding as it goes along. I am also
25 concerned that you say you didn't have the Feehan 12:38
26 report, is that right, at the time when you gave those
27 details?
28 A. At the time I made my statement to the Tribunal, yes.
29 246 Q. CHAIRMAN: No. At the time you gave these details, the

1 ones I just read out from your solicitor. I think you
2 should have had the Feehan report at that stage. But
3 anyway, listen, most of the complaints are included in
4 this?

5 A. Yes, indeed. 12:38

6 247 Q. CHAIRMAN: Tell us what your additional complaints are
7 and we'll see where we go and if necessary
8 Mr. O'Higgins will have to come back on that. But tell
9 us what they are, they may be relevant, they may be
10 admissible, they may be inadmissible, who knows, we 12:38
11 better hear what they are?

12 A. Thank you, Mr. Chairman.

13 248 Q. MR. LYNN: Sergeant Hughes, you said the vast majority
14 have been covered by the Chair.

15 A. Yes. 12:38

16 249 Q. CHAIRMAN: Tell us what they are.

17 A. Sorry, just as you read out, Mr. Chairman.

18 250 Q. CHAIRMAN: You tell us the ones, those are the ones
19 that everybody should know about, because they're the
20 ones your solicitors notified us about? 12:39

21 A. Yes.

22 251 Q. CHAIRMAN: Now they may complain that they're not
23 sufficiently detailed or whatever it is, that is not my
24 concern. You have some additional --

25 A. Sorry, I just see, I had an aide memoire there, if I 12:39
26 was asked questions in relation to the specifics, it's
27 quite a lengthy document.

28 252 Q. CHAIRMAN: Your document now is an aide memoire, is
29 that right?

1 A. Yes. If I was asked questions in relation to it, I was
2 only going to use them as an aide memoire.

3 253 Q. CHAIRMAN: Is it useful for identifying for you or us
4 the complaints you make about the Feehan investigation?

5 A. Oh no, just to assist me in answering the questions in 12:39
6 relation to the extensive report submitted to the
7 Commissioner.

8 254 Q. CHAIRMAN: Unless somebody wants to ask you
9 specifically for a copy of your aide memoire, I am not
10 getting into that? 12:39

11 A. Yes.

12 255 Q. CHAIRMAN: That's your aide memoire. Mr. Lynn was
13 asking you about your criticisms of the Feehan
14 investigation?

15 A. Yes. 12:40

16 256 Q. CHAIRMAN: And I have the point that you say that the
17 matters in your subsequent letter of December weren't
18 dealt with, I have that point?

19 A. Yes.

20 257 Q. CHAIRMAN: Now, are there other complaints that you -- 12:40
21 A. No, that's it Mr. Chairman, that's it.

22 258 Q. CHAIRMAN: Okay. I want to make sure. And then
23 there's the ones you told us about, that's the ones you
24 have been over with Mr. Marrinan and there's the ones
25 you have been over with with Mr. O'Higgins, and if 12:40
26 there are any more let's have them and then we'll
27 debate them.

28 A. Thank you, Mr. Chairman.

29 259 Q. CHAIRMAN: So you think we've pretty well covered them?

1 A. Yes, Mr. Chairman, yes.

2 CHAIRMAN: Okay. All right.

3 260 Q. MR. LYNN: Now, I think we can save time on another
4 issue, you'll recall a letter from Assistant
5 Commissioner Clancy, the 19th September 2008, it's at 12:40
6 page 502, but we don't need to look at it, and you said
7 there were inaccuracies and one was identified in your
8 examination by Mr. Marrinan, that it was asserted that
9 you weren't going to deal face-to-face with local
10 management and were there other inaccuracies. And in 12:41
11 fact, just for the record, there has been
12 correspondence with the Tribunal on that. We don't
13 need to go into it, but for reference purposes, it's at
14 page 7937.

15 CHAIRMAN: And what are the other inaccuracies, 12:41
16 Mr. Lynn?

17 MR. LYNN: Well, Sergeant Hughes.

18 A. Sorry, the inaccuracies were submitted in a letter
19 to -- which is in the documents there, and if we can
20 put it up there, I can go through it. 12:41

21 261 Q. Well, it's at 7937.

22 CHAIRMAN: 7937. Thanks very much.

23 262 Q. MR. LYNN: And if we can go down please, Mr. Kavanagh.
24 Further down. Further down. Further down. Sorry the
25 next. This is it, the letter here. And you will see, 12:42
26 Sergeant Hughes, I think it is your position that
27 concerns you'd expressed at Dr. Griffin were largely
28 lost in the transactions between his office and the
29 ACMO and that as a result Dr. Quigley did not have the

1 fullest and most accurate information to hand when
2 arriving at the decision for medical discharge. He did
3 enumerate several matters for the assistant
4 commissioner HRM's attention. And you assert that the
5 ACMO's advices were largely ignored by the assistant 12:43
6 commissioner HRM and only quotes the disciplinary
7 issues as a possible resolution to matters.

8 CHAIRMAN: I am not understanding that. Can you
9 explain that, Sergeant Hughes?

10 A. I think we covered one of the inaccuracies there 12:43
11 previously.

12 263 Q. CHAIRMAN: Yeah.

13 A. And I was asked to explain the other inaccuracies and
14 it's set out there and I think we can scroll back up
15 again, I think is there further information? 12:43

16 264 Q. CHAIRMAN: The question really we're addressing is
17 this, sergeant, and it's a relevant question, and the
18 question is this: what complaint are you making about
19 Assistant Commissioner Clancy? That's the question.
20 And I have the point that you say that her letter says 12:44
21 that you were unwilling to speak face-to-face and
22 wanted only telephone communication?

23 A. Right.

24 265 Q. CHAIRMAN: Okay. You said to us, to the Tribunal that
25 there were numerous inaccuracies and that represented 12:44
26 targeting of you. And we said what were the numerous
27 inaccuracies. And the letter, the response was:

28
29 "Further clarity is sought in respect of the reference

1 to numerous inaccuracies amounting to abuse of process,
2 harassment of Sergeant Hughes. "

3
4 Now, that baffling statement was your response to our
5 query to say, tell us what the numerous inaccuracies 12:45
6 were. So, is that the height of it? Is it that she
7 referred in her letter, mistakenly as you say, and as
8 appears to be in the case -- sorry, wrongly, I should
9 say, to the fact that you were only willing to have
10 telephone communication rather than face-to-face 12:45
11 interviews. Is that the only problem with Assistant
12 Commissioner Clancy?

13 A. In relation -- yes, that was the primary problem in
14 that report.

15 266 Q. CHAIRMAN: And while we're on the subject, I don't want 12:45
16 to sort of -- well, I do want to sort of corral you in
17 a way into saying what else, have you any other
18 complaint about Assistant Commissioner Clancy?

19 A. Well, arising from that document I was asked what were
20 the numerous inaccuracies because that was only one. 12:46

21 267 Q. CHAIRMAN: Correct and you pointed out to one, okay.

22 A. I have them set out here, in this document here. You
23 see it, Issue 8, I think that's the way it was --

24 268 Q. CHAIRMAN: That's okay.

25 A. Yes. So do I read it out or is it just accepted 12:46
26 that --

27 269 Q. CHAIRMAN: No, no, just tell me what you --

28 A. Basically it's -- if we can just scroll down a slight
29 bit there, it's in relation to when I visited

1 Dr. Griffin, I would furnish him with an extensive
2 report setting out my concerns and most of them to do
3 with non-medical matters but that report didn't find
4 its way to the CMO.

5 270 Q. CHAIRMAN: That report didn't find -- 12:46
6 A. Any reports I actually furnished didn't find their way
7 to the CMO.

8 271 Q. CHAIRMAN: Sorry, how was Assistant Commissioner Clancy
9 responsible for that?

10 A. No, just that in her letter, in the correspondence she 12:47
11 refers to not receiving information, or I can't recall
12 exactly.

13 272 Q. CHAIRMAN: That's okay.
14 A. Yes. But I said there's numerous inaccuracies and this
15 is one of the numerous inaccuracies here, along with 12:47
16 the telephone issue. And I think we scroll down --

17 273 Q. CHAIRMAN: Can you see what I am trying to do is to try
18 to say, against whom is there a complaint and what the
19 nature of the complaint? That's what I am trying to
20 do. 12:47
21 A. Yes.

22 274 Q. CHAIRMAN: So I see Assistant Commissioner Clancy, who
23 doesn't appear to have a whole lot to do with this
24 case, to be honest, that's my provisional feeling,
25 subject to what anybody else says, and I am just 12:47
26 concerned it know what you say. Now, your lawyers may
27 say something different. Mr. Lynn and Mr. Dwyer may
28 say, hold on, there is a difference, there is a case
29 against you. But I am just wondering, from your point

1 of view, your complaint against Assistant Commissioner
2 Clancy, the one I know about at the moment is that she
3 was wrong in saying you were only willing to meet to
4 talk by telephone?

5 A. Yes, Mr. Chairman. If we can see the document itself 12:48
6 that emanated -- I don't know whether we raise the
7 issues about inaccuracies or other inaccuracies, but we
8 were asked to clarify them. And this letter here
9 clarifies the inaccuracies from Issue 8.

10 275 Q. CHAIRMAN: This is your letter, is that right? 12:48
11 A. Yes.

12 276 Q. CHAIRMAN: This one here?
13 A. I was contacted to actually clarify these matters by my
14 solicitors.

15 277 Q. CHAIRMAN: Thanks very much, okay. 12:48
16 A. I sent my response back to the solicitor and he created
17 the correspondence.

18 278 Q. CHAIRMAN: Let's go through it then. You say down at
19 point 8, is that right?
20 A. Yes, Issue 8. 12:48

21 279 Q. CHAIRMAN: Okay. Can you go down to Issue 8, please?
22 Issue 8, now. So the typed -- okay, tell us about
23 this:
24
25 "The typed report furnished to Dr. Griffin..." 12:49
26
27 which typed report? whose report is that?
28 A. That's my report to Dr. Griffin.

29 280 Q. CHAIRMAN: Okay. Thank you. Very good. Now, down you

1 go, Peter, thank you.

2 MR. LYNN: I think it is down at number 4, is it?

3 CHAIRMAN: Sorry, say that again Mr. Lynn.

4 MR. LYNN: I think it is down to number 4.

5 CHAIRMAN: Down to number 4, thank you. Now. Okay. 12:49

6 That's the case, all right thank you very much. Very

7 good. Have that.

8 A. Thank you, Mr. Chairman.

9 CHAIRMAN: Thanks for your help. Okay.

10 281 Q. MR. LYNN: Now, Sergeant Hughes, part of Mr. O'Higgins' 12:50

11 cross-examination was to do with the pay cut imposed

12 after 183 days absence.

13 A. Yes, indeed.

14 282 Q. And I just want to refer you and the Tribunal to page

15 3875? 12:50

16 CHAIRMAN: Yes.

17 283 Q. This is a letter from you and if we can just go down,

18 you will see that you ask, final sentence:

19

20 "I respectfully request that this issue be referred to 12:51

21 the Chief Medical Officer for determination as to

22 whether my case falls under the category of injury on

23 duty."

24

25 And that letter is dated the 7th May 2007? 12:51

26 A. Yes, indeed.

27 284 Q. Well in advance of the 183-day --

28 A. That's correct.

29 285 Q. And 3874 above, that was that are was forwarded by

1 Sergeant Curran to Gerry Phillips, Chief Superintendent
2 Phillips, on the 14th May 2007. So Sergeant Hughes,
3 you had in good time looked for this issue to be
4 addressed?

5 A. Yes, indeed.

12:52

6 286 Q. You were asked in cross-examination why you hadn't
7 divulged the information that you say you received from
8 Detective Inspector O'Sullivan until the confidential
9 recipient procedure was put in place. Can you explain
10 to the Tribunal why that new procedure was important to
11 you?

12:53

12 A. This is the Charter, is it?

13 287 Q. Yes, the Charter.

14 A. Well, it clearly set out -- the Charter clearly set out
15 protections there, the Government were introducing
16 protections for members of An Garda Síochána who wished
17 to step forward and make complaints of irregularities
18 or malpractice within the organisation. And it
19 recognised, it seems to have recognised, it seems to me
20 to have recognised that there was an environment
21 whereby members of the An Garda Síochána couldn't
22 really actively do that without having some fear or
23 trepidation in that regard. Of course the Charter
24 document was issued, published in 2007 and the
25 confidential recipient process I don't think commenced
26 until mid 2008 or so.

12:53

12:53

12:53

27
28 So during the interim time, that would -- the
29 Government's view on those matters would have been very

1 much my view in relation to stepping forward and
2 pointing out irregularities in relation to matters
3 where I saw that there didn't seem to be the same
4 opinion on behalf of the majority of the offices I was
5 dealing with or members of the Garda Síochána. 12:54

6 MR. LYNN: Chairman, I see it is five to one, I am
7 wondering if we could just --

8 CHAIRMAN: Have you much more to go?

9 MR. LYNN: No, I don't think so but if I could take the
10 lunchtime. 12:54

11 CHAIRMAN: No problem. Take the lunchtime, there is no
12 problem about that. Maybe it's just me, my only
13 complaint is when documents are being read when the
14 witness does not have any real relevance to it. But I
15 understand the point, we've already heard your 12:54
16 observations on that, and you were in the right,
17 Mr. Lynn, so consider yourself fully vindicated. So no
18 problem at all. And take as long as you like.

19 MR. LYNN: Thank you.

20 CHAIRMAN: As long as you think proper. Thank you very 12:55
21 much. Okay. Thank you.

22

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

25

14:02

26 CHAIRMAN: Now, thanks, Mr. Lynn, yes.

27 MR. LYNN: I have no further questions, Chair, thank
28 you.

29 CHAIRMAN: Sure.

1 MR. MARRINAN: I have no --
2 CHAIRMAN: I am sorry, what did you say, Mr. Lynn?
3 MR. LYNN: I have no further questions.
4
5 END OF EXAMINATION 14:02
6
7 CHAIRMAN: Thank you very much.
8 MR. MARRINAN: Chairman, there is no matters that have
9 arisen for re-examination.
10 CHAIRMAN: Thank you very much. Anything you want to 14:02
11 add at this stage or have you got it all off your
12 chest?
13 THE WITNESS: I think I have, Chairman.
14 288 Q. CHAIRMAN: Let me make a compliment, that you have
15 survived the whole process very well and thank you very 14:03
16 much for your assistance over the whole period.
17 THE WITNESS: Thank you.
18 CHAIRMAN: You're now day seven and you have been on
19 the go morning and afternoon, which is a tiring
20 experience, certainly as I know, because I find it 14:03
21 tiring, so well done.
22 THE WITNESS: Thank you, Mr. Chairman.
23
24 THE WITNESS THEN WITHDREW
25 14:03
26 CHAIRMAN: Yes, thank you.
27 MR. MCGUINNESS: Obviously that is an important phase
28 of the Tribunal's work over.
29 CHAIRMAN: Yes.

1 MR. MCGUINNESS: And as you would expect, Chairman, we
2 intend to review or indicative list of witnesses and I
3 hope to consult with my colleagues in that regard very
4 shortly and, as it were, supply a list of views on
5 whether some witnesses may be dispensed with or not. 14:03
6 CHAIRMAN: Yes.
7 MR. MCGUINNESS: In the light of the evidence so far.
8 CHAIRMAN: I think that is very sensible, if you
9 consult on those issues. While we're on the subject of
10 that, Mr. McGuinness, is there any point in having 14:04
11 Assistant Commissioner Fanning represented here until
12 he's giving evidence? I mean, I don't see any issue.
13 I understand that he's entitled to representation for
14 when he's giving evidence, but in the next phase, is
15 there any question of him being required? Because it 14:04
16 doesn't seem to me that there is.
17 MR. MCGUINNESS: I can only say, Chairman, that from
18 the point of view of the other witnesses, I don't feel
19 that there are any other allegations as such that have
20 been made. 14:04
21 CHAIRMAN: No. Who is appearing Assistant Commissioner
22 Fanning? Oh Mr. McGarry, sorry, I didn't see you
23 there. Mr. McGarry, is there any point in dragging you
24 up here for the next phase, except for when your client
25 is giving evidence, which I completely understand, and 14:04
26 bear in mind this also, that if any issue were to
27 arise, obviously we would be keeping in touch with you.
28 MR. MCGARRY: Yes, Chairman -- sorry, there is a
29 problem with the mic. It is not working either. I

1 don't know if you can hear me, Chairman.

2 CHAIRMAN: I can hear you now. It would be better if
3 you have a microphone.

4 MR. MCGARRY: It's not working.

5 CHAIRMAN: That's all right, you speak very clearly, 14:05
6 Mr. McGarry, so I can hear you.

7 MR. MCGARRY: We were going to suggest something along
8 those lines, Chairman. Obviously we don't think we
9 need to be here for almost the vast bulk of what
10 remains. There is an issue surrounding the 14:05
11 retirement/pay issue, which you'll recall I asked
12 Sergeant Hughes about.

13 CHAIRMAN: Yes.

14 MR. MCGARRY: Then obviously if Assistant Commissioner
15 Fanning is going to be called we need to be here, it 14:05
16 may be necessary that there are one or two other
17 witnesses around that issue but I think they may come
18 at the end in any event and if so we don't need to be
19 here until that.

20 CHAIRMAN: That seems a very, if I may say so, 14:06
21 Mr. McGarry, a very responsible attitude and I think it
22 also makes sense. And it doesn't -- we don't have to
23 drag you and your team up here. So what I am
24 suggesting is that we won't need you until such time as
25 your client, Assistant Commissioner Fanning, is giving 14:06
26 evidence and at that stage we will consider any other
27 issue in the event that it arises, which I am not sure
28 it will, but we have your position, is that all right.

29 MR. MCGARRY: Yes, thank you, Chairman.

1 CHAIRMAN: Thanks very much. Anybody any objection to
2 that or any problem with that? Very good. Okay. So,
3 that's what we'll do then. Mr. McGuinness, you will be
4 consulting with your colleagues and if you can make
5 progress in reducing witnesses or issues, so be it. 14:07
6 Obviously the Tribunal i.e. I, will be very happy if
7 that happens.

8
9 Meantime, that leaves us, because of the efficiency of
10 counsel, that will leave us with no more to do today in 14:07
11 the forum. So we will get to work in our preparations
12 and analysis, which is what we have to do then in
13 relation to the issue to the evidence that we've heard.
14 So it's a welcome break, as far as I'm concerned, to
15 take stock of where we stand in relation to the 14:07
16 evidence. Thanks very much. Okay. So we'll leave it
17 at that then. Very good. So until Monday, 10:30, is
18 that the position.

19 MR. MCGUINNESS: Yes, Chairman.

20 CHAIRMAN: So be it. Thank you very much, that's a 14:07
21 slightly welcome break, I'm sure, for everybody.

22
23 THE HEARING THEN ADJOURNED UNTIL MONDAY, 14TH FEBRUARY
24 2022 AT 10:30 AM

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