

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

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

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

HEARING HELD IN DUBLIN CASTLE
ON MONDAY, 14TH FEBRUARY 2022 - DAY 165

REDACTED TRANSCRIPT

165

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.

I N D E X

WITNESS	PAGE
<u>MR. JOHN HENNESSY</u>	
EXAMINED BY MR. MCGUINNESS	7
CROSS-EXAMINED BY MR. O'HIGGINS	38
CROSS-EXAMINED BY MR. O'DWYER	52
CROSS-EXAMINED BY MR. KELLY	65
<u>MR. MICHAEL O' TOOLE</u>	
EXAMINED BY MR. MCGUINNESS	71
CROSS-EXAMINED BY MS. HORAN	88
CROSS-EXAMINED BY MR. LYNN	93
<u>DETECTIVE CHIEF SUPERINTENDENT WALTER O' SULLIVAN</u>	
EXAMINED BY MR. MCGUINNESS	98
CROSS-EXAMINED BY MR. O'DWYER	125
CROSS-EXAMINED BY MS. EGAN	168
RE-EXAMINED BY MR. MCGUINNESS	174

1 THE HEARING RESUMED ON MONDAY, 14TH FEBRUARY 2022 AS
2 FOLLOWS:

3
4 MR. MARRINAN: Good morning, Chairman.

5 CHAIRMAN: Yes, good morning. 10:29

6 MR. MARRINAN: Just wait for one moment, Mr. McGuinness
7 is taking the first witness.

8 CHAIRMAN: No problem. I'm sure he is on his way in.

9 MR. MCGUINNESS: Apologies, Chairman.

10 CHAIRMAN: No problem, Mr. McGuinness. I was actually 10:31
11 checking the time -- I actually came over a little
12 early, so that's no problem.

13 MR. MCGUINNESS: Chairman, the first witness today is
14 Mr. John Hennessy.

15 CHAIRMAN: Very good. Thanks. 10:31

1 MR. JOHN HENNESSY, HAVING BEEN SWORN, WAS EXAMINED BY
2 MR. MCGUINNESS AS FOLLOWS:

3
4 CHAIRMAN: Sit down there, Mr. Hennessy. Thanks very
5 much. 10:32

6 MR. MCGUINNESS: I should just say for the convenience
7 of the parties, Mr. Hennessy provided a statement to
8 the Tribunal in answer to our request, and that's to be
9 found at page 8305.

10 CHAIRMAN: Thanks very much. 10:32

11 MR. MCGUINNESS: And he also had earlier provided a
12 statement to Chief Superintendent Feehan's inquiry,
13 which is to be found at 7752 of the papers.

14 CHAIRMAN: Thanks very much. Okay.

15 MR. MCGUINNESS: Mr. Hennessy, thank you for coming 10:33
16 this morning. I think you are a solicitor practising
17 in Dublin

18 A. Yes.

19 1 Q. And I think in late 2004, you acquired a new client who
20 came into your office, Ms. Saulite? 10:33

21 A. We had just had a practice towards my office and it was
22 very -- myself and my partner --

23 CHAIRMAN: Mr. Hennessy, sorry, do you see the
24 microphone in front of you?

25 A. Sorry. 10:33

26 CHAIRMAN: There is no criticism whatsoever. I just
27 want to make sure that everybody -- and you can speak
28 as softly as you like, I know it's a bit difficult, and
29 you said, Mr. McGuinness was asking you about

1 Ms. Saulite coming into your office, isn't that right?

2 A. Yes.

3 CHAIRMAN: Tell us about that, Mr. Hennessy.

4 A. And she did. And I picked up the instruction.

5 2 Q. MR. MCGUINNESS: And she obviously had a family law 10:33
6 problem relating to her children, she wanted you to
7 act --

8 A. That's correct.

9 3 Q. -- and you appeared in the District Court, I think, on
10 the 14th December in connection with a matter that had 10:34
11 been scheduled as a result of a notice to produce
12 infants which had been served on another person?

13 A. Baiba Saulite had issued the application herself and
14 she asked me to represent her.

15 4 Q. And I think it became apparent that the person on whom 10:34
16 that notice had served had taken custody of the
17 children and they were somewhere unknown?

18 A. That's correct.

19 5 Q. And I think the matter was adjourned --

20 CHAIRMAN: Can I just stop you for one second, I 10:34
21 appreciate -- we obviously have a difficulty here,
22 because we don't want to prejudice anything that might
23 happen in the future, so we're being ultra cautious
24 about naming, but I think it's legitimate,
25 Mr. McGuinness, to refer to Ms. Saulite's partner, 10:34
26 because I mean, that's the reality.

27 MR. MCGUINNESS: Yes.

28 CHAIRMAN: Her partner abducted the children and I
29 think that's the situation that Mr. Hennessy was faced

1 with. So I think we -- I don't think we're -- it's
2 unrealistic, it seems to me, to -- but we're not naming
3 such person, Mr. Hennessy, that's it. Somebody may say
4 that's realistic, but that's unrealistic, but there it
5 is, we're doing our best to protect -- 10:35

6 A. I understand, yes. Also to just to assist the court,
7 sorry, Judge, Chairman, the in camera rule was lifted,
8 so... and there was never unlifted.

9 6 Q. CHAIRMAN: Thank you very much, but the fact is, the
10 fact is that the partner was convicted ultimately due 10:35
11 to the efforts of Sergeant Hughes and his colleague,
12 isn't that right?

13 A. That's correct.

14 7 Q. CHAIRMAN: But we're going backwards and I just wanted
15 to say, it would be, I think, a more logical way, if I 10:35
16 may say so, if we could talk about the partner. She
17 came to you with a problem?

18 A. Yes.

19 8 Q. CHAIRMAN: And the problem was that her kids had been
20 abducted, is that right? 10:36

21 A. That's right.

22 9 Q. CHAIRMAN: They were gone?

23 A. She didn't know exactly where they were at the time,
24 and in fact she never knew until nine or ten months
25 later, but the scenario that counsel is going to get 10:36
26 into is a repeated -- and many court appearances where
27 this ridiculous game was played in the context of where
28 the children were. Eventually they were outside of the
29 jurisdiction, outside of Europe in fact, and

1 ultimately, she had to collect them in Lebanon, the
2 Lebanon.

3 10 Q. CHAIRMAN: How is the partner able to get passports for
4 them?

5 A. My understanding is, Judge, that they -- he had them in 10:36
6 his possession at the time.

7 11 Q. CHAIRMAN: He had passports?

8 A. He had passports for them, yeah.

9 12 Q. CHAIRMAN: And how did he get the passports
10 A. That, I don't know, I didn't inquire into that. 10:37

11 13 Q. CHAIRMAN: Sorry, I understand that, and it's nothing
12 to do with you. But -- it seems strange that he was
13 able to -- having taken them for access, it seems
14 strange that he was able to spirit them out of the
15 country to the Middle East. 10:37

16 A. Well, the parties were living together, and remained
17 together in the years thereafter, which was looked upon
18 as --

19 CHAIRMAN: Anyway sorry, thanks very much. You carry
20 on, Mr. McGuinness. 10:37

21 14 Q. MR. MCGUINNESS: I should say, Mr. Hennessy, that in
22 your statement to the Tribunal, you had made reference
23 to the fact that we're naming this person Mr. A?

24 A. Yes.

25 15 Q. And you are also aware, I think, that the Tribunal has 10:37
26 made an order in relation to other suspects --

27 A. Yes.

28 16 Q. -- who are not to be named?

29 A. Yes.

1 17 Q. And I suppose, the other matter, just to deal with it
2 at this stage, is: you are aware that there is
3 obviously a limitation fixed by the terms of reference
4 and the interpretation of the terms of reference as to
5 what's being inquired into by this Tribunal? 10:38

6 A. I am, absolutely. My understanding is that the inquiry
7 is the events post the disclosure --

8 CHAIRMAN: That's right. To put it in a nutshell.
9 what are we concerned with? we're concerned with
10 whether Sergeant Hughes was victimised as a result of 10:38
11 making a protected disclosure.

12 A. Yeah.

13 CHAIRMAN: It's a very narrow constraint, and Sergeant
14 Hughes may feel somewhat frustrated, he mightn't be the
15 only one who felt a little frustrated at the narrow -- 10:38
16 but there it is, it's a whistleblower issue, and was he
17 victimised as a whistleblower? so that's it in a
18 nutshell. Thank you.

19 A. Yeah.

20 18 Q. MR. McGUI NNESS: In any event, Sergeant Hughes was 10:38
21 centrally involved in assisting in the civil
22 proceedings to the extent that that became relevant,
23 and then also, in relation to the investigation of the
24 criminal aspect?

25 A. Well, he was very active between 14th December and 24th 10:39
26 December at my request, because the position was very
27 strange, in that Mr. A was essentially immediately in
28 contempt of court. They are my children, I am their
29 father and I'm not bringing them back, and regardless

1 as to what order this court gives; that was his
2 position. So, it became immediately apparent to me
3 that we have got a -- we have a difficulty here, hence
4 my personal contact with Sergeant Hughes to investigate
5 this, and I -- maybe Sergeant Hughes -- he didn't need 10:39
6 to be told this, but in relation to the abduction of
7 the children I looked up the legislation under the
8 Non-fatal Offences Against the Person Act.

9 19 Q. Yes. And I think you are aware that he completed a
10 file in that regard? 10:40

11 A. He did.

12 20 Q. And a file was submitted to the director, and after
13 some period, a decision was made to --

14 A. Too long.

15 21 Q. -- to prefer a charge? 10:40

16 A. After ten months, unbelievably, in the context where
17 the State knew that these children were abducted, were
18 out of the country, and -- when you are asking me a
19 question, they did, it never fails to amaze me that it
20 took them ten months to come back with a decision, but 10:40
21 that's where we are.

22 22 Q. All right. Be in any event, Mr. A was charged with
23 that offence, isn't that correct --

24 A. Yes.

25 23 Q. -- to your knowledge? Now, I think by that stage in 10:40
26 the criminal proceedings, Ms. Saulite had obtained
27 interim barring orders, more permanent barring orders
28 and protection orders?

29 A. Yes.

1 24 Q. And I think at an early stage, in 2006, she had
2 acquired a three-year barring order?
3 A. Yes.
4 25 Q. Isn't that correct?
5 A. Yes. 10:41
6 26 Q. And I suppose at that stage your involvement on the
7 civil side, as it were, necessarily came to at least a
8 temporary halt?
9 A. My involvement on that file was limited, more or less,
10 solely to -- you are referring to domestic violence 10:41
11 orders.
12 27 Q. Yes.
13 A. Often, and this is often the case with abused women,
14 the -- she would make that application herself without
15 the assistance of a solicitor or counsel. So my 10:41
16 involvement was purely in relation to the production of
17 infants application that she had lodged herself, the
18 court appearances in that regard, and the assistance
19 of, or to Sergeant Hughes, wherever I could, in
20 relation to the prosecution of the individual. Because 10:41
21 that was the only way ultimately that the children were
22 returned.
23 28 Q. And I think you, at a certain stage, wrote a letter of
24 commendation --
25 A. I did. 10:42
26 29 Q. -- to the superintendent in Swords in relation to
27 Sergeant Hughes's dealing with the case?
28 A. That's correct, yes.
29 30 Q. And I think you were similarly complimentary in

1 relation to him in correspondence with the Department
2 of Foreign Affairs?

3 A. Yes, I was. There was a number of correspondence.

4 31 Q. Yes?

5 A. It was an enormously difficult scenario. There was, 10:42
6 contact had to be made with the Syrian embassy, or
7 consulate, I can't remember which, communications to
8 different departments, and any time I needed to contact
9 Sergeant Liam Hughes, he was there, ready, willing and
10 available to discuss with me. It was very difficult 10:42
11 for both of us in the context that Baiba Saulite was
12 under an enormous amount of pressure. Pressure that
13 since - what is it now? - 14 years ago, I have never
14 seen anything like it, and her reactions and her
15 looking for assurances and the different emotions 10:43
16 following each different court appearance was
17 enormously difficult to witness, and Sergeant Hughes
18 was there as a support for her. And I know, albeit she
19 is not here, that Baiba Saulite was enormously grateful
20 to Sergeant Hughes. 10:43

21 32 Q. Yes. You weren't necessarily, although you did it, you
22 weren't necessarily writing on your own behalf to
23 praise him, you were also writing on her behalf, would
24 that be fair to say?

25 A. I was, yes, yes. 10:43

26 33 Q. In any event, you have made I think a Statement of
27 Evidence for inclusion in the Book of Evidence relating
28 to the abduction?

29 A. Yes.

1 34 Q. And you were a witness in that, as well as Ms. Saulite
2 obviously, isn't that correct?
3 A. That's correct.

4 35 Q. CHAIRMAN: Mr. Hennessy, can you help me on something?
5 It's slightly peripheral. How did Mr. A purge his 10:43
6 contempt?
7 A. It was --

8 36 Q. CHAIRMAN: I mean, he hadn't brought -- there was a
9 court order to bring the children back?
10 A. In the District Court. 10:44

11 37 Q. CHAIRMAN: This was before the prosecution now. The
12 District Court had an order --
13 A. I remember it well.

14 38 Q. CHAIRMAN: -- how did he purge his contempt?
15 A. I remember it well. And there was legal argument 10:44
16 presented by his lawyers, and his legal argument won
17 the day. I believe it was a common law contempt, and
18 the District Court, at the time, felt that he had no
19 alternative but to release Mr. A. I believe, and it
20 would have to be for the District Court judge to tell 10:44
21 the Tribunal, but I believe that he was released
22 because of a perception that the contempt order could
23 only last for seven days. That's my understanding.
24 And that was certainly their position presented to --
25 any law contempt could only last for seven days. 10:44

26 39 Q. MR. MCGUINNESS: The District Court has a very limited
27 contempt jurisdiction. That's basically the argument
28 of --
29 A. That's correct. And I can add that Ms. Saulite was

1 bitterly disappointed.

2 CHAIRMAN: That's very understandable, I must say. So

3 he maintained, on still not bringing the children back,

4 well, we'll put you in jail for seven days.

5 A. Well, that wasn't the initial order. The initial 10:45

6 order: you are in contempt of court. And then, as

7 these things work, legal arguments were presented by

8 Mr. A and minds were changed.

9 CHAIRMAN: Okay. Thank you very much.

10 40 Q. MR. McGUI NNESS: In any event, he did get released from 10:45

11 custody --

12 A. He did.

13 41 Q. -- on foot of that period of committal for contempt.

14 And obviously then it was some time before he was

15 charged with the abduction offence, and then having 10:45

16 been so charged, he was technically on bail for that

17 but he was in custody on another matter?

18 A. Em --

19 42 Q. Is that correct?

20 A. He was in custody on another matter, and he was 10:45

21 technically on bail for that, but then ultimately that

22 was resolved wisely - and I think a commented on this -

23 by making it a condition of his bail bring the children

24 back. It's probably the best order I have ever heard,

25 and that was ultimately what he did. 10:46

26 43 Q. CHAIRMAN: But that was when he had been arrested -- if

27 I'm understanding, when he was arrested on the

28 abduction charges, and he was in custody on the

29 abduction charges, isn't that right?

1 A. That's correct.

2 44 Q. CHAIRMAN: And then he looked for bail in that in the
3 High Court, and the judge, wisely said, you can have
4 bail if you bring the children back.

5 A. Yeah. That was the condition. Plus €100. 10:46

6 45 Q. MR. MCGUINNESS: That was his own bond. The children
7 were returned, or were brought back to the jurisdiction
8 then.

9 A. Then eventually, there was a little bit of a family law
10 charade. Again, the in camera rule was lifted, and 10:46
11 Ms. Saulite was compelled to say, or to give sole
12 custody to Mr. A of the children. That was another
13 condition that she added, which she just did because
14 she wanted to get the children back. And ultimately,
15 in the Circuit Court, on appeal, the court refused to 10:47
16 rule that particular consent order.

17 46 Q. In any event --

18 47 Q. CHAIRMAN: Sorry, just explain that to me,
19 Mr. Hennessy. why did she have to give complete --
20 sole custody to the partner? 10:47

21 A. Mr. A was holding all the cards. The High Court had
22 said bring the children back -- you can be released on
23 condition that -- if you bring the children back. He
24 remained, or maintained a position, no, no, no, but
25 then added another condition directly to Mr. Saulite: 10:47
26 if you consent to an order that I have sole custody to
27 the children, I will then bring them back. And that's,
28 in effect, what she did. She consented and drew that
29 up, signed up to that consent order. But ultimately,

1 when the children were returned, the court refused to
2 rule it because it was under duress.

3 48 Q. MR. McGUI NNESS: Now, in relation to your own personal
4 affairs, as it were, there was an attack on your house
5 by way of a petrol attack, which started a fire in the 10:48
6 house.

7 A. That wasn't initially -- initially I was informed that
8 there was a threat to my life. And this was in or
9 about 2005. Obviously I wasn't informed of the detail
10 of how they became aware, but through sources. And on 10:48
11 foot of that, from memory, I was given what's called
12 passing attention for a period of time from the Guards.
13 Often they would come to the office, sit outside the
14 office, maybe pass by the house more regularly, that
15 kind of thing. So that went on in 2005. And that was 10:49
16 directly attributable to my representation of Baiba
17 Saulite.

18 49 Q. Yes. And I think it's fair to say that both you and
19 Ms. Saulite's suspected Mr. A of having been involved
20 or behind it, isn't that right? 10:49

21 A. That could be fair to say. And gangland Ireland, but
22 that --

23 50 Q. Yes. Now, I think you had no involvement in the
24 criminal proceedings except as a witness, but
25 presumably you were aware it was coming up for trial 10:49
26 and a trial had been fixed --

27 A. I --

28 51 Q. -- in late 2006.

29 A. I was aware and I became aware that he pleaded guilty

1 in or about -- sorry, you jumped. There was another
2 event in -- and I was only reading Judge Cross's
3 decision yesterday, that was kind of not really
4 appreciated. In or about February 2006, I think it
5 was, I was asked to -- by a completely different 10:50
6 investigation involving Mr. A, in relation to I think
7 car ringing, to attend court because a position had
8 been presented by counsel for Mr. A that Mr. A was in
9 fact the sole custodian of the children. It was not
10 true. I was then asked by the then detective to appear 10:50
11 in court in Naas in or about February 2006. Given that
12 I was asked, and I am an officer of the court, I agreed
13 to attend. I can't say that people around me were
14 impressed with that, and I was asked not to by friends,
15 family, maybe I should reconsider this, but I felt, 10:50
16 given that I am an officer of the court and the court
17 needed assistance in the context of the sentencing as
18 to what the true position was, I gave evidence in Naas
19 in or about February 2006. This resulted in the
20 Circuit Court judge imposing a sentence that perhaps 10:51
21 she would not have but for my evidence is.

22 52 Q. Yes. You were called to give a true view of the
23 position in relation --

24 A. In the family law proceedings, yeah.

25 53 Q. -- to the claim to custody and rights in relation -- 10:51

26 54 Q. CHAIRMAN: So he was making the case that he was the
27 sole custodian of the children?

28 A. And don't put me in prison, Judge, because of that.
29 That's what his case was.

1 55 Q. CHAIRMAN: And this was an untrue position?
2 A. Yes. And I gave that evidence, and arrived home, and
3 then a few weeks later my house was set on fire and we
4 escaped from the house, and --
5 56 Q. CHAIRMAN: Just tell us about the house. How you 10:51
6 discovered it, the arson attack on your house, just
7 tell us.
8 A. The arson attack was a fairly rudimentary device thrown
9 in through my letter box, safe to say I haven't got a
10 letter box now, but thrown in through my letter box and 10:52
11 set the hallway on fire and went upstairs. Also as
12 well, I have not seen the outcome of that
13 investigation, I have not been spoken to, no one has
14 come back to me with a final conclusion, but the gas
15 outside, gas terminus for my house was tampered with. 10:52
16 There was no doubt in my mind that that event that day
17 was an attempted murder on me. No doubt.
18 57 Q. CHAIRMAN: The gas had been tampered with for the
19 purpose of liberating the gas, is that right?
20 A. Blowing me up, I suppose. 10:52
21 58 Q. CHAIRMAN: So that the thing would -- the device would
22 ignite the gas, is that the idea?
23 A. Yes, yes.
24 59 Q. MR. McGUI NNESS: Just moving on. Did you become aware
25 then of Ms. Saulite's car having been burnt outside her 10:53
26 house?
27 A. I became aware, I think that was in or about August
28 2006, yes, and there was a separate investigation led
29 by Sergeant Ambrose I think, I became aware of that.

1 You have to -- at this stage, my contact with Ms. Baiba
2 Saulite was very limited, because the kids had been
3 returned.

4 60 Q. Yes?

5 A. My file was closed. I did happen to meet -- she lived 10:53
6 in Swords, I'd bump into her maybe once every couple of
7 months, she'd often be around Swords, and see how she
8 was and just talk anecdotally with her. But -- and so
9 I'm not sure how I became aware, maybe through the
10 Guards or media or maybe even by Baiba Saulite, but I 10:53
11 did become aware of it, sorry to answer your question.

12 61 Q. Can I just touch on this very briefly. Had you been
13 aware of or ever read the contents of her statements
14 made in the criminal case, in particular those made to
15 Garda McNally? 10:54

16 A. I never read them, I never -- I haven't seen any Book
17 of Evidence to do with any investigation. I never
18 assisted her in the preparation of any statements. So
19 the answer is no.

20 62 Q. All right. And then, in connection with the criminal 10:54
21 case, after the plea of guilty was entered, it was
22 adjourned for the preparation of a Victim Impact
23 Statement, and can you confirm, you weren't consulted
24 by her about that, or you didn't give any advice to her
25 about that? 10:54

26 A. None whatsoever. She didn't contact -- again, as I
27 say, to put that into context: my file was closed. And
28 no, she didn't contact me at all.

29 63 Q. Certainly you never saw the statement at that

1 particular time?

2 A. No, I didn't.

3 64 Q. Or did you ever see it afterwards even?

4 A. No, I have not, no. I have only heard that it's twelve
5 pages long and it's been quoted at the foot of it. 10:55

6 65 Q. Yes, okay. Now, you did make a statement in the course
7 of the investigation under the confidential reporting
8 inquiry headed by Chief Superintendent Feehan, and I
9 think you gave your view as to your knowledge of any
10 fears she had for her own safety, and they are set out 10:55
11 in your statement there in that, isn't that correct?

12 A. Yes.

13 66 Q. And insofar as the period when you ceased to have much
14 contact with her, and I understand you met her very
15 briefly shortly before the murder, you had no knowledge 10:55
16 of any specific threat to her life?

17 A. None. And I often, over the years, thought about this.
18 I mean the woman was shot, and, you know, could anybody
19 have done anything or...? And there's two or three
20 things that come to mind. One, in answer to your 10:56
21 question, is: I was not aware of any specific threat
22 towards her. I was aware that she was in an abusive
23 hideous relationship with a -- I am trying to find the
24 word -- with a particular individual who was, I can't
25 think of a word, we can all -- anyway -- 10:56

26 67 Q. CHAIRMAN: Are you thinking that she was in an abusive
27 relationship with a dangerous person?

28 A. Well, that's why I was hesitant --

29 68 Q. CHAIRMAN: I mean I'm not trying to put words -- but

1 I'm understanding from your --

2 A. An undesirable. Or, did I think he was dangerous or
3 violent? That came out a few days after the murder. I
4 didn't really think -- I wasn't afraid of him, or -- I
5 thought, to be honest, I thought the man had 10:57
6 difficulties, I thought that the man had mental
7 difficulties. I also tried, as we all do in any
8 situation, to understand his position, and his position
9 in the context of -- was cultural. We can't escape the
10 reality that our culture is completely different from 10:57
11 the culture that this individual came from. And we
12 have to put it into context. The rights of women, from
13 the culture that he comes from, are limited, if not
14 zero, compared to our culture. That was this man's
15 thoughts process at the time. So that was what I 10:57
16 thought of him. I don't know if that answers your
17 question.

18 69 Q. MR. McGUINESS: well, I just wanted to limit it to --

19 A. Sorry.

20 70 Q. -- your perception of fears she had. And I think it 10:57
21 may assist you or the Tribunal if I refer you to what
22 you said at the time in your statement. If we could go
23 to page 3669, and this is a portion of your statement
24 made to Chief Superintendent Feehan's inquiry on the
25 28th January of '09 -- 2009. It's where you are just 10:58
26 addressing this issue of your knowledge or appreciation
27 of fears.

28 A. Yes. 3669, if our technical consultant can --

29 CHAIRMAN: There we are, thank you.

1 71 Q. MR. McGUI NNESS: If we just scroll down that page.
2 Thank you. And in the middle there, just under the
3 reference to Judge Smyth there. You say:
4
5 "These threats were generally and consistent, however 10:59
6 they are never specific."
7 A. Yes.
8 72 Q. "In fact, while Ms. Saulite would often express a
9 general fear of [blank] in the court cases or indeed
10 statements, she never expressed the fears privately. 10:59
11 The writer did not also see evidence of physical
12 abuse."
13
14 And then you ask that question. And if we go onto the
15 next page then. And you are describing your conclusion 10:59
16 really about whether she was in real fear there. Is
17 that an accurate --
18 A. That is an accurate -- I mean, and if the Tribunal
19 forgive the emotiveness, but this was in the years
20 after, the short years after a terrible murder and, you 10:59
21 know, it's difficult not to be emotive. But yeah,
22 that's an accurate reflection of --
23 73 Q. If we just scroll down a little further down the page
24 then as well. And the bit at the end there, that was
25 something that was a feature of the contact that she 11:00
26 kept up with him, having brought the children there --
27 A. Yes.
28 74 Q. -- to visit him as well.
29 A. Yeah, I remember that last meeting, she didn't look

1 well, she looked worn down, she had lost weight, I
2 remember that.

3 75 Q. Just going on then, obviously you were no doubt as
4 shocked by the murder as anyone else. And you were
5 aware then that the Gardaí were investigating the 11:00
6 murder from the date it happened?

7 A. Yes.

8 76 Q. And no doubt you cooperated in that to the best of your
9 ability?

10 A. Yes. 11:01

11 77 Q. In relation to a later event, I think you received a
12 phone call from a journalist in connection with a story
13 he was writing, is that correct?

14 A. Yes.

15 78 Q. You remember that? 11:01

16 A. Yes.

17 79 Q. And I think you made a statement about that. If we go
18 to page 7752. And you recall that article?

19 A. I do.

20 80 Q. You don't need to be shown it unless you want to see 11:01
21 it?

22 A. No, I don't, no.

23 81 Q. Could you just describe now, to the best of your memory
24 and recollection, how the phone call went?

25 A. Em, Michael O'Toole telephoned me and asked me for a 11:01
26 comment on a story that he was writing in relation to
27 the Victim Impact Statement, and the fact that it had
28 not been acted upon, that's my recollection.

29 82 Q. Can I just ask you this question there: had you heard

1 of that suggestion prior to that?

2 A. I had, to be fair, yeah. It was an immediate
3 suggestion. It was in the hysteria of this, following
4 the -- well, I won't say hysteria, but the upset and
5 distress, immediately following the murder, there was 11:02
6 a -- shall we say, anecdotally, I heard a panic within
7 the Garda ranks of this Victim Impact Statement, and
8 that it had been in possession, which frankly was
9 nonsense. But yes, it was out there. Yes, I had heard
10 of it, whether or not there was a newspaper article, I 11:02
11 don't know. But, here was Michael O'Toole telephoning
12 me, I think it was -- was it two years later? Yeah,
13 two years later, following -- looking to put in a red
14 top paper something as dramatic as that, which could
15 only lead to the conclusion that anyone that knew 11:03
16 Sergeant Hughes, that it was him, especially in the
17 context of being out there before. I asked Michael
18 O'Toole, whom I know, please don't go with that story.

19 83 Q. All right. Can I ask you this: did he tell you the
20 bones of the story or did he tell you exactly what he 11:03
21 was going to print or did he just tell you the
22 headline?

23 A. Well, he didn't go into detail. I mean, you know, he
24 never looked at the -- there was a -- in the context of
25 her fear for -- I knew what it was about, because I had 11:03
26 heard it before, that's what you alluded.

27 84 Q. And had you yourself received any information, apart
28 from the media, as to what had happened the Victim
29 Impact Statement after Ms. Saulite gave it to the

1 Gardaí?

2 A. Not specifically. I had heard of the issue. But I am
3 a legal practitioner, I know about victim impact
4 reports and what they are used for. They are not tools
5 for investigations, and any suggestion otherwise is 11:04
6 just nonsense, and I was annoyed at the apparent panic
7 within the Garda ranks in relation to this Victim
8 Impact Statement, because it was targeting or seemed to
9 shine a light on the actions of Sergeant Hughes four or
10 five days before -- was it four or five days -- before 11:04
11 the murder, which was absolute nonsense.

12 85 Q. Can I just ask you there some basic questions. Did you
13 know that Sergeant Hughes had been given it by
14 Ms. Saulite, is that right?

15 A. Well, I know now. I didn't discuss it with Sergeant 11:04
16 Hughes at the time. All I knew is the man was
17 preparing for a sentencing hearing. In order to
18 prepare for a sentencing hearing, we -- the State must
19 prepare a Victim Impact Statement in the context with
20 the O'Donoghue case, to clarify. 11:05

21 86 Q. The Wayne O'Donoghue case, yes indeed?

22 A. The Wayne O'Donoghue case. And I later -- it wouldn't
23 have been discussed at the time, but I mean, this, a
24 12-page document was completely unsuitable, and
25 understandably he said that's not going to do it. 11:05

26 87 Q. Yes. It would seem that An Garda Síochána were
27 focussing on, not really the form or the purpose of it
28 but the expression of a fear for her life in the last
29 couple of sentences. Now, you may not have known that,

1 or did you know that?

2 A. No, of course I didn't. Because I didn't see it.

3 88 Q. Yes, okay.

4 A. And I only since then, because it's quoted through all
5 of these papers I have read in the context of this, but 11:05
6 it was a complete mismatch. To simply refer to that
7 and try and shine the light on that was just
8 ridiculous.

9 89 Q. Well, can I just ask you about that, the way you have
10 phrased this in your statement there: 11:06
11
12 "I was approached by Michael O'Toole and he informed me
13 that he was writing an article in respect of a garda
14 involved in the Baiba Saulite abduction case."
15 A. Yeah. 11:06

16 90 Q. Can you recollect, did he name the Garda to you or --

17 A. Honestly I can't recall the content of that
18 conversation.

19 91 Q. All right.

20 A. It was 14 years ago. But I am relying on my 11:06
21 statement --

22 92 Q. I am just wondering, had he perhaps phoned you in order
23 to try and confirm the identity of the guard?

24 A. Not at all. We both knew who we were talking about.

25 93 Q. Pardon? 11:06

26 A. We both knew we were talking about Sergeant William
27 Hughes.

28 94 Q. Yes. And it goes on, your statement goes on to say:
29

1 "Michael O'Toole was looking for comment from me in
2 respect of the retention of the Victim Impact
3 Statement."
4

5 And that was something you were aware of, is that
6 right? 11:07

7 A. I was aware, because this was two years later, and I
8 knew, in the immediate aftermath, I think I was asked
9 to leave the country, but I knew that this was bandied
10 around in the media, as media do; media look to find 11:07
11 someone else responsible, apart from the obvious.

12 95 Q. You say there, you refused to comment on the article
13 and asked him his source. Obviously knowing that it
14 related to Sergeant Hughes, you weren't prepared to
15 assist him in any way? 11:07

16 A. No, because I didn't want it printed, because it would
17 have been grossly unfair to the man in the context of
18 the knowledge of my -- of involvement prior to -- of
19 Baiba Saulite -- of Sergeant Hughes's investigation in
20 the context of the abduction of the children, it would 11:08
21 have been grossly unfair. And it was, terribly unfair.

22 96 Q. You then go on -- it then goes on to say:

23
24 "I refused to comment on the article. I asked him his
25 source." 11:08

26 A. Yeah.

27 97 Q. And you then have recorded:

28
29 "Michael O'Toole informed me that a high ranking garda

1 had informed him."

2 A. Yes.

3 98 Q. And he didn't identify any rank to you, did he?

4 A. No, he didn't, no specific rank.

5 99 Q. And the article refers to, I think, sources in the 11:08
6 plural, but did you understand he was referring to one
7 source or more than one source yourself?

8 A. I think I have said this in a statement, I wasn't being
9 glib but I'll say it again: the dogs in the street know
10 that most information that goes to journalists comes 11:08
11 from the ranks of An Garda Síochána. That has always
12 been the position and may well currently be the
13 position. And any suggestion otherwise is ridiculous.

14 100 Q. You then go on to say that you asked him not to go with
15 the story as you believed it was incorrect and out of 11:09
16 context. What did you mean by that, if you can recall?

17 A. I mean, as I have said a couple of times, to isolate or
18 shine a light on the failure, or the actions or the
19 non-actions of Sergeant Hughes in the context of the
20 last paragraph of a 12-page statement, in the context 11:09
21 of all that had gone on in the two years prior to her
22 murder, was completely unfair and a gross distortion of
23 in fact what really happened.

24 101 Q. All right. You yourself, I think, had been approached
25 by Sergeant Hughes after he had been served with the 11:09
26 discipline notice, isn't that correct?

27 A. That's correct, yes.

28 102 Q. And would you like to just describe how that came about
29 and how you dealt with that?

1 A. Well, he came to me, he was very shook, he was upset,
2 he showed me the document, he said he couldn't believe
3 it. They are looking to investigate me for this
4 specific action. I couldn't believe it. I still
5 cannot believe it, that they would do such a thing, 11:10
6 because if there was to be any investigation it should
7 have been in an investigation in relation to the entire
8 investigation. But again, I have no comment or issue
9 in relation to events prior to her death. Why?
10 Because I am not a member of An Garda Síochána, I am 11:10
11 not an expert. But I know that he, Sergeant Hughes,
12 had expressed views about that, and made disclosures in
13 relation to that, and he was met with this. So I felt
14 desperately sorry for him.

15 103 Q. Yes. But did you have an understanding at that point 11:10
16 this time as to what was in the last paragraph or two
17 of the Victim Impact Statement when you were discussing
18 it with Sergeant Hughes?

19 A. I imagine I wouldn't have read it, no, the Garda Victim
20 Impact Statement. Are you suggesting that he ought to 11:11
21 have been investigated?

22 104 Q. No, no, I am just asking --

23 A. Because I don't think so.

24 105 Q. I am just asking you, when he came to you and he was
25 coming to you I think to seek advice or representation, 11:11
26 isn't that correct?

27 A. He was coming to me, I suppose, in my capacity as a
28 solicitor, we became friendly through the
29 investigation, and I suppose I had intimate knowledge

1 of the entire investigation and I suppose he needed
2 someone to talk to. And I do recall he told me that
3 his solicitor was on holiday at the time. So he
4 probably needed urgent friendly legal advice, let's
5 call it that.

11:11

6 106 Q. I'm just wondering, did he go into any detail as to
7 what the issue was as he saw it about what had
8 happened?

9 A. Any time -- any time I discussed events post Baiba
10 Saulite's death with Sergeant Hughes, any discussion I
11 had, it was always repeatedly peppered with his view
12 that there were systems failures, there was a lack of
13 coordination in the investigation. He always, always
14 referred to that to anyone who would care to listen.

11:12

15 107 Q. Yes. Did you ever have an in-depth discussion with him
16 at any particular time when he raised those issues and
17 spoke about them with you?

11:12

18 A. I know that he raised those issues -- no, to answer
19 your question as to -- no, I never had that discussion,
20 but I know that he said it to anyone who cared to
21 listen, including his senior authorities. And I know
22 that was his strongly held view. Now, I couldn't
23 comment on that view, because I'm not an expert in the
24 operation of An Garda Síochána --

11:12

25 108 Q. Sure --

11:13

26 A. -- and I am not from the ranks of An Garda Síochána.
27 My view is gangland Ireland killed that woman and
28 that's the position that I have repeatedly stated over
29 years, that the State allowed gangland Ireland to get

1 out of control. And I know, I don't want to get to it,
2 but I feel I need to get that out there. You have
3 called me here today to give evidence. That's what
4 happened to that woman.

5 109 Q. And you have set out your reasoning in your statement 11:13
6 to the Tribunal why you have come to that view. You do
7 understand the Tribunal isn't investigating --

8 A. I understand that fully. But maybe I won't say it
9 again.

10 110 Q. But can I just go back to the phone conversation then 11:13
11 with Mr. O'Toole. At this stage, which was the 20th
12 November 2008, Sergeant Hughes had in fact made a
13 complaint to the confidential recipient under the
14 regulations of 2007, and you probably weren't aware of
15 that, I take it? 11:14

16 A. I wasn't aware because I didn't act for him and he
17 didn't specifically tell me only in the context of he
18 repeatedly at any time I met him, he referred to the
19 pre-investigation failures.

20 111 Q. Okay. But in terms of telling Mr. O'Toole that -- not 11:14
21 to go with the story, that it was incorrect and out of
22 context, what did you say to him to try and persuade
23 him that it was out of context or incorrect?

24 A. Please don't, it would cause huge upset to this man and
25 he doesn't deserve it, and the wrong perception would 11:14
26 be given to the public. And this is something that he
27 did. I mean, he did print that story because it's
28 sensational and it's, I suppose, for want of a better
29 expression, sexy and it sells papers, but that kind of

1 story destroys people's lives, and it was the wrong
2 perception to present out there so that the public
3 would be thinking, well, is this really what happened
4 when in fact it was not. And that's why I asked him:
5 please don't do it! 11:15

6 112 Q. And you record yourself in your statement there saying
7 that he would keep it off the front pages.

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

9 113 Q. And that's presumably based upon what he said to you?
10 A. Yes. 11:15

11 114 Q. Is that right? Okay. Right. In any event, you rang
12 Sergeant Hughes then and you told him of the position,
13 is that correct?

14 A. I did, because I was upset for him and I thought I
15 ought to tell him to pre-warn him. 11:15

16 115 Q. And you told him it was somebody high up in the Guards,
17 according to his account, is that right?

18 A. The phrase used by me in that statement was "high
19 ranking".

20 116 Q. You think you probably said that this him? 11:16
21 A. I do.

22 117 Q. All right. In the report that was subsequently made by
23 Chief Superintendent Feehan about this, he said he
24 could find no evidence that there was any garda
25 involved in the matter. 11:16

26 A. Well, we now know that to be untrue, don't we?

27 118 Q. And what do you base that comment upon?
28 A. Because I have seen Michael O'Toole's evidence, I read
29 it last night.

1 119 Q. But did the original article not fact say that it was
2 based on Garda sources?
3 A. Well, it did, yeah.

4 120 Q. But you think the interview adds another dimension of
5 credibility to it, is that right? 11:17
6 A. What interview, sorry?

7 121 Q. The interview with Mr. O'Toole that you have just
8 referred to.
9 A. The interview with --

10 122 Q. You were referring to Mr. O'Toole's interview, is that 11:17
11 right? Where he confirmed that it was a Garda, is that
12 right?
13 A. Sorry, his statement?

14 123 Q. Yes.
15 A. I have read in advance, the entire weekend, in or about 11:17
16 1,000 pages, my partner thought I was nuts but I
17 thought I better read it. I was given it by the
18 Tribunal last week, and within that 1,000 pages is a
19 statement which says --

20 124 Q. CHAIRMAN: Mr. McGuinness is wondering, because 11:17
21 Mr. O'Toole made a statement to the Tribunal, and then
22 he was interviewed by the Tribunal investigators, so
23 there are two documents?
24 A. Yes. Interviewed, sorry.

25 125 Q. CHAIRMAN: And really I think that what Mr. McGuinness 11:17
26 is asking is: can you remember which of the ones that
27 you are referring to?
28 A. I can't.

29 126 Q. CHAIRMAN: It sounds like the interview, is that right,

1 Mr. McGuinness?

2 A. I think it was the interview, yes.

3 127 Q. CHAIRMAN: It sounds like it was the interview, it
4 doesn't make a -- it doesn't make any difference but it
5 sounds like the interview. Is that correct, 11:18
6 Mr. McGuinness?

7 MR. McGUI NNESS: Yes.

8 A. And I took it from reading that, that there is very
9 little controversy between myself and Michael O'Toole,
10 although I know him, I respect him, he is not impressed 11:18
11 that I gave that statement. But look, I gave that
12 statement because this is a very serious issue.

13 128 Q. When you spoke to Sergeant Hughes on the day that
14 Mr. O'Toole had phoned you, did he imply to you, or
15 suggest to you, that this was a leak connected with 11:18
16 anything?

17 A. Well I told him what Michael O'Toole had communicated
18 to me.

19 129 Q. Yes?

20 A. So, there was no need for him to suggest that. 11:18

21 130 Q. Yes. But did he link it in his conversation with you
22 to either the disciplinary process or the fact that he
23 had made a protected disclosure, or did he mention it?

24 A. To be honest, I can't recall. But no doubt he did,
25 either during or after the phone call he linked it to 11:19
26 the disciplinary process because I understand he was
27 served with the papers, I think it was a few weeks he
28 had come to speak to me, prior to that.

29 131 Q. Obviously when you first gave your statement to

1 Commissioner Feehan in January '09, now you have given
2 a statement to the Tribunal, I take it you'd agree that
3 you are not in possession of any information or
4 evidence about Sergeant Hughes being targeted --

5 A. No. 11:19

6 132 Q. -- by An Garda Síochána?

7 A. No. The only information I have is communicated to me
8 by -- from what I have read and from my discussions
9 with Sergeant Hughes. Although I hadn't spoke to him
10 for a number of years, you know, he doesn't live in the 11:20
11 Swords area and I haven't seen him for a number of
12 years, but previous, I had spoke to him in the
13 aftermath of Baiba Saulite's day to day.

14 133 Q. Yes. Okay. Thank you, Mr. Hennessy. There may be
15 other people who would like to ask you a question or 11:20
16 two.

17 CHAIRMAN: Yes. Mr. O'Higgins, are you the next person
18 to examine, and then Mr. Lynn, Mr. O'Dwyer, that seems
19 like the -- and if anything, if anything new arises --
20 sorry, if anything new arises that you didn't have any 11:20
21 notice of, then obviously we can revisit the issue, but
22 in general, it seems that you should be the next person
23 to ask him questions.

24 MR. O'HIGGINS: Thank you Chairman. I have no
25 difficulty with that. 11:20

26 CHAIRMAN: Okay, Mr. O'Higgins.

27 MR. MCGUINNESS: Chairman, I should also say that
28 Mr. Kelly is here representing Mr. O'Toole, and it's
29 possible --

1 CHAIRMAN: Okay. Good morning, Mr. Kelly. Well, I
2 think what should happen then is we should -- Mr. Kelly
3 should have a go, if necessary -- sorry, Mr. Kelly
4 should be invited to ask any relevant questions after
5 Sergeant Hughes's team, that seems sensible, is that 11:21
6 okay Mr. Kelly?

7 MR. KELLY: I think that's absolutely fine, Chairman,
8 thank you.

9 CHAIRMAN: Thanks very much, and thank you for
10 mentioning, yeah, okay. Now, thanks very much 11:21
11 Mr. Hennessy. Yes, Mr. O'Higgins.

12
13 THE WITNESS WAS CROSS-EXAMINED BY MR. O'HIGGINS AS
14 FOLLOWS:

15 11:21
16 CHAIRMAN: You are for the Gardaí, Mr. O'Higgins, isn't
17 that right, just so we know where we are.

18 MR. O'HIGGINS: Yes, Chairman.

19 134 Q. Mr. Hennessy, Mícheál O'Higgins O'Higgins is my name
20 and I am for Garda management. 11:21

21 A. I know of you, good morning Mr. O'Higgins.

22 135 Q. All right. So can I just bring you back a little bit
23 and I won't be detaining you long. Can I bring you
24 back to the earlier period, just locating it in time.
25 In August, you'll recall the DPP gave -- August 2005 -- 11:21
26 the DPP gave directions for the charging of Mr. A with
27 the abduction crime?

28 A. Yes.

29 136 Q. And I think that day, or certainly very shortly

1 afterwards, he was arrested, I think the evidence has
2 been, actually by Sergeant Hughes and his colleague --

3 A. Yes.

4 137 Q. -- and brought before District Court?

5 A. Yeah. 11:22

6 138 Q. Am I correct that -- did you have a knowledge of the
7 bail application that was made by Mr. A on being
8 charged with that? Were you present for that or was
9 there somebody from your office present?

10 A. Someone from my office of present for that. This was 11:22
11 in the High Court bail application?

12 139 Q. Well, first of all --

13 A. At the bail application, there was a hearing.

14 140 Q. Yes. So my understanding of matters is that Mr. A
15 sought bail and Sergeant Hughes gave evidence in the 11:22
16 District Court objecting to bail.

17 A. Yes.

18 141 Q. And perhaps not surprisingly, having regard to the
19 history of matters, he gave evidence that if Mr. A was
20 admitted to bail, he apprehended that Mr. A would 11:23
21 threaten Ms. Saulite and leave the country?

22 A. Yes.

23 142 Q. As I understand it, perhaps you can assist us, if you
24 have a knowledge of the High Court bail application,
25 the sergeant also gave similar evidence before the High 11:23
26 Court?

27 A. Yes.

28 143 Q. All right.

29 A. I wasn't actually at the High Court bail, I had to

1 leave the jurisdiction for some reason, I cannot
2 recall, but I had someone in there who took a very
3 detailed, careful note.

4 144 Q. Yes. Yes. Moving matters on. When there was the
5 attack on your own home in February of 2006 did you 11:23
6 have -- do you recall, did you have any discussion with
7 Sergeant Hughes discussing that or...?

8 A. Not really. He wasn't part of the investigation. The
9 investigators, if I can remember, was Inspector Waters
10 and there was little interaction beyond that with 11:24
11 anybody of any ranks of the Gardaí. Again, remember,
12 my file was closed and my interaction with Sergeant
13 Hughes would have been limited, and -- so I can't
14 recall, to answer your question, any specific

15 conversation with Sergeant Hughes in relation to that. 11:24
16 All I know is that, that -- sorry, a fox has just
17 distracted me, just walked across the bridge there,
18 sorry -- all I know is, my house was set on fire and I
19 thought -- and it was an attempted murder, there was an
20 apparent investigation and nobody has contacted me 11:25
21 since from the ranks of An Garda Síochána as to the
22 outcome of that investigation.

23 145 Q. Yes. So my question actually simply had been: did you
24 at any point discussion with Sergeant Hughes the attack
25 on your home? 11:25

26 A. Not that I can recall. Not that I can recall.

27 146 Q. I see. Now, you are aware, or are you, of the position
28 that Sergeant Hughes put forward on his own behalf in
29 the fact-finding investigation that was commenced by An

1 Garda Síochána in to the level of knowledge in An Garda
2 Síochána concerning any threat to the life of Baiba
3 Saulite, do you know the position, broadly speaking,
4 that he put forward in that document?

5 A. It appears to say, broadly speaking, that he felt that 11:26
6 the State, or the Gardaí were aware of a specific
7 threat towards Baiba Saulite.

8 147 Q. Well, I might just bring you to it so that --

9 A. Please, yeah.

10 148 Q. Is that what you are understood from him, was it? 11:26

11 A. No. Remember, I am reading the papers and, you know,
12 we are talking about conversations 12, 14 years ago, so
13 my evidence is going to be coloured a little bit from
14 what I have read of the submissions of Sergeant Hughes.

15 CHAIRMAN: Mr. O'Higgins, can you help me in something? 11:26

16 Obviously I am reluctant to interfere with
17 cross-examination, that's obviously -- sorry, I am
18 reluctant to interfere. But what difference does it
19 make what Mr. Hennessy thinks of the case that was made
20 by Sergeant Hughes in his fact-finding statement? 11:26

21 MR. O'HIGGINS: Very little, Chairman. Save that
22 it's --

23 CHAIRMAN: I mean with all respect, I don't mean to be
24 disrespectful, but if he says, listen, I think it's
25 nonsense or he think it's totally right, or it's very 11:27
26 puzzling, that he shouldn't said this or... I mean, how
27 does that make my difference?

28 MR. O'HIGGINS: Just in this way, Chairman, and it will
29 allow me to move to it quickly. Mr. Hennessy has

1 offered a view, if I may say an entirely reasonable
2 view, in the statement he has provided to the CRO
3 investigation as to his own awareness or non-awareness
4 of a specific threat to Ms. Saulite's life.

5 CHAIRMAN: Indeed.

11:27

6 MR. O'HIGGINS: And I was going to ask him in that
7 context, does he agree with the position -- the
8 position offered by the sergeant in his report, which
9 appears to chime with that. And that was really my
10 purpose in it. No more than that.

11:27

11 CHAIRMAN: Okay. Very good.

12 149 Q. MR. O'HIGGINS: So just to -- not to lead you astray on
13 that. In the fact-finding report that the sergeant
14 gave to the fact-finding investigation in December of
15 2006, I'll bring it up for you so that you have it on
16 screen, he says -- and it's page 874, if we could have
17 that, please.

11:28

18 CHAIRMAN: Sorry, Mr. O'Higgins, let me come back to
19 this. Suppose Mr. Hennessy says A) I agree with that,
20 B) I don't agree with that or C) I don't know, does it
21 make any difference? If he does agree, well and good,
22 if he doesn't agree, so what? Do you follow me? I
23 mean, obviously I'm finding a little difficulty. I am
24 just wondering how can Mr. Hennessy -- with all respect
25 to Mr. Hennessy, and nothing I say implies any
26 disrespect, but it's just a question of
27 cross-examination. So Sergeant Hughes said A, B, C in
28 his statement, and you are going to ask Mr. Hennessy
29 does he agree with that. And I am saying what

11:28

11:28

1 difference does it make whether he agrees or disagrees?
2 For me, what when I'm writing --
3 MR. O'HIGGINS: Yes, I might do it this way, Chairman.
4 CHAIRMAN: I am sorry, I know this is a nuisance and
5 you're probably thinking I wish that guy would shut up 11:29
6 and let me get on with the cross-examination, but look,
7 just bear in mind I am concerned about the issue as to
8 whether it makes any difference. Just bear that in
9 mind, all right? Everybody, all present please note
10 and then I'll say no more. 11:29
11 MR. O'HIGGINS: I'll move on quickly from that.
12 CHAIRMAN: I have made my concern clear, I hope.
13 MR. O'HIGGINS: Thank you, Chairman.
14 150 Q. So just on page 874, I'll draw your attention to this
15 and I'll move to my actual question Mr. Hennessy. It 11:30
16 says, and this is a report compiled by Sergeant Hughes,
17 it says:
18
19 "In the absence of any Garda intelligence to the
20 contrary, I had no reason to believe at that point that 11:30
21 her fears about Mr. A were of much significance. In
22 fact, the things she referred to were not untypical of
23 conversations we'd had on numerous occasions in the
24 past. I dismissed her fears about myself and Garda
25 Nyhan as being someone who is paranoid. In the past 11:30
26 two years Bai ba Saulite constantly complained of
27 Mr. A's behaviour towards her. Many times she spoke of
28 alleged threats he made to her but she declined to make
29 formal complaints in that regard."

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And then the next bit:

"From the outset I believed that I was merely dealing with a family law matter which had unfortunately escalated to a case of child abduction." 11:30

Okay, if we just pause there. In your statement to the, call it the whistleblower investigation, the CRO investigation, and I'll just bring it up to you so that you have it -- it's page 2689, towards the bottom of page 2689, please, the last sentence, this is how you put it, Mr. Hennessy, you say, four lines from the bottom: 11:31

"In fact, the writer can honestly say --" 11:31

That is yourself.

-- that it never crossed the writer's mind that she was in any danger at all from him." 11:31

We just might go back there, sorry. Scroll down please, Mr. Hennessy, if you could.

CHAIRMAN: Sorry, there is a problem there, is that right? 11:31

MR. O'HIGGINS: Oh, thank you, Mr. Hennessy.

CHAIRMAN: I am sorry, we're back to this, what do you call it, with the best will in the world and the most

1 assiduous people, sometimes there's references that we
2 didn't get to -- we didn't get to blank out. But
3 anyway, so just say what he said. Just ignore it. He
4 doesn't have to look at it and so on, but there it is.
5 Sometimes it escapes the best -- there are glitches in 11:32
6 the best systems.

7 151 Q. MR. O'HIGGINS: This is what you say. And I am going
8 to blank out the relevant bit.

9
10 "In fact, the writer can honestly say that it never 11:32
11 crossed the writer's mind that she was in any danger at
12 all from him. Ms. Saulite painted Mr. A as a pathetic
13 figure that should be pitied and again she often
14 expressed the opinion that he was mentally ill."

15
16 That has a resonance which I think something you have 11:32
17 already said to the Chairman; that was also your view?

18 A. Yes.

19 152 Q. And am I correct that there were somewhat confusing 11:32
20 signals from Ms. Saulite towards Mr. A that you picked
21 up on, specifically she allowed him to stay in her home
22 throughout the end of 2005 and also early 2006?

23 A. Yes.

24 153 Q. And yet at the same time she went out and got a barring 11:33
25 order against him?

26 A. A few months later, I think in March 2006, from memory,
27 yes, you are right though, completely confusing. Not
28 entirely unusual in the context of a domestic abusive
29 relationship though.

1 CHAIRMAN: Abused people often find it difficult to
2 sever the connection and indeed often - as we know
3 unfortunately are all too aware, if we know anything
4 about these things - this is a real problem and in some
5 countries they have different ways of adducing the 11:33
6 evidence, but there is always a real -- there is a real
7 problem

8 A. Yes.

9 154 Q. CHAIRMAN: And this seems to be one where what you are
10 saying seems to confirm that pattern of an unfortunate 11:33
11 person. Anyway --

12 A. Yes. It certainly wasn't rational to me --

13 155 Q. CHAIRMAN: I better not say any more about that. But
14 there it is. Mr. O'Higgins says there is a somewhat
15 confused pattern, and that would be a fair comment I 11:34
16 think, would you agree with that?

17 A. I didn't consider it was rational. I was confused by
18 it. But I looked to put it into context as to what the
19 judge has just said -- people's emotions.

20 156 Q. MR. O'HIGGINS: Sergeant Hughes has made the point - 11:34
21 and I think in fairness it's correct - she never at any
22 point made a complaint against him, that is to say a
23 criminal complaint complaining about intimidation.

24 A. That's correct.

25 157 Q. And you have indicated in your statement that -- and I 11:34
26 hope I'm not mis-paraphrasing your position, but these
27 things led you to the conclusion that there was no real
28 fear on her part?

29 A. I agree with that; there was none. As I said to you,

1 she would communicate to me, you know, he was pathetic,
2 and she had a particular view of him, she felt he was
3 mentally ill in the context of what he did in relation
4 to the children. But did I pick up that she was under
5 a specific threat or fear of him? No. That's my 11:35
6 honest recollection.

7 158 Q. All right. You have offered your views in relation to
8 the appropriateness of the commencement of a
9 disciplinary investigation into Sergeant Hughes, you
10 know, you have said what you have said. But can I just 11:35
11 ask you this: presumably you would accept -- well,
12 first of all, were you aware that Sergeant Hughes is
13 recorded as saying, by two different people, that Baiba
14 Saulite had expressed to him concern for her own safety
15 in November, were you aware of that? Now I want to 11:36
16 make clear, Sergeant Hughes disputes he said that, but
17 were you aware that that was -- it was recorded that he
18 had said that to two different?

19 CHAIRMAN: How could he be aware, Mr. O'Higgins?

20 A. I wasn't aware. 11:36

21 CHAIRMAN: How could he be aware?

22 159 Q. MR. O'HIGGINS: No, I am happy with the answer given,
23 Chairman. He has confirmed that he wasn't.

24 CHAIRMAN: If he had no means of being aware, he
25 couldn't be aware because Sergeant Hughes didn't tell 11:36
26 him. His only means of knowledge was Sergeant Hughes.
27 Anyway, okay -- you didn't know, you weren't aware.

28 A. I was not aware.

29 CHAIRMAN: And I am thinking you didn't have any means

1 of knowing even. Okay.

2 160 Q. MR. O'HIGGINS: And equally, you couldn't have been
3 aware, and aren't aware, of all of the facts An Garda
4 Síochána may have been aware of concerning Sergeant
5 Hughes's position, or what he did or didn't say to
6 other people

11:36

7 A. Little or nothing has been reported to me by An Garda
8 Síochána in relation to this entire matter, I haven't
9 read a book, I haven't read any of the investigation.
10 So, it's none of my business, I suppose, they would
11 say. As a victim of a crime, perhaps I should have
12 been written to or communicated with, but the norm is,
13 as I understand it, as a practitioner, little or no
14 communication emanates from An Garda Síochána in
15 relation to this kind of thing. So in answer why your
16 question, no, I have not no knowledge, only anecdotal
17 knowledge that I have picked up over the years as to
18 what the Gardaí did or did not know.

11:37

11:37

19 161 Q. Yes. Mindful that there was an apprehension that
20 Ms. Saulite may have expressed a fear for her own life
21 in November, either in the Victim Impact Statement or
22 in person before that, all right, I presume you'd
23 accept, generally speaking you'd agree with me that, it
24 would have been reasonable for An Garda Síochána, and
25 legitimate, to at least try and find out if it was the
26 case that Ms. Saulite expressed a concern for her own
27 safety - at a level of principle, that was a reasonable
28 inquiry for the Guards to make?

11:37

11:38

29 A. Her car had been set on fire in August 2006. Her

1 solicitor's house had been set on fire in February
2 2006.

3 162 Q. Yes...

4 A. Her two children had been abducted by a man who she is
5 in regular contact with. You know, isn't that enough 11:38
6 for it to suggest that maybe they ought to investigate
7 this a little bit further?

8 163 Q. So, would you agree with the proposition, therefore,
9 that it was reasonable for An Garda Síochána, in view
10 of all the individual pieces of evidence and 11:39
11 indicators, it was at least reasonable for them to
12 carry out an investigation into the level of knowledge
13 of Gardaí into whether she had expressed concern for
14 her own safety?

15 A. You mean subsequent to her murder? Or at the time? 11:39

16 CHAIRMAN: Subsequent to the murder is what he is
17 saying. That's the question. Counsel is saying, after
18 the murder...

19 A. It would be reasonable to investigate something, but
20 investigate the issue holistically, not narrowly in the 11:39
21 context of a Victim Impact Statement.

22 164 Q. MR. O'HIGGINS: Yes. And of course that's Sergeant
23 Hughes's position. But just at a level of principle,
24 the inquiry, and parking whether the lens was too
25 narrow or too wide or whatever, the inquiry itself is 11:39
26 legitimate and reasonable, you'd agree with that?

27 A. Look, I'd agree with that, that if someone is murdered
28 and it is apparently from -- as a result of an abusive
29 relationship, that the Gardaí may or may not have been

1 aware of the extent of that abusive relationship, then
2 yes, there ought to have been an investigation. I'll
3 just add to that, a holistic full investigation.

4 165 Q. And could I ask you then, moving matters then forward a
5 little bit in time, May 2007, is it my -- is my 11:40
6 understanding correct that Sergeant Hughes consulted
7 you professionally actually as a solicitor with his
8 concerns?

9 A. Are you referring to the day that he was served with
10 the investigation? 11:40

11 166 Q. He came to see you?
12 CHAIRMAN: Yes, you are referring to the disciplinary
13 proceedings.

14 A. Yes, he came to see me because his solicitor was away,
15 his solicitor Sean Costello was away. He knew me from 11:40
16 the investigation leading up to --

17 CHAIRMAN: But he was actually coming to you not just
18 as a friend, if you like, or a friendly acquaintance,
19 he was coming to you because my solicitor is away, I am
20 hoping you can help me? 11:41

21 A. Exactly.

22 CHAIRMAN: As a solicitor. Okay. Thank you.

23 167 Q. MR. O'HIGGINS: And you gave him advice, and I think
24 you say it in reasonably graphic terms, he left the
25 meeting somewhat more agitated than he arrived. 11:41

26 A. He was upset, yes. I mean, if there be a view that I
27 upset him, I hope that I didn't. He came to the
28 meeting upset, he couldn't believe what was presented
29 to him. He showed me the document. I read it.

1 Frankly, I can't -- I could not believe it. Now,
2 rightly or wrongly, and I know it's been criticised by
3 a letter, judge, I perhaps emotively and anyone else
4 who looked at it, I think a senior counsel said that it
5 equated to a charge of manslaughter, but -- 11:42

6 CHAIRMAN: Don't be too upset, Mr. Hennessy. I take
7 back -- I imply no criticism of anybody in that. I
8 expressed a view. What I actually said in the end was
9 the lawyers -- counsel can make any arguments they wish
10 to, as to the meaning of it. But we were onto it with 11:42
11 Sergeant Hughes and I thought, on reflection, it struck
12 me as being a bit unfair to be challenging him on the
13 meaning of the words. But feel free to -- feel free to
14 express any view you want --

15 A. I felt, Judge, at the time that it amounted to an 11:42
16 allegation of criminal negligence. Now whether or not
17 my view is wrong or correct, that's not a matter for
18 me. But that's what it amounted to.

19 168 Q. CHAIRMAN: That's what it seemed to you at the time.

20 A. That's what it seemed to me. And I also felt it was 11:43
21 absurd, and I still feel today, to this day, that it
22 was grossly unfair and distorted the true position to
23 focus in on a document which was purportedly a Victim
24 Impact Statement, when it was not. And nobody could
25 possibly imagine that that document was a Victim Impact 11:43
26 Statement. It's not.

27 169 Q. MR. O'HIGGINS: I think the way you have put it in your
28 statement is that -- well, first of all, did you relay
29 to him your views as the disciplinary being akin to --

1 tantamount to a criminal manslaughter charge?

2 A. I did, I did. Maybe I shouldn't have said that, but I
3 did say that.

4 170 Q. Thanks very much.

5 CHAIRMAN: Thanks very much. Now, Mr. O'Dwyer, is it 11:43
6 you, are you going to ask Mr. Hennessy questions?

7

8 THE WITNESS WAS CROSS-EXAMINED BY MR. O'DWYER AS

9 FOLLOWS:

10 MR. O'DWYER: Yes, Chairman 11:43

11 171 Q. Mr. Hennessy, hello. Colm O'Dwyer is my name, I am one
12 of the counsel for Mr. Hughes, or Sergeant Hughes.

13 Could I just -- I mean I suppose Mr. O'Higgins opened a
14 small part of your statement that you made to the

15 whistleblower, to the confidential recipient. Perhaps 11:44

16 I could take you to that, and what I want to ask you is
17 about -- I mean Mr. O'Higgins says your views were

18 clear, but I just wanted to take you to that where you
19 seem to express your views very clearly about the

20 disciplinary investigation. So, the matter that 11:44

21 Mr. Hughes had come to you about, or Sergeant Hughes

22 had come to you about. And that's at page 2684. And I
23 think we saw it briefly earlier.

24 And in the context of that, you can see on the -- if we
25 can go down the page, just slightly, you can see, at 2, 11:45

26 you say that: "For the good name --" The reason you

27 were providing this statement was "for the good name of
28 Sergeant Liam Hughes to be cleared for what I perceive

29 to be a trumped up or internal quasi-manslaughter

1 charge..."

2 A. A little bit emotive, and I am sorry about that.

3 172 Q. No, that is fine.

4 A. One tries to be professional, but I think this was --

5 this was 2009, is it? 11:45

6 173 Q. That's correct?

7 A. So we're still in the aftermath of a very upsetting,

8 enormously upsetting for all concerned, so I apologise

9 for the emotiveness. No, I don't disagree with it.

10 174 Q. There is no need to apologise at all. But I just 11:45

11 wanted to say, I mean is that -- I mean clearly from

12 what you have said today and certainly what you wrote

13 down at that stage and I suppose have subsequently, I

14 mean is that -- does that still reflect, in general

15 terms, your view about the disciplinary process -- 11:46

16 A. Yes, it does.

17 175 Q. -- of Sergeant Hughes?

18 A. Yes. It was an absurd and ridiculous thing to do and

19 they needn't to do it. And I believe then and I

20 believe now that the reason they did it is because they 11:46

21 were led by the media. Often in situations like this

22 the media, rightly or wrongly, I mean they have a job

23 to do and to investigate this, but I think they reacted

24 to, maybe hysteria is the wrong word, the gross --

25 terrible upset in the public domain, and someone -- we 11:46

26 have got to do something here. It was a ridiculous

27 thing to do.

28 176 Q. So it's probably fair to say you don't think the charge

29 or the allegation involved was in any way warranted in

1 respect of Sergeant Hughes?

2 A. None whatsoever.

3 177 Q. And you have talked about what happened, that because
4 his own solicitor was on holidays he came to see you.
5 Presumably, I think you may have said, he showed you
6 the actual --

11:47

7 A. Yes.

8 178 Q. -- the document with the allegation that was being
9 investigated about him at the back.

10 A. Yeah.

11:47

11 179 Q. And you'll know, I'll just -- I have it in front of me
12 so I'll read, it said that "Sergeant Hughes was --" and
13 another guard, Garda Nyhan who I know you are familiar
14 with.

15

11:47

16 "Sergeant Hughes was in possession of documentation and
17 information as a result of meetings with Ms. Baiba
18 Saulite and being in possession of same knew or ought
19 to have known at the time --"

20

11:48

21 And this is presumably referring to the 14/11 when he
22 received the Victim Impact Statement -- or the draft.
23 I know, and of course we all agree it wasn't a Victim
24 Impact Statement, but nonetheless, we'll call it a
25 draft Victim Impact Statement, the handwritten
26 document.

11:48

27

28 "-- that there was a real and immediate risk to the
29 life of Baiba Saulite and that Sergeant Hughes failed

1 in his duties to take measures which might have been
2 expected to avoid that risk to her life."

3
4 So there was information that indicated a risk to her
5 life, and that he was aware of, or should have been 11:48
6 aware of, and that he failed to take measures that
7 might have been expected to avoid that risk to her
8 life. Is that what -- I mean, you then characterised
9 that I suppose as manslaughter, you did it again --

10 A. Well, criminal negligence. That's how I interpreted 11:49
11 that. I thought the wording was just unbelievable.
12 And the strength of the wording, number one. And
13 second, that it zeroed in and isolated that, in the
14 context of what I knew had gone on in the year or two
15 prior to the murder of Baiba Saulite. 11:49

16 180 Q. So, that charge seemed to you, it just seemed
17 completely --

18 A. Completely wrong. Completely unfair, completely
19 distortionate, and, you know, I just couldn't believe
20 it. 11:49

21 181 Q. And you provided him with that advice, but Sergeant
22 Hughes has said that other counsel also provided him
23 with similar type of advice about that, and the
24 seriousness of it?

25 A. That's a relief, at least I'm not on my own. 11:50

26 182 Q. They may not have used exactly the same phrase as you
27 but nonetheless were giving him advice after that to
28 similar effect.

29 Do you think, from what you know, that Mr. Hughes was

1 guilty of any form of negligence or breach of duty when
2 it came to Baiba Saulite?

3 A. No. Exactly the opposite. That's why -- I have never
4 -- I wouldn't be prone to writing letters to the
5 superintendent commending the actions of the Garda. In 11:50
6 fact, I don't think I have ever done it apart from
7 Sergeant Hughes. His -- the way he performed duty in
8 the context of dealing with Baiba Saulite was
9 exemplary, the way he followed up every line of
10 inquiry, the way he dealt with the investigation in the 11:50
11 context of getting the children returned and assisted
12 and getting Government agencies involved. Make
13 absolutely no mistake that but for the actions of
14 Sergeant Hughes, Baiba Saulite would never have seen
15 her children again. Make no mistake about that. 11:51

16 183 Q. And just, I mean something I suppose that struck me
17 while you were speaking earlier. You seem to have had
18 the view yourself that Mr. A was not -- was a bit of a
19 ridiculous figure, that he was -- but I just, it's very
20 hard to reconcile that with what was actually happening 11:51
21 to you, because you describe -- I mean you say that he
22 was responsible for, you certainly believed he was
23 responsible for trying to, you know, for -- burn down
24 your house, possibly kill you.

25 A. Yeah. 11:52

26 184 Q. How -- it just struck me as something, it's very odd to
27 reconcile those views. I mean this was a man who
28 clearly, if we are to -- taking your view that he is
29 responsible, suspect A, how could you have a view that

1 he wasn't -- that he was a ridiculous figure that may
2 not --

3 A. Any individual in that position, you know, can be
4 dangerous, and then we later heard or very quickly soon
5 after the murder we heard how dangerous of a criminal 11:52
6 he was in the context of a bail application. But prior
7 to that my view, and any individual, you know, there is
8 nothing to be afraid of a particular individual. He
9 was of a certain mind. I referred to the culture
10 before. I was trying to understand his position. And 11:52
11 he was absolutely convinced that Baiba Saulite had no
12 right as the mother of the kids, and he had the primary
13 right to do whatever he liked with the children and she
14 had no rights. And when -- I always try to study that
15 and examine that and then later, in February 2006, I 11:53
16 became aware and I thought when he did what he did to
17 my house, that we're dealing with a sinister
18 individual. But as the individual, that's not the
19 concern I have. And I am sorry, I'll just say it one
20 more time, gangland Ireland was what happened. The 11:53
21 State allowed, at that time, for gangland Ireland to
22 get out of control, and the utterances of Mr. A were
23 received by fertile ground of gangland Ireland, ready
24 and willing to do what they did --

25 CHAIRMAN: I think I'll draw a line, Mr. Hennessy. 11:53
26 Don't think it's out of any lack of understanding or
27 sympathy in the circumstances, and I can quite
28 understand your, may I say, indignation at the
29 situation, I can quite understand all of that, but I do

1 have to bear in mind this inquiry is not about that.

2 A. I accept that.

3 CHAIRMAN: So, thank you for your -- I mean, I'm
4 reluctant to inhibit somebody from giving evidence. At
5 the same time, I have to draw a line somewhere. 11:54

6 A. I accept that.

7 CHAIRMAN: So Mr. O'Dwyer, I think that's enough of
8 that situation, and I think we have Mr. Hennessy's
9 views very clearly. And, as I say, if this were a
10 different sort of inquiry, it might be easy to express 11:54
11 one's own views, you know, but however, I have to be
12 restrained in this situation and not get too carried
13 away by what might seem to be obvious inferences. But,
14 we will leave that, okay.

15 185 Q. MR. O'DWYER: If I, I suppose, return to the 11:55
16 disciplinary inquiry. I think in your later statement
17 to the Tribunal -- this is at page 8309 -- you give a
18 view. So I'm, I suppose, linking this to what you have
19 said about the disciplinary inquiry, and what you
20 thought about that. What you say at the end of that 11:55
21 page, 8309:

22
23 "As in most problems, there is never a single cause.
24 We have to be careful... This Tribunal asks itself was
25 retired Sergeant William Hughes targeted or discredited 11:56
26 with the knowledge of acquiescence or acquiescence of
27 senior members of the Garda. I personally believe he
28 was."
29

1 Does that cover the disciplinary inquiry? So from what
2 you have said already --

3 A. Yeah.

4 186 Q. -- does that statement -- I mean, it's quite a long
5 statement before that, but --

11:56

6 A. From all of the knowledge that I have --

7 MR. O'HIGGINS: Chairman, I wonder could I just
8 intervene and make one point? I don't mean to knock My
9 Friend's flow. I do appreciate that in this inquiry
10 the strict rules of evidence do not apply, and I do

11:56

11 also appreciate that, to an extent, persons --
12 witnesses are, from time to time, invited to give their
13 belief or their opinion. But, I wonder, Chairman, is
14 it of enormous assistance to the Tribunal in the
15 particular circumstances if on the core issue a
16 witness, who is not offering any additional fact, I
17 just question whether it's of assistance to the
18 Tribunal if a witness is offering -- is purporting to
19 offer an opinion on what is the core issue you are
20 investigating without grounding it in any particular
21 fact.

11:57

11:57

22 CHAIRMAN: That seems to be fair. Mr. O'Dwyer, doesn't
23 that seem fair? And look, we have Mr. Hennessy's
24 evidence, we have his views. It does seem to me that
25 he is in a position to be of assistance, and I
26 appreciate his factual evidence and his comments. I do
27 have to be careful, of course, as Mr. O'Higgins says,
28 evidence is evidence and I am a little troubled by
29 Mr. O'Higgins's suggestion that we're not concerned

11:57

1 with the laws of evidence as strictly as we should be,
2 but I know what he means, I know what he means. So, I
3 mean, we have Mr. Hennessy's comments. I agree that
4 they are summarised neatly in that paragraph. I can
5 take note of that, but I could have taken note of that 11:58
6 anyway. And he has said essentially that -- look, he
7 said what he thinks, and there is a limited zone where
8 Mr. Hennessy's views about that are legitimate. We may
9 have a debate about that in due course, somebody may
10 want to make a submission about that. But I think we 11:58
11 have Mr. Hennessy's views on the way Sergeant Hughes
12 was treated, isn't that right, we have that?

13 A. Yes, Judge.

14 187 Q. MR. O'DWYER: I accept that. All right. I was just
15 going to move on to I suppose the second part of the 11:59
16 story as it relates to you, which is about The Star
17 article, and it just may be convenient, because we
18 didn't see it at that point, that The Star article I
19 think is at page 8091. This is the article that Mick
20 O'Toole wrote. 11:59
21 So, you have said already Mr. O'Toole rang you, was
22 that the night before this came out?

23 A. I believe so. I can't be specific about it.

24 188 Q. It was in advance of it appearing on the news stands?

25 A. In advance, yes. 11:59

26 189 Q. And you said he mentioned -- and I just wanted to
27 perhaps tie this down -- I mean, it's in the article
28 that there's Garda sources and are referred to several
29 times.

1 A. Yeah.

2 190 Q. But he told that you that a high ranking -- that's the
3 phrase you used --

4 A. That's the phrase he used --

5 191 Q. Or, sorry, that's the phrase he used -- 12:00

6 A. -- to me, and that's what I put in my statement, yes.

7 192 Q. Did you ask him who it was?

8 A. No.

9 193 Q. You didn't ask him to identify?

10 A. No. 12:00

11 194 Q. Okay.

12 A. I didn't bother, because, as I said earlier in the
13 context of this is not unusual, nobody needs to be
14 shocked about this, that often journalists will quote
15 Garda sources. 12:00

16 195 Q. Okay. And did he mention one of the things that was
17 going to be in the article was that Sergeant Hughes was
18 in the disciplinary process, did he mention that to you
19 in advance, or was it just a general discussion of what
20 it was saying? 12:01

21 A. Well, I don't think he mentioned it, but I knew who we
22 were both talking about. We were both talking about
23 two things. One in relation to the draft Victim Impact
24 Statement, what he did or didn't do with that. And
25 two, that he was disciplined, or investigated as a 12:01
26 result of that. So, we both knew what we were talking
27 about. Whether it -- whether he expressly stated it, I
28 don't know, I can't recall.

29 196 Q. It's just -- I mean even on the -- on chief Inspector

1 Feehan's investigation of it, it appears that that was
2 the completely -- that was a new element that hadn't
3 really appeared before, that there was a disciplinary
4 process. But I am asking you -- so, Mr. O'Toole didn't
5 mention that specifically to you? 12:02

6 A. I can't recall that. All I know is that he rang me up
7 and I was particularly upset for Sergeant Hughes in the
8 context of they were zeroing in -- I mean, look at the
9 headline -- they were zeroing in on his action or
10 non-action of a Victim Impact Statement. And that was 12:02
11 the content of our call. I asked him where the hell
12 did you get this from? High ranking Gardaí.

13 197 Q. And Mr. O'Toole, did he tell you that he picked up
14 other information from articles that had already
15 appeared about -- from a long time before about the -- 12:02

16 A. No, he didn't say that in the conversation, no.

17 198 Q. Okay.

18 A. I am aware that he has said that since then. And to be
19 fair to him, it is true. I mean I think it has been
20 mentioned in previous papers, and I recall immediately 12:02
21 after the murder, there was some reference to it, yeah.

22 199 Q. And you have stated, or you said earlier that you
23 viewed this article -- or what you had been told about
24 it anyway -- as being particularly unfair, I think is
25 the word? 12:03

26 A. Completely unfair. And he won't like this -- wrong,
27 absolutely wrong. That's targeting an individual, a
28 man who is respected his entire career as a garda.

29 200 Q. And you think he is identifiable in --

1 A. He should never have printed that. Look, I mean I am
2 also a realist. Newspapers print stories to sell
3 papers, and regardless of the consequences, especially
4 some newspapers. And I don't mind saying it, I know
5 the man is in here. That story should never have been 12:04
6 printed. You are playing with people's lives,
7 reputations. It's completely wrong.

8 201 Q. And I mean because you had contact with Sergeant Hughes
9 immediately after this, did you -- you rang him?

10 A. Yes. 12:04

11 202 Q. And how did he --

12 A. He was very upset. I pre-warned him in relation to it.
13 He was obviously enormously upset, because it clearly
14 identifies him -- obviously not by name -- but by
15 innuendo. 12:04

16 203 Q. Okay. And it certainly, as it appears, and as it was
17 described to you, it does appear to be very much
18 without context?

19 A. It's completely out of context. It zeros in on one
20 aspect of the events, two or three -- a few days before 12:04
21 the murder, and it sends the perception to the public
22 Sergeant Hughes's actions led to her death. And that
23 was the wrong thing to do.

24 204 Q. Okay. I have one question, it's really -- left, and
25 it's really more in the way of a clarification. You 12:05
26 mentioned earlier on that there was a threat to your
27 own life earlier, now not in October of 2006, but you
28 said it was in 2005. Certainly my understanding is
29 that that first, shall we say, serious --

1 A. In the context of my acting for Baiba Saulite, I was
2 informed -- I can't be precise -- it's exhausting
3 thinking back to all of this -- but in or about --
4 sometime in about 2005, I was approached by the Gardaí
5 that there was a threat. It was not hugely specific, 12:05
6 but my name had been picked up in relation to a threat
7 to my life and they advised me in the context of Garda
8 protection, changes to the house, changes to habits in
9 relation to to and from work, don't pick the same place
10 all the time, which is almost impossible because I am 12:06
11 habitual, but a lot of advice by that. I was
12 approached by and advised and assisted by Garda advice
13 in relation to the house and what to do and what not to
14 do, and passing attention it was referred to, not --
15 you know, permanent or specific or -- 12:06

16 205 Q. CHAIRMAN: It wasn't a personal protection --
17 A. It wasn't, no.

18 206 Q. CHAIRMAN: -- officer or anything of that. But it was
19 passing, so they would pass the house or the office or
20 you or whatever it was. 12:06

21 A. Yeah. And like, any lawyer will know this, lawyers we
22 work, ten or twelve hours a day, I just got on with
23 life, worked, didn't really inquire too much about it,
24 and didn't ask too many more questions.

25 207 Q. MR. O'DWYER: okay. And finally, just that threat and 12:07
26 all of the things that happened to you after that, you
27 think they are linked to your acting for Ms. Saulite?

28 A. Of course they were, no doubt about it. One hundred
29 percent.

1 208 Q. And that was always your view. You had no other reason
2 you would have crossed any -- I think you have
3 described them as gangland, but -- you know, people who
4 might do these sorts of things.

5 A. Look, they are only -- one and only situation. I am a 12:07
6 lawyer. That was my last family law case, I am sorry
7 to say, because of that. I act in personal injury and
8 medical negligence and catastrophic injuries, that kind
9 of thing. I do a little bit of District Court criminal
10 work, nothing else in my life would lead to anything 12:08
11 like that. It was only -- obviously only -- I thought
12 everybody accepted that, but that's the position. It
13 directly led to my practising for, or representations
14 of Baiba Saulite.

15 209 Q. Thank you. 12:08

16 CHAIRMAN: Thanks very much. You are finished. Thanks
17 very much. Now, Mr. Kelly, do you want to ask --
18 sorry, Mr. Kelly, do you -- would you like to ask any
19 questions of Mr. Hennessy?

20 MR. KELLY: Thank you, Chairman, I just have a few 12:08
21 questions for the witness.

22

23 THE WITNESS WAS CROSS-EXAMINED BY MR. KELLY AS
24 FOLLOWS:

25 210 Q. MR. KELLY: Sorry, I have moved my position here for a 12:08
26 better view. Mr. Hennessy, good afternoon now I think
27 at this stage.

28 A. Good afternoon.

29 211 Q. We have spoken before in a completely different

1 context. Can I just ask you, first of all,
2 Mr. O'Toole, you were familiar with Mr. O'Toole before
3 he telephoned you?
4 A. I am familiar with him as a journalist, yeah?
5 212 Q. You had spoken to him a few times? 12:09
6 A. I had spoken to him previously.
7 213 Q. Yes. And he telephoned you the day before the article
8 was published?
9 A. My recollection, that it was the day before.
10 214 Q. Okay. Sergeant Hughes certainly gave evidence that it 12:09
11 was the day before, and it was sometime in the middle
12 of the day.
13 A. I can't be precise.
14 215 Q. Okay. Because he said he was out in the shopping
15 centre when you telephoned him? 12:09
16 A. Okay.
17 216 Q. And he remembers it specifically?
18 A. Okay.
19 217 Q. So that would be the day before, that I think would be
20 the 19th November? 12:09
21 A. Yeah.
22 218 Q. And Mr. O'Toole called you in your capacity as
23 solicitor for the late Baiba Saulite, is that right?
24 A. Or my being a witness in the context of the -- any
25 investigation in relation to -- maybe, I don't know. 12:09
26 He didn't announce it at the start of the conversation.
27 219 Q. Sorry, I don't understand. Witness as to what
28 investigation?
29 A. I was a witness in the context of the abduction of the

1 children.

2 220 Q. Oh, the abduction of the children, I see. Okay. Now,
3 when Mr. O'Toole phoned you --

4 A. And sorry, secondly, it was well reported that I was
5 the victim of crimes myself involving the Baiba Saulite 12:10
6 murder.

7 221 Q. Very good. But --

8 A. Related to.

9 222 Q. But you soon established he was telephoning you
10 concerning the late Baiba Saulite and issues 12:10
11 surrounding --

12 A. He was telephoning me in relation to a victim impact --
13 a draft Victim Impact Report which he had been informed
14 Sergeant Hughes hadn't looked at prior to Baiba
15 Saulite's death, and the inference of that is that 12:10
16 Sergeant Hughes had some kind of professional
17 responsibility for that.

18 223 Q. You see, Mr. O'Toole's evidence is going to be, and he
19 has given his statement, that he rang you about the
20 fact there was a disciplinary investigation ongoing 12:11
21 into the retention of the Victim Impact Statement, and
22 that was the primary reason he called you, do you
23 recollect that?

24 A. Em, no, that's not what the call was about. The call
25 was about the Victim Impact Statement, and the first 12:11
26 thing. Secondly, what would I know about anything to
27 do with the disciplinary investigation? It was nothing
28 to do with me. I had no knowledge of it. So, the
29 conversation would have been --

1 224 Q. Well, you did have knowledge of it when Mr. O'Toole
2 called you, didn't you?

3 A. Well, only that I been shown the document, but I had no
4 role thereafter.

5 225 Q. Well Mr. O'Toole's evidence is that he rang you 12:11
6 primarily because of the disciplinary investigation and
7 that was his primary reason for calling you, and that's
8 the story he was following up. You disagree with that?

9 A. Well, isn't it semantics. I mean the disciplinary
10 investigation and the Victim Impact Statement are 12:12
11 related. It's one and the same name.

12 226 Q. It may be semantics, it's for the Chairman to make that
13 decision. I am putting to you the evidence Mr. O'Toole
14 is going to give.

15 A. Look, my understanding was the conversation was in 12:12
16 relation to the draft Victim Impact Statement.

17 227 Q. You see, at that stage wasn't the retention of the
18 Victim Impact Statement out in the public domain for
19 almost two years?

20 A. Eh, I'd agree that it had been referred to by the media 12:12
21 before. Whether that -- if you are suggesting that
22 puts the news story in the context 'no big deal', I
23 disagree with that.

24 228 Q. That's not what I was asking you. I am asking you
25 wasn't it out in the public domain two years 12:12
26 previously?

27 A. You are right, yes.

28 229 Q. It was in the Sunday Independent newspaper, isn't that
29 right?

1 A. That's correct.

2 230 Q. Written by Maeve Sheehan of The Sunday Independent?

3 A. I have seen that in the papers that I have read for
4 this Tribunal.

5 231 Q. And The Sunday Independent is the biggest selling paper 12:13
6 in the country, isn't that right?

7 A. Yes.

8 232 Q. And it's the most widely read newspaper in the country,
9 isn't that right?

10 A. Well, I read it. 12:13

11 233 Q. So from Mr. O'Toole's point of view as a journalist,
12 that story was out in the public domain; there was no
13 exclusivity to that story, isn't that correct?

14 A. I accept that, yes.

15 234 Q. The exclusivity to the story Mr. O'Toole was calling 12:13
16 you about was the fact there was a disciplinary
17 investigation, and that's the primary reason he
18 telephoned you, would you accept that?

19 A. Look, we have already -- I have already answered that.
20 I don't accept that. My recollection of the call was 12:13
21 in relation to the failure of Sergeant Hughes to do
22 something, or his inaction in relation to the Victim
23 Impact Statement.

24 235 Q. And in the article, which was published, which wasn't
25 on the front page, I think Sergeant Hughes believed it 12:13
26 was, in fact it wasn't on the front page, but in that
27 article doesn't it clearly say that the Garda Press
28 Office were asked for comment about the disciplinary
29 investigation?

1 A. Well, I can't read it here, but I'll accept -- no, no,
2 that's fine I'll accept what you say.

3 236 Q. Thank you. And Mr. O'Toole says in relation to the
4 question of his source, he didn't use the expression a
5 "high ranking member" - now this may be the semantics 12:14
6 that you referred to earlier - he said it was "senior
7 enough" were the words that he used, would you accept
8 that that's possibly what he may have said?

9 A. Look, my recollection, or what I put in the statement
10 was "high ranking". 12:14

11 237 Q. Yes?

12 A. So it's a fairly specific choice of words or quote, and
13 so if you don't mind, I'll stick by that. But if
14 Mr. O'Toole's position is "senior enough" then...

15 238 Q. Well actually, on page 8307 in the statement you gave 12:14
16 to the Tribunal you actually used the expression "a
17 senior Garda"?

18 A. Did I?

19 239 Q. Yes. So, Mr. O'Toole, as I said there may not be much
20 between you but he says "senior enough" was the 12:15
21 expression that he used.

22 A. Yeah...

23 MR. KELLY: That's all. Thank you very much
24 Mr. Hennessy. Thank you Chairman.

25 CHAIRMAN: Now, anybody else? No, thanks very much. 12:15
26 Thank you very much, Mr. Hennessy, for coming along and
27 giving your evidence. Thank you very much.

28

29 THE WITNESS THEN WITHDREW

1 MR. MCGUINNESS: Chairman, the next witness is
2 Mr. Michael O'Toole.

3 CHAIRMAN: Yes. Thanks very much.
4

5 MR. MICHAEL O' TOOLE, HAVING BEEN SWORN, WAS EXAMINED BY 12:15
6 MR. MCGUINNESS AS FOLLOWS:

7 CHAIRMAN, hello Mr. O'Toole, thank you for coming
8 along. Sit down there Mr. O'Toole. Thanks very much
9 indeed.

10 MR. MCGUINNESS: Chairman, for the convenience of the 12:16
11 parties, Mr. O'Toole made a statement in the course of
12 an investigation by Chief Superintendent Feehan, and
13 that's to be found at 7750 of the Tribunal papers, and
14 he was also interviewed by the Tribunal investigators,
15 and the interview in that regard is at page 7742 -- 12:16
16 7737 onwards.

17 CHAIRMAN: Thanks very much.

18 240 Q. MR. MCGUINNESS: Mr. O'Toole, you have been a crime
19 journalist I think with The Daily Star for almost 22
20 years now, is that correct? 12:16

21 A. Yes. I officially got the title in January 2002 but I
22 joined in March 2000 and I was de facto crime
23 correspondent from then.

24 241 Q. Yes. Could you perhaps lean in slightly to the
25 microphone, if you don't mind. And I think you 12:17
26 authored the article about which you were interviewed,
27 and the article was published on the 20th November
28 2008?

29 A. Yes, Chairman, that's correct.

1 242 Q. And I think you received a letter directly addressed to
2 you from Inspector Dwyer, if we look at page 7749. And
3 as is apparent from that, that was on foot of a
4 complaint from Sergeant Hughes's solicitors?

5 A. Yes.

12:17

6 243 Q. And in the final paragraph there, if we scroll down,
7 it's asking you to -- well, it's indicating that you
8 will be requested to meet with him to discuss the above
9 matter.

10 A. That's correct.

12:18

11 244 Q. And I think you arranged with Inspector Dwyer to meet
12 him the following week, on the 28th, and that's at
13 7750, there is a statement recorded there. And it
14 simply says:

15

12:18

16 "I am the crime correspondence with The Star Newspaper
17 where I have worked since the 20/3/2000. Inspector
18 Fergus Dwyer has just shown me a copy of a newspaper
19 article entitled "Cop never looked at tragic Bai ba's
20 warning" which appeared in The Star Newspaper on
21 Thursday, November 20, 2008. Inspector Dwyer sought
22 the identity of the Garda sources referred to in the
23 said article. I do not wish to comment on any aspect
24 of this article. I have read this statement and it is
25 correct."

12:18

12:19

26

27 And I take it the reason you weren't willing to discuss
28 it was because you weren't willing to reveal the
29 identity of the sources?

1 A. Yes. I have to protect my Garda sources, Chairman. My
2 newspaper is part of the Press Council, and the statute
3 there is journalists have to protect their sources but
4 I am also a 30-year member of the National Union of
5 Journalist and the Code of Conduct there is we have to 12:19
6 protect our sources.

7 CHAIRMAN: Don't worry. It doesn't come as a great
8 surprise, Mr. O'Toole.

9 245 Q. MR. MCGUINNESS: Can I ask you, firstly, about the
10 reason for the writing of the article. It would appear 12:19
11 to be the case, from having been reading newspapers for
12 many years that, newspapers don't like printing
13 yesterday's news, or news that's very old; they like
14 perhaps a story if there is a new angle on it.

15 A. Once a story -- particularly with myself, my job is to 12:20
16 gather exclusives, so I knew -- Maeve Sheehan, a
17 journalist I really admire in The Sunday Independent
18 broke this story about the Victim Impact Statement, I
19 think it was shortly after the murder of Ms. Saulite, I
20 think it was certainly within a few months anyway. So 12:20
21 I was aware of that. So, that held no interest for me,
22 I have to say. What -- in the course of my work, I
23 did, in November, around the time of the article, I did
24 learn that there was a disciplinary investigation, or
25 disciplinary inquiry into the then Sergeant Hughes, and 12:20
26 that was the focus of my story. It was not the Victim
27 Impact Statement per se.

28 246 Q. Now, you have referred to Maeve Sheehan's articles
29 there and perhaps we'll just look at page 976. This is

1 written under her name there, and this is -- if we
2 scroll down, we can see the date. There is a date on
3 it there, the 26/11/06, so that's within a week of her
4 murder?

5 A. Right. I thought it was longer myself, but I'll accept 12:21
6 that. I thought it was a few months after, I'd have to
7 say.

8 247 Q. Yes. And in terms of the statement being the -- the
9 Victim Impact Statement being read, is this one of the
10 statements you were referring to in that regard? 12:21

11 A. I am sorry, I don't follow.

12 248 Q. You were saying, I think, that there was nothing new in
13 the story apart from the disciplinary investigation
14 angle?

15 A. Yes. Does Maeve's story say - I haven't really read it 12:22
16 in detail - that Sergeant Hughes, Mr. Hughes didn't
17 read the entirety of the Victim Impact Statement?

18 249 Q. Well, there is a second statement that is also in the
19 book, if we just go to the next page.

20 A. Oh, detectives didn't read it. 12:22

21 250 Q. Yes.

22 A. Okay, yes, I see it there in the original story.

23 251 Q. And that's the conclusion of that story on that date,
24 and if we go onto the next story on the next page?

25 A. Okay. 12:22

26 252 Q. And that's a reference to Mr. Hennessy there?

27 A. Yes.

28 253 Q. But did you know yourself, from media reports, whether
29 these or not, that a part of the narrative was that a

1 victim Impact Statement had been given to the Gardaí
2 and it hadn't been read through to conclusion?

3 A. Yes, I learned that from Maeve's stories.

4 254 Q. And the genesis then of the story that you wrote in
5 November '08, was the new element then this aspect of a 12:23
6 disciplinary investigation?

7 A. That was the main element for me; it was the -- we call
8 it a top line in journalism, Chairman, you have to --
9 CHAIRMAN: Say that again

10 A. We call it a top line. 12:23

11 CHAIRMAN: Top line. Yes, I understand. Don't worry.

12 A. So if I am covering a murder, the top line may be that
13 the person had survived an assassination bid two weeks
14 earlier. So I have to try and get something different.
15 So the top line for this story, because I was aware 12:24
16 about the details about the Victim Impact Statement, or
17 draft Victim Impact Statement being given to
18 Mr. Hughes, I was aware of that. I read other
19 newspapers voraciously, it is my job to know what the
20 competition have. So that was out. So, purely and 12:24
21 simply, the only reason I was interested in this story
22 was I had established about the disciplinary. The
23 thrust of me writing this story was the disciplinary
24 process.

25 255 Q. MR. MC GUINNESS: Now, were you contacted by a Garda 12:24
26 source to, as it were, put this story out and make it a
27 newsworthy item?

28 A. I stumbled across this story. And this is very
29 difficult for me, Chairman, because the issue of

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sources.

CHAIRMAN: I appreciate that, and Mr. O'Toole, I'm not out to -- I am not out to plough a new furrow. I quite understand your situation, and perhaps if you could describe it in your own words, and tell us: so here is the story. You have come on this story. Obviously I can understand the more -- if anybody else wants to ask you questions, good luck to them, I have no problem and I will not rule out the story and then it's a matter for you, advised by Mr. Kelly, to intervene or whatever it is and make whatever protest, so I don't want to set out parameters in advance. So, Mr. McGuinness, you asked, did a garda ring you up and tell you the story, and you are uncomfortable about --

A. No, I am not. I am comfortable saying that did not happen. I am comfortable saying that any proactivity in relation to this came from me. To use a legal term, the mens rea came from me. Okay? My job, to use ordinary layman's parlance, is, everyday I shake the trees and hope that a few acorns or coconuts, whatever, will fall down. I know, with my political colleagues they often get what you would call a leak. I rarely get leaks. I am quite good in my own defence at getting information out of people, that people may not necessarily want to give me. So, I got this story, this story was not handed to me on a plate. It came about as part of a general conversation, and it wasn't proactively leaked to me. I am comfortable saying that, Chairman.

1 256 Q. MR. MCGUINNESS: So you are comfortable in saying that
2 this was not a -- you weren't proactively contacted by
3 a guard to convey this information to you in any way
4 out of the blue or without seeking it?
5 A. Yes, that's correct, Chairman. 12:27
6 CHAIRMAN: I am with you.
7 A. It's on me.
8 257 Q. MR. MCGUINNESS: So nobody, to use a vernacular, nobody
9 was laying this on you?
10 A. No, and nobody, I mean nobody, if I can be direct, 12:27
11 nobody said, I am going to get Liam Hughes and I am
12 going to ring Mick O'Toole, absolutely not.
13 258 Q. Okay. It may be obvious but a lot of stories say
14 documents have come into the possession of the
15 newspaper or our special correspondent. You don't 12:27
16 refer to any documents, and may the Chairman take it
17 you were never given any documents?
18 A. It was -- I have written 5,000 articles since this,
19 Chairman, this story was not the biggest story. I
20 don't even think it's the biggest story of the month 12:27
21 for me because I did a big interview with a killer over
22 in Spain I think beforehand. So, to the best of my
23 recollection, I did not have any documentation about
24 anything.
25 259 Q. And as I understand what you are saying, you were 12:27
26 looking into another unrelated story, and you stumbled
27 across information which related to this, is that a
28 fair way of putting it?
29 A. Yes. Again I am slightly uncomfortable. But I --

1 CHAIRMAN: You had a conversation with somebody as a
2 result of which you deduced or gleaned that there might
3 have been -- is that --
4 A. well, I was --
5 CHAIRMAN: I am only trying to help. 12:28
6 A. And I am trying to help the Tribunal as much as I can.
7 I -- by the end of the conversation, I had information.
8 That's -- I mean that's fair. But --
9 CHAIRMAN: Yes, I understand.
10 A. But it was not -- 12:28
11 CHAIRMAN: The other person might not have been aware
12 that he or she had given you extra information?
13 A. Chairman, this often happens.
14 CHAIRMAN: They might or might not be aware?
15 A. This often happens. A few weeks ago I got a story 12:28
16 about a pop star who was arrested and that came about
17 almost accidentally, and stories emerge accidentally.
18 CHAIRMAN: I think I have the picture. I mean we all
19 read newspapers and we understand something, probably
20 are interested in the process. So I think we have a 12:29
21 picture.
22 A. It's primarily me shaking trees, Chairman.
23 260 Q. MR. McGUINESS: And obviously you have referred to the
24 disciplinary investigation in the course of the
25 article, and is that how you learned about the 12:29
26 existence of a disciplinary investigation relating to
27 the Victim Impact Statement?
28 A. The conversation I had?
29 261 Q. Yes.

1 A. It was after that conversation that I became -- yeah,
2 yes -- yes, it came up in conversation, shall we say,
3 but, you know --

4 262 Q. I am not going to ask you the identity of the source
5 obviously, but you are going to claim privilege over 12:29
6 that and you are going to stand by that privilege?
7 A. I have to. I would be finished as a journalist if I
8 did.

9 263 Q. So was it a case of you putting two and two together to
10 be able to use this piece of information that you had, 12:30
11 in a sense, accidentally acquired, to make the story
12 that you did write?
13 A. No. It wasn't a question -- no, I knew at the end of
14 the conversation. There was no -- I didn't have to put
15 two and two together. I had four already. Do you know 12:30
16 what I mean? There was no guesswork.

17 264 Q. Did you know in fact earlier or independently from this
18 that Ms. Saulite had given the Victim Impact Statement
19 to Sergeant Hughes?
20 A. Eh... 12:30

21 265 Q. And that he had apparently not read it?
22 A. Well now, I knew that she had given it -- you see, I
23 know now that it had been given to Sergeant Hughes.

24 266 Q. Yes.
25 A. But when did I know? I knew from The Sindo article, I 12:30
26 knew. I don't know when I knew that she had given it
27 to Sergeant Hughes. I know now, I have known for quite
28 sometime.

29 267 Q. Okay. In any event, before you went to print, as it

1 were, you rang Mr. Hennessy?

2 A. Yes.

3 268 Q. And could you just give us your recollection of that
4 conversation?

5 A. This is also difficult for me because I would know 12:31
6 John, so of course I rang him, I was looking for a
7 comment. That was on the basis that he was -- I was at
8 -- the first time I really remember seeing or coming in
9 contact with John was at the funeral of Baiba Saulite.
10 I went to Riga for the funeral and John was there, I 12:31
11 think he had Garda bodyguards or Latvian police
12 bodyguards with him, so I would have been aware of him.
13 The reason I rang John was because I thought he was a
14 central character here, that he was Baiba Saulite's
15 solicitor, he was under threat himself, I knew about 12:31
16 the incidents. I think I remember we were on PrimeTime
17 once together and I remember seeing he had -- now, that
18 may have been after this story, I don't know, but I
19 knew he had Garda bodyguards, I knew there was a threat
20 to him. 12:32

21 269 Q. I mean there is a lot of evidence that Mr. Hennessy was
22 written about because the Law Society took up his
23 cause?

24 A. They did, they issued a statement.

25 270 Q. And there was a meeting with the Commissioner, 12:32
26 Mr. Murphy, on his behalf at different stages, they
27 issued statements about him and there was a lot of
28 press reporting about protection issues concerning
29 Mr. Hennessy, isn't that correct?

1 A. I knew --

2 271 Q. So obviously you knew who he was and this may or may
3 not be relevant, but did you tell him that you were
4 ringing him in any particular capacity when you phoned
5 him? 12:32

6 A. No.

7 272 Q. Or was it just clear that you were ringing him because
8 of your journalistic work?

9 A. No, I didn't -- no, I told him I was ringing not
10 because of his position, but I told him why I was 12:33
11 ringing about the victim -- the disciplinary procedure.
12 And I also rang the Garda Press Office and you can see
13 that there are -- we'll come to that --

14 273 Q. Sorry, can you just lean in more?

15 A. Yes. I don't think -- I didn't think because of the 12:33
16 nature of our relationship I had to ring him -- I had
17 to tell him the reason why I was ringing him. In other
18 words, why I was choosing him to ring. But I did
19 explain what the story was.

20 274 Q. Yes. And in any event, what do you recollect telling 12:33
21 him about the article that you were proposing to write?

22 A. The thrust of the story was that there was a
23 disciplinary investigation over the Victim Impact
24 Statement; that was the thrust of my story.

25 275 Q. And did you read the headline out to him or did you 12:33
26 read any more of the draft article out to him or...

27 A. No, and I don't write the headlines. The headline
28 would not have been written when I was speaking to
29 John.

1 276 Q. You think you didn't read the headline that was printed
2 because it wouldn't necessarily -- you wouldn't
3 necessarily have known that was going to be the put on
4 it?

5 A. No, no, Chairman, the way it works: I write a story -- 12:34

6 277 Q. CHAIRMAN: I know. Sorry, I think I do. Somebody else
7 puts it on, the sub-editor or somebody else put the
8 headline on.

9 A. Yeah, that's it. And they often get me from in
10 trouble. 12:34

11 278 Q. CHAIRMAN: So you had the story, you had what you
12 thought was a story and you were ringing him about that
13 but there was no question of knowing exactly what the
14 headline would say, or indeed --

15 A. No, but I mean -- 12:34

16 279 Q. CHAIRMAN: I suppose anybody could have worked out what
17 the likely headline would be or something of the kind.

18 A. But I was disappointed when I saw the paper the next
19 day because that wasn't my story. But look, it goes
20 through maybe four or five different people -- 12:34

21 280 Q. CHAIRMAN: I follow.

22 A. -- and I am a grunt at the end of the day, so...

23 281 Q. CHAIRMAN: Anyway, you rang him?

24 A. Yes.

25 282 Q. CHAIRMAN: And you didn't know what the headline would 12:34
26 be and so you didn't --

27 A. I didn't expect that headline because that wasn't my
28 story. So I definitely didn't tell him about that
29 because that wasn't my story.

1 283 Q. MR. MCGUINNESS: Sergeant Hughes had, by this time,
2 made a protected disclosure. Was there any reference
3 to a protected disclosure arising out of your
4 conversation with your source, or in your conversation
5 with Mr. Hennessy? 12:35

6 A. I don't believe so. Sorry, say that again.

7 284 Q. Sergeant Hughes had made a formal protected disclosure
8 to the confidential recipient --

9 A. Yes.

10 285 Q. -- under regulations in September, and it had been 12:35
11 passed to the Gardaí at this time?

12 A. Yes.

13 286 Q. Was there any reference to that in the conversation
14 with your source?

15 A. I don't recall, Chairman, but I was aware that a 12:35
16 protected disclosure or a whistleblower had come
17 forward. I did not know who it was.

18 287 Q. Yes, but when were you aware of that, or do you know?
19 Can you say when you were aware of that?

20 A. Before the article appeared. 12:36

21 288 Q. Okay.

22 A. So, I don't know if -- I know where I got my
23 information about the disciplinary process. I don't
24 know where I got the -- became aware of the
25 whistleblowing aspect. 12:36

26 289 Q. Yes. But it would appear that you didn't get it on the
27 same conversation, is that right, and you didn't know
28 who the whistleblower was?

29 A. I did not know who the whistleblower was. And I do not

1 believe I got it in the conversation with the Garda
2 sources. That is my belief.

3 290 Q. Okay. And just going back to the conversation, we were
4 discussing the headline issue and the content.

5 A. Yes. 12:36

6 291 Q. Did you read any of the content of the proposed
7 article, or did you just summarise it all?

8 A. To who? To John?

9 292 Q. To Mr. Hennessy?

10 A. No, no, I never read stories to people. 12:36

11 293 Q. Okay.

12 A. Very rarely. I tell them: John, I am ringing you
13 because I have learned that there is a disciplinary
14 investigation... So I don't read stories to people.

15 294 Q. All right. And was there any mention of who was 12:37
16 involved in it or how many officers were involved in it
17 or their identities?

18 A. In my story or in the conversation?

19 295 Q. In the investigation, in the disciplinary?

20 A. No. Not that I recall, no. 12:37

21 296 Q. But I mean was it -- did you mention Sergeant Hughes or
22 did he mention Sergeant Hughes or did you both assume
23 you knew whom the other was talking about?

24 A. I do not believe I mentioned Sergeant Hughes. I may be
25 wrong. I knew at this stage about Sergeant Hughes, but 12:37
26 I don't think I spelled out, I listened to John's
27 evidence, I don't think I spelled out Sergeant Hughes,
28 I don't think I said that is Sergeant Hughes.

29 297 Q. But what was his response as you recall it now?

1 A. He got slightly upset. He did. Yeah, he got upset. I
2 don't necessarily know if I was aware of the nature of
3 the relationship between John and Mr. Hughes, I have to
4 say, because again, I was ringing because he had been
5 affected by this, and he had been Baiba Saulite's 12:38
6 solicitor. But I was slightly taken aback because I
7 thought he did get upset, yes. That's no criticism of
8 him. You know, people get upset. That's fine.

9 298 Q. And do you recall him asking, or suggesting that you
10 not print it? 12:38

11 A. I don't recall that.

12 299 Q. Okay.

13 A. I wouldn't --

14 300 Q. Do you recall making any remark about keeping it off
15 the front page? 12:38

16 A. I thought it should have been on the front page.

17 301 Q. Pardon?

18 A. I thought it should have been on the front page. I was
19 disappointed when I saw the story, so that's the only
20 answer I can give you; that I wanted it to be on the 12:38
21 front page because I thought there was a public
22 interest in this.

23 302 Q. Just going on from that, as I understand it you
24 attempted to contact the Press Office for comment, is
25 that right? 12:39

26 A. No, I did contact the Press Office.

27 303 Q. And did they make any comment?

28 A. No. They said, from memory, they do not comment on
29 disciplinary cases.

1 304 Q. Yes. And Sergeant Hughes, did you think about whether
2 you ought to contact Sergeant Hughes?
3 A. No. It's not my -- Sergeant Hughes, Mr. Hughes wasn't
4 suspended, he was merely under disciplinary
5 investigation, there are a myriad disciplinary 12:39
6 investigations happening all the time. And even when I
7 write about gardaí who are suspended, and I have
8 canvassed the views of other journalists about this,
9 but my view is I always put it to the Garda Press
10 Office. There are various things that guards aren't -- 12:39
11 I do believe under the Garda Code, under the Garda Act
12 they are not allowed to talk to me. So, my route, not
13 just in relation to Mr. Hughes, but any serving member,
14 I go to the Press Office, they are the ones who are
15 authorised to comment. 12:40
16 305 Q. Yes. You attended for an interview with one of our
17 investigators in connection with the article?
18 A. That's right.
19 306 Q. That was on the 18th January of this year. That's to
20 be to found, as I have said, on page 7737. You did say 12:40
21 in that, that your focus was on the disciplinary
22 process?
23 A. Yes.
24 307 Q. That was what made it the news story?
25 A. The victim impact was not a story for me, it had been 12:40
26 in the media two years ago, so... Yes, just two years
27 ago.
28 308 Q. And I think you confirmed what you had written, that
29 this was from a Garda source?

1 A. The story said Garda sources. It was one of the last
2 times I ever used that phrase, Chairman, I have to say,
3 because you can see why, but yes.

4 309 Q. And you were asked about the sort of, how you had
5 described it, was it 'high ranking' or 'senior enough' 12:40
6 or 'senior rank', and I think you confirmed that it was
7 not Assistant Commissioner or Commissioner rank?

8 A. Yes.

9 310 Q. And I just want to recall at this point, I think in the
10 previous hearings of the Tribunal you were contacted in 12:41
11 relation to sources in relation to the Sergeant McCabe
12 story, isn't that correct?

13 A. Yes, I gave evidence, yes.

14 311 Q. And I think you attended for interview in that?

15 A. Yes. 12:41

16 312 Q. And you gave evidence to the Tribunal?

17 A. Yes.

18 313 Q. And I think you were of assistance to the Tribunal
19 there in relation to whether Superintendent Taylor had
20 briefed you, isn't that correct? 12:41

21 A. I took a certain route, yes.

22 314 Q. And I think, consistent with your journalistic claim of
23 privilege, you were in a position to confirm to the
24 Tribunal who had not briefed you about particular
25 issues? 12:41

26 A. Yes.

27 315 Q. And in that respect, I think are you in a position to
28 confirm whether or not the source was above the rank of
29 Inspector in this instance?

1 A. Again, this is a difficulty for me, Chairman, because I
2 worry about the pool. I will answer the question but
3 may I say first that it would be a mistake for people
4 to assume that I have a wide panel or a wide area of
5 sources. So, to give -- I will answer the question but 12:42
6 I just need to contextualise this.

7 CHAIRMAN: It's all right. You can just answer your
8 own way.

9 A. I have had -- and this is purely hypothetically -- I
10 have had occasion where I have got information about, 12:42
11 say, a serious investigation in the Kevin Street area
12 of Dublin and I have got that from -- and I'm not
13 saying I have got this but just an example -- I have
14 got that from someone who is in Mayo, okay? So, do you
15 know what I'm trying to say there, Chairman? When I 12:43
16 answer the question it's not pointing at anyone. I'm
17 keeping it as wide as I can. We get -- I get --
18 journalists get, you would be quite surprised to hear
19 where we get our information from. It's not just one
20 discrete unit or one discrete team or any one discrete 12:43
21 station. It could be anybody. Paper doesn't refuse
22 ink and beggars can't be choosers; I get my information
23 from where I get it from. But I can confirm that the
24 source was not above the rank of inspector.

25 316 Q. Thank you, Mr. O'Toole. If you'd answer any questions 12:43
26 other people may have.

27 CHAIRMAN: Okay. Now, Mr. O'Higgins?
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29 THE WITNESS WAS CROSS-EXAMINED BY MS. HORAN AS FOLLOWS:

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MS. HORAN: I am asking the questions.

CHAIRMAN: I am so sorry.

MS. HORAN: Not at all, Chairman.

317 Q. Good afternoon, Mr. O'Toole. My name is Shelly Horan, 12:43
I am one the barristers acting for An Garda Síochána
and I just have a couple of questions, if I may.
If I could just take you back to the letter that
Mr. McGuinness opened to you a few moments ago, I think
it's at page 2475. This is the letter from Inspector 12:44
Fergus Dwyer, of the 21st January of 2009. 2475,
Mr. Kavanagh, apologies. Thank you.
So you have seen this letter already today, Mr.
O'Toole. I just wanted to draw your attention to the
last paragraph of it, if I may. The context in respect 12:44
of which Inspector Dwyer was writing to you is
obviously in respect of this particular article, and in
the last paragraph he says there:

"In the article you make reference to 'Garda sources'. 12:44
As any unauthorised communication in relation to
information coming to a member's knowledge in the
course of his or her duties is a breach of discipline
and in order to progress the complaint investigation, I
must formally request a meeting with you to discuss the 12:45
above matters."

That's the context in respect of which Inspector Dwyer
wrote to you, isn't that so?

1 A. Yes, I don't recall the incident, I have to say.

2 318 Q. I beg your pardon?

3 A. I don't recall this.

4 319 Q. You don't recall it. But --

5 A. I get lots of -- it may be 25 times I have been 12:45

6 interviewed by gardaí, so they do blend into one.

7 320 Q. Indeed. But in any event, as is clear from the letter,

8 he was writing to you as part of an investigation into

9 a potential unauthorised communication in relation to

10 information coming to a member's knowledge in the 12:45

11 course of his or her duties being potentially a breach

12 of discipline, isn't that so?

13 A. Yes, that's correct.

14 321 Q. And then you, a week later, gave the statement that

15 Mr. McGuinness already took you to where you didn't 12:45

16 wish to comment on any aspect of the article and you

17 weren't prepared to reveal your sources, as is your

18 right.

19

20 Can I just take you back to the interview that you did 12:46

21 with the Tribunal investigators, which Mr. McGuinness

22 already opened to you. If I could just take you, first

23 of all, I suppose page 7742 please, Mr. Kavanagh, and

24 if we could just go down to line 78. So you confirm

25 there that you did decline to answer any questions 12:46

26 regarding the article.

27 A. Yes.

28 322 Q. And if we just move, then, please, to page 7744 of the

29 same document, lines 123 on. You do say there that you

1 believe the information, the Victim Impact Statement
2 part, was already in the public domain and then you
3 refer back to that article by Maeve Sheehan which you
4 have already alluded to in your evidence today?

5 A. That's correct.

12:47

6 323 Q. You say that story makes it clear the Victim Impact
7 Statement was not read until after her death, isn't
8 that so?

9 A. Yes.

10 324 Q. And you didn't, in the article itself, which is at page 12:47
11 83092 -- we don't need to go to it, we have already
12 seen it -- you didn't name the guard that you were
13 referring to in the article, isn't that so, Mr.
14 O'Toole?

15 A. No, I did not.

12:47

16 325 Q. And then -- and Mr. McGuinness has already taken you to
17 this and in fact I don't think I need to go there
18 because you have already confirmed that the source was
19 not somebody above the rank of inspector, so I don't
20 need to take you that part of the interview where you 12:47
21 dealt with that in a similar way. But at page 7745, if
22 I may draw your attention to line 137 on that page, you
23 confirm there that the story was correct, isn't that
24 so?

25 A. Nobody has ever said there was anything inaccurate 12:47
26 about my story, Chairman. I listened to John saying
27 the story was wrong. Maybe -- you know, I do object to
28 that slightly because there was nothing wrong in that
29 article.

1 CHAIRMAN: I am sorry, say that again.

2 A. There was nothing wrong or inaccurate in that article,
3 Chairman, so I slightly object to what John said, but
4 let him at it.

5 326 Q. MS. HORAN: I think you did receive a letter from 12:48
6 Sergeant Hughes's solicitors which you referred to also
7 in your interview, if you just turn to page 7747,
8 please, Mr. Kavanagh.
9 Sorry, The Star, I should say, received a solicitor's
10 letter on behalf of Sergeant Hughes following 12:48
11 publication of the article. You believe it alleged
12 defamation in the article, but your recollection is
13 that no proceedings against the newspaper were
14 subsequently initiated, and that's correct, is it?

15 A. Yeah, I don't think there were any proceedings 12:48
16 initiated, yes. To the best of my recollection, we did
17 get a, I think it was Sean Costello solicitors, we got
18 the letter from; that's my memory.

19 327 Q. Thank you. I think I have just one more question for
20 you. If we could just turn to page 7746, please, 12:48
21 Mr. Kavanagh.
22 Line 154. Mr. McGuinness has already taken you through
23 it but just to reiterate you say that when you
24 contacted the Garda Press Office for comment
25 pre-publication, they did not comment. Their answer 12:49
26 was to say they don't comment on disciplinary cases,
27 and that's still the position, isn't that right?

28 A. Yes.

29 328 Q. Thank you very much, Mr. O'Toole.

1 CHAIRMAN: Very good. Thanks very much. Now...

2

3 THE WITNESS WAS CROSS-EXAMINED BY MR. LYNN AS FOLLOWS:

4

5 MR. LYNN: Michael Lynn is my name, I am representing 12:49
6 Sergeant Hughes. You are not giving us a full account
7 because you don't want to compromise your sources,
8 isn't that correct?

9 A. I am giving as full account as I can, but at the same
10 time protecting my sources. 12:49

11 329 Q. You are giving us a selective account.

12 A. I have given an honest account.

13 330 Q. Yeah, a selective. You are not giving us --

14 A. I have selected not to tell you who my sources are, so
15 yes. 12:49

16 331 Q. I just want to be clear. For you, the news angle was
17 the disciplinary proceedings?

18 A. That's correct, Chairman, yes.

19 332 Q. And it was that information that came up in
20 conversation, is the way you put it, with your Garda 12:50
21 source?

22 A. That's correct, Chairman, yes.

23 333 Q. And you say it was the top line?

24 A. Yes, yes, it was -- as a professional news journalist,
25 I considered it interesting and I thought people would 12:50
26 be interested, and it was in the public interest as
27 well.

28 334 Q. It's already been pointed out to you that the headline,
29 and then there is a, it's called a sub-headline or a

1 smaller headline?

2 A. A strap line.

3 335 Q. What is it, a strap line?

4 A. Mm-hmm.

5 336 Q. That neither of those refer to any disciplinary 12:50
6 investigation?

7 A. Yes.

8 337 Q. And am I right that a journalist, when they write an
9 article or a news report, the introduction is the key
10 to it -- the first paragraph? 12:50

11 A. That's my top line, yes, your introductory paragraph is
12 your top line.

13 338 Q. And there is no mention of the disciplinary
14 investigation in your top line?

15 A. As I said, the story was changed by someone else in the 12:51
16 production process. I wrote the story about the
17 disciplinary process. As I said to the Chairman
18 earlier, I was not happy when I saw the story in the
19 paper the next day because that was not the story that
20 I wrote. 12:51

21 339 Q. And you told Mr. Hennessy that it was a senior enough
22 garda?

23 A. No, no, he -- my recollection is he asked me and I said
24 "Ah John, they are senior enough," so I was answering a
25 question from John. I have a relationship with John. 12:51
26 I can see that John was upset and my answer to John was
27 I said, "John they are senior enough."

28 340 Q. Okay, it was in answer to a question?

29 A. To the best of my recollection, yes. Well I'm not

1 going to go around saying -- that's not -- I'm very
2 zealous about sources, so it's not something that I
3 promote or put out there.

4 341 Q. But it was a senior enough source?

5 A. Yes. 12:52

6 342 Q. And --

7 A. But I -- sorry --

8 343 Q. Sorry, I shouldn't interrupt you, Mr. O'Toole.

9 A. This is all entirely subjective, but it always depends
10 what you mean by 'senior enough'. That could mean 12:52
11 experienced, do you know what I'm saying?

12 344 Q. Tell us what you mean by 'senior enough'.

13 A. Well 'senior enough' -- look, if I didn't tell John,
14 with respect, I am not going to tell you. That was my
15 answer because that was the answer that I was 12:52
16 comfortable with and it was an honest answer.

17 345 Q. But you said it's subjective. So it doesn't really
18 impart any information if you don't tell us what your
19 understanding of 'senior enough' is?

20 A. Look, it was a senior enough source. I can't -- I am 12:53
21 afraid that I can't -- I gave an answer to John. I
22 gave an answer to the investigators. I am a citizen as
23 well a journalist and I do think it's important for Mr.
24 Hughes to know the truth so I have no problem in giving
25 evidence. But this is an area that causes me great 12:53
26 difficulty. I answered then to John, I am answering
27 now to you and to the Chairman, my answer was it was
28 senior enough. I can't go further than that I'm
29 afraid.

1 346 Q. And you contacted the Garda Press Office and you
2 weren't surprised that they said "no comment"?

3 A. The Garda Press Office, no, I was not surprised. I
4 have contacted them many times about suspensions and
5 disciplinary matters. I don't recall they have ever 12:54
6 given me any comment apart from a no comment.

7 347 Q. So it follows that you knew that this was information
8 given to you that was completely and utterly
9 unauthorised and always would be unauthorised?

10 A. Yes. I'm not a press officer, I am a journalist. 12:54

11 348 Q. And you didn't contact Sergeant Hughes?

12 A. I did not. I contacted the Garda Press Office.

13 349 Q. Why didn't you contact Sergeant Hughes?

14 A. Well, it's my practice, as I said, to contact the Garda
15 Press Office. I'm not going to say that I didn't have 12:54
16 a number. I didn't have a number for Mr. Hughes. I
17 probably -- I'm sure if I endeavoured hard enough, I
18 could have, but my practice, and reading other papers,
19 the practice of all other crime journalists that I
20 would know is to contact the organisation that the 12:55
21 person works for.

22 350 Q. This is slightly different. Mr. Hennessy had asked you
23 not to report the story because it was unfair,
24 distortion --

25 A. What was distorted? 12:55

26 351 Q. I am just telling you what Mr. Hennessy said to you.

27 A. But nothing was distorted.

28 352 Q. And it would be unfair to Sergeant Hughes. Now, why
29 didn't you contact Sergeant Hughes?

1 A. My standard practice is to contact the -- in relation
2 to the Gardaí under investigation or under disciplinary
3 process is to contact the Garda Press Office.

4 MR. LYNN: Thank you, Mr. O'Toole.

5 A. Thank you.

12:55

6 CHAIRMAN: Now, Mr. Kelly -- anybody else before I come
7 to Mr. Kelly? There is nobody else. Yes, Mr. Kelly,
8 anything you want to --

9 MR. KELLY: No, nothing I want to ask, Chairman.

10 CHAIRMAN: All right. So then we're happy that's the
11 end of the evidence of Mr. O'Toole. Thanks Mr. O'Toole
12 for -- sorry, just let me say, thanks for coming, Mr.
13 O'Toole, and assisting us with our inquiries. Thank
14 you very much indeed.

12:56

15

12:56

16 THE WITNESS THEN WITHDREW.

17

18 CHAIRMAN: Very good. So, it's just about lunch time,
19 so we'll break there. Thank you very much.

20

12:56

21 THE HEARING ADJOURNED FOR LUNCH AND RESUMED AS FOLLOWS

22

23 MR. McGUINESS: Chairman, the next witness is
24 Detective Chief Superintendent Walter O'Sullivan. And
25 his statement, for the benefit of the parties, is to be
26 found at page 657 onwards.

13:59

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1 DETECTIVE CHIEF SUPERINTENDENT WALTER O' SULLIVAN,
2 HAVING BEEN SWORN, WAS EXAMINED BY MR. MCGUINNESS AS
3 FOLLOWS:

4 CHAIRMAN: Thanks very much, chief superintendent.

5 353 Q. MR. MCGUINNESS: I think you are still serving in An 13:59
6 Garda Síochána?

7 A. No, Chairman. I have retired.

8 354 Q. You have just retired?

9 A. I have retired over the last eight months.

10 355 Q. I am sorry. Yes. At the time you made your statement 13:59
11 you were still serving?

12 A. I was.

13 356 Q. And the position you last held was detective chief
14 superintendent in charge of the Garda National Bureau
15 of Criminal Investigation? 13:59

16 A. That's correct, Chairman.

17 357 Q. You have set out the details of your service in your
18 statement, and I don't intend to go through that in
19 detail, it's there, but I think you took up a position
20 as a detective inspector at the request of Assistant 14:00
21 Commissioner McHugh in 2006?

22 A. That's correct, Chairman.

23 358 Q. And you recite, there was a spate of, I think, five
24 murders, or perhaps six even in the first six months --

25 A. I think there was six in the first six months of 2006. 14:00

26 359 Q. Yes. And I think you were in the R District, which
27 comprised the sub-districts of Coolock, Malahide and
28 Swords?

29 A. Yes, Chairman.

1 360 Q. And you set out the personnel in your statement as to
2 who was occupying what position there, isn't that
3 correct?
4 A. Yes, Chairman.
5 361 Q. And I think, as of the date of the murder, the chief 14:00
6 superintendent was Gerry Phillips?
7 A. Yes, Chairman.
8 362 Q. As divisional officer. Inspector Waters was acting
9 superintendent, and Inspector Melvin had retired and I
10 think another inspector who had been serving had gone 14:01
11 to the UN, is that right?
12 A. He had come back from the UN and retired, that's the
13 reason I was there.
14 363 Q. Okay. I think you were the senior investigation
15 officer in the murder? 14:01
16 A. Yes.
17 364 Q. And as such, did you travel to Swords Garda Station on
18 the morning of the 20th?
19 A. On the morning of the 20th I travelled to Swords Garda
20 Station. 14:01
21 365 Q. And tell me how you set about that task on the morning.
22 First of all, was there a conference scheduled for any
23 particular time?
24 A. There was a conference scheduled for that day. And my
25 office then was in Coolock Garda Station, so, I went to 14:01
26 Coolock Garda Station and then I travelled out to
27 Swords Garda Station and --
28 366 Q. Inspector Cryan at the time, in his notes, has a
29 meeting which commenced at 11:00am and then another one

1 slightly later in the day. Were you intending to be
2 there for both meetings or whatever meetings were
3 taking place?

4 A. My plan was to be there for the investigation
5 conference. But I was going there anyway because I had 14:02
6 some other work to do to meet with the district
7 detective unit and the incident room and other
8 personnel to get the business of the investigation up
9 and running.

10 367 Q. And what time do you recall arriving at the station 14:02
11 there?

12 A. I think it was sometime around probably around 9:30,
13 9:45, that way.

14 368 Q. Yes.

15 A. I think. 14:02

16 369 Q. And did you meet, amongst others no doubt, Sergeant
17 Hughes?

18 A. I did.

19 370 Q. Do you recall speaking to Sergeant Hughes?

20 A. I do. 14:02

21 371 Q. And how did that come about?

22 A. I was in the district detective unit, and I inquired as
23 to where Sergeant Liam Hughes was, and somebody
24 mentioned to me that he was in the community policing
25 office and that he wasn't good. I wanted to talk to 14:03
26 him anyway, it was my intention to speak with him.

27 372 Q. Can I just ask you there, your state of knowledge of
28 Sergeant Hughes, I think you had known him?

29 A. I had worked with Sergeant Liam Hughes in Fitzgibbon

1 Street, which is the U District of the city, and
2 Sergeant Liam Hughes was the traffic sergeant but he
3 also had responsibility for events, the policing of
4 events, and I had known him. And, as I say, he was a
5 good colleague to me in that he gave me access to his 14:03
6 office and access to his word processor at the time,
7 which were few on the ground at the time, so, that was
8 helpful to me, so he was a good colleague to me, yes.

9 373 Q. I think you have recorded in your statement your
10 opinion of him at that time as a good investigator? 14:03

11 A. Competent, thorough police officer, yes.

12 374 Q. And you had no reason to think otherwise when you
13 arrived in Swords Garda Station?

14 A. No.

15 375 Q. What was your knowledge of his involvement, if any, 14:04
16 with Ms. Saulite and/or in relation to any other
17 incidents?

18 A. I knew his involvement in that case, that he was the
19 lead investigator, the sergeant in charge of that -- or
20 the member in charge of that particular investigation, 14:04
21 senior investigating officer of that particular
22 investigation, himself and Garda Declan Nyhan, and
23 others. But I knew he was the lead investigator and I
24 knew that he had -- that the case was before the
25 courts, and the matter was being processed. 14:04

26 376 Q. And did you know that the accused person had pleaded
27 guilty and had been remanded for sentence?

28 A. I can't recall that at this juncture, no, I can't
29 recall that, but I think that -- I think I was aware

1 that he was obviously in custody, and that he had
2 been -- I think he had been charged and he was in
3 custody, both on that and other matters.

4 377 Q. Yes. And I did interrupt you there, you were about to
5 tell us precisely then how you did meet Sergeant Hughes 14:05
6 on the morning?

7 A. Yeah, I went to his office.

8 378 Q. Yes.

9 A. The community policing office and he was in his office,
10 and I spoke to him. 14:05

11 379 Q. Yes. He seemed to suggest in his evidence that the
12 conference was over, or it was a very short conference?

13 A. Whatever conference -- well, I was the person who would
14 be presiding over the conference, the main
15 investigation conference, so that hadn't taken place. 14:05

16 380 Q. Yeah. And had you any intention in relation to the
17 conference, as far as in relation to Sergeant Hughes?

18 A. Well it was my intention to, I suppose, to put him on
19 notice or to prepare him for the fact that I would be
20 asking him to give an account of the abduction 14:05
21 investigation to the conference, to brief the officers
22 in relation to it; that was my intention.

23 381 Q. Had you seen the file or do you know whether the file
24 had been sent for at that stage?

25 A. No, I had no information on that. 14:05

26 382 Q. Right. Did you know at that stage that Ms. Saulite had
27 apparently produced a draft Victim Impact Statement?

28 A. No.

29 383 Q. Right. And if you just describe then, you obviously

1 went to see him in the knowledge that you were told he
2 wasn't good?

3 A. He wasn't good, yeah.

4 384 Q. Was that all that was said about him?

5 A. That was all that was said, yeah, that he is not good 14:06
6 or he is not in a good way or in a good place.

7 385 Q. Okay. Anyway you went into his office.

8 A. Went to his office.

9 386 Q. How did you find him?

10 A. He was seated at his desk, and, as I say, I don't know 14:06
11 whether he was in uniform or plane clothes, but he was
12 seated at his desk and he looked poorly, and he was
13 agitated and he was upset, and he was almost in tears,
14 and he stood up and he sat down. And so, I spoke with
15 him, and he took the, this document out of the drawer, 14:06
16 a footlocker, and he said it was the Victim Impact
17 Statement that -- he said that by Baiba Saulite had
18 come to the station to meet him in the days prior to
19 her murder, and that she had presented to him with this
20 document, which was unsigned and incomplete, and it was 14:07
21 a Victim Impact Statement, and that she had reported to
22 him that Mr. A was going to do harm to her and to her
23 solicitor. And --

24 387 Q. Did you know who her solicitor was?

25 A. I did, I did, yeah. 14:07

26 388 Q. And just to pause at that point. Had you been aware of
27 any incidents relating to Mr. Hennessy or any
28 protection issues?

29 A. I was aware that -- I was aware that he had been

1 afforded protection. I was aware that there was an
2 incident at his house, those were the incidents, I was
3 aware of them.

4 389 Q. And it would appear that some intelligence had been
5 received in early October, in the middle of October, 14:07
6 the 11th October in fact, relating to a threat to
7 Mr. Hennessy, and were you aware of a bulletin that had
8 been issued by Chief Superintendent Byrne in relation
9 to that?

10 A. I can't remember now, I can't remember. But I know I 14:08
11 was aware there was information and I was aware that
12 there was a threat to Mr. Hennessy.

13 390 Q. Right. Can you recollect then -- you have told the
14 Chairman there that he told you that she had expressed
15 a fear in relation to herself and the solicitor. Were 14:08
16 you going to state that he continued to talk about what
17 else she said, did she mention any other persons to
18 you?

19 A. No, that was the sum of it I think, that was the sum of
20 it, yes. 14:08

21 391 Q. Did he mention specifically any threat to himself and
22 Garda Nyhan?

23 A. No, no. From what I can remember, no.

24 392 Q. Okay. And did he hand you the Victim Impact Statement?

25 A. No. 14:09

26 393 Q. Well, you have no recollection of either taking it or
27 reading it or any part --

28 A. No, I didn't read it, no.

29 394 Q. Okay. It's suggested that you took it and considered

1 it I think and handed it back to him and said that
2 there was nothing in it that he need be concerned about
3 effectively?

4 A. No, that's not correct. I didn't. I didn't read it.
5 And I didn't take it from him. 14:09

6 395 Q. Okay. But did he draw your attention to any particular
7 part of it?

8 A. He just said that -- that the -- he didn't point out
9 any particular part of it because he took it out of the
10 drawer, put it on the desk, took it back off the desk, 14:09
11 put it into the drawer. I think he may have done this
12 two or three times; he was very agitated. And I said
13 to him, look, settle down, Liam. And so, he just said
14 that Baiba Saulite had called to the station the days
15 prior to her murder and where she had reported that she 14:10
16 was -- that Mr. A was going to do harm to her and to
17 John Hennessy.

18 396 Q. And did you understand that she had said that to him or
19 that that was something that was in the statement?

20 A. That, I can't recollect now. But I know that this is 14:10
21 what -- I got the impression that this is what she had
22 said to him.

23 397 Q. Said to him, I see. Okay. At the bottom of your
24 statement, at page 662, you say that you informed
25 Sergeant Hughes that he had undertaken a very 14:10
26 successful investigation into the abduction case, and
27 that the children had been safely returned to their
28 mother and the case was before the Circuit Criminal
29 Court, and then you added on the last sentence there -

1 I'm not going to read it, you can see it there - in
2 what context was that said?

3 A. Well, Sergeant Hughes was particularly upset and he
4 said, look, this will have professional difficulties
5 for me, that they will come after me. So I said, 14:11
6 listen, Liam, settle down here, you have done yourself
7 a good -- you have conducted a good investigation, the
8 children have been returned to their mother, Mr. A is
9 before the courts, he is being charged with offences
10 and whatever happens, that will be taken into account. 14:11

11 398 Q. But, who did you understand he was referring to when he
12 said "they will come after me"?

13 A. I presume management, but he didn't say.

14 399 Q. Okay. And what did you take from that yourself?

15 A. Well look, I said my thinking was, look, Liam, you 14:11
16 know, whatever is going to happen you have done a good
17 job with regard to the investigation, and this will be
18 taken into account regardless of whatever happens. And
19 I didn't mention discipline, and I said to him, look,
20 to come up to the investigation, up to the conference, 14:12
21 we'll get stuck into the investigation, it's important
22 for you to be there and you should be there, you know.

23 400 Q. But were you assuming that there would be some
24 repercussions or were you just trying to put his mind
25 at ease? 14:12

26 A. Well, I was settling him down. You know, I didn't know
27 what was going to happen but I just said, listen,
28 settle down here Liam.

29 401 Q. Okay. And what happened the Victim Impact Statement

1 statement? Did you make any remark about that?

2 A. I said to him, look, to make a copy of it and hand it
3 in the -- the document he had to the incident room.

4 402 Q. Okay. And I mean it doesn't appear that he did that,
5 but could he have misunderstood what you were saying 14:12
6 about it in the condition he was in?

7 A. Look, it's possible. It's possible he misheard, it's
8 possible, but I suppose I was quite clear I said, look,
9 because it was -- it was an important document to the
10 murder investigation so I suppose I was clear enough in 14:13
11 my instructions it in relation to it, to make a copy of
12 it and hand it into the incident room.

13 403 Q. Yes. Did -- you presided over the first conference
14 then?

15 A. Yes. 14:13

16 404 Q. Was the first conference that morning?

17 A. Yes. Well, from what I can recollect, it was sometime
18 around lunch hour or after lunch, or midday.

19 405 Q. And do you recall yourself bringing up the issue of the
20 fact that Sergeant Hughes had produced this document? 14:13
21 A. No, I don't think so, no. No, I don't think so. I
22 just got on with the business of the conference because
23 there was quite an amount of investigative tasks to
24 direct on.

25 406 Q. And I think he didn't attend that conference? 14:13
26 A. No, he did not, not to my knowledge anyway, he didn't.

27 407 Q. And had you seen him; according to his own statement he
28 was actually in the conference room for sometime before
29 it began and then left to go into the kitchen?

1 A. I can't -- I can't remember seeing him in the kitchen,
2 but I did see him in the corridor after my meeting.

3 408 Q. Right. And how long would your meeting have taken
4 place for?

5 A. Well, the first one, normally for a homicide 14:14
6 investigation or a murder investigation, is quite a
7 lengthy one, it would go on for a couple of hours.

8 409 Q. And did you say to anyone that you had invited him or
9 expected him to attend the conference?

10 A. I did, yeah. I mentioned it to Detective 14:14
11 Superintendent Michael Byrne. We were in conversation
12 before the conference and Sergeant Liam Hughes went by
13 and I mentioned to Michael Byrne that I had, I had
14 invited him to the conference.

15 410 Q. Now, in the days following that, did you have any 14:14
16 conversation with Sergeant Hughes, did you see him in
17 and around the station on the next day or --

18 A. No, no, I don't think so. No, no, I don't think so.
19 No.

20 411 Q. And do you recall bringing up the subject matter of the 14:14
21 Victim Impact Statement at any stage, as to where it
22 was or who had it or what had happened it?

23 A. To who?

24 412 Q. To anyone.

25 A. I don't think so, no. I don't think so, no, no. 14:15

26 413 Q. In any event, the person who had pleaded guilty, whom
27 we're not naming as you know, sought bail --

28 A. Correct.

29 414 Q. -- the following week, and there was a bail hearing

1 before Mr. Justice White, and I think you opposed that?

2 A. Yes.

3 415 Q. And I think Sergeant Hughes gave evidence, is that
4 correct?

5 A. He did. 14:15

6 416 Q. Can you recall the terms in which you described the
7 accused to the Court, or indeed beforehand in any
8 discussion with counsel for the DPP?

9 A. Eh, I told counsel that the evidence I would be giving
10 was from the information I had received, that if he was 14:15
11 released on the bail he would commit murder,
12 interferences with witnesses, assault and something
13 else I think, intimidation.

14 417 Q. And did you say anything about his connections, whether
15 he had dangerous connections? 14:16

16 A. No, no, not to counsel, no.

17 418 Q. International connections or terrorist connections?

18 A. Not to counsel no. Not to counsel, no.

19 419 Q. And in court? You gave the evidence in court?

20 A. My evidence was brief, just to that point and that was 14:16
21 it.

22 420 Q. Yes. Just going back to your first meeting with
23 Sergeant Hughes, did you say anything to him about the
24 victim report to tend to suggest to him that there
25 wasn't a problem because the Guards knew about a threat 14:16
26 to her and protection had been sought for her and had
27 it had been refused by the Commissioner?

28 A. No.

29 421 Q. Did you mention the issue of protection for Ms. Saulite

1 at any stage in that conversation?

2 A. No.

3 422 Q. Okay. You refer to contacts with him at page 665 of
4 your statement in the middle of the page --

5 A. Contacts with whom? 14:17

6 423 Q. With Sergeant Hughes.

7 A. Yes, indeed.

8 424 Q. -- on the 23rd and the 24th, and would that have been
9 entirely in connection with the preparation for the
10 bail application? 14:17

11 A. Indeed, indeed, yeah. I rang him, I rang Sergeant Liam
12 Hughes in relation to the bail application and to
13 prepare for the bail application, and then I met him
14 then on the 24th in relation to it.

15 425 Q. Yes. 14:17

16 A. I think actually on the morning of the 24th I met
17 Sergeant Liam Hughes as well.

18 426 Q. You make reference to a report that you had prepared at
19 the end of January in relation to the position of
20 Sergeant Hughes and Garda Nyhan, and perhaps we'd look 14:18
21 at that. It's at page 698. And do you recall the
22 circumstances in which you came to prepare this?

23 A. I can't say I do. Obviously I got something down
24 from -- in relation to it, and I probably responded to
25 it. 14:18

26 427 Q. It refers to a communication from Detective
27 Superintendent Brendan Cloonan. Did this relate to the
28 issue of threats to the members primarily?

29 A. That's the title of it - "Threats to the members" -

1 yeah.

2 428 Q. The second paragraph then describes Sergeant Hughes's
3 position there in relation to the offence, and if we go
4 over the page, the end of the first paragraph seems to
5 suggest: 14:18

6

7 "At this juncture in the investigation neither my
8 office nor the incident room is in receipt of
9 information which suggests there is a specific threat
10 to the life of Sergeant Liam Hughes and that of Garda 14:19
11 Declan Nyhan."

12 A. Yes.

13 429 Q. And do you recollect, had you been made aware of a
14 newspaper article that had been published soon after
15 the murder suggesting that there was a contract out to 14:19
16 kill a cop?

17 A. No.

18 430 Q. Now, you weren't involved in the investigation of that?

19 A. No, no.

20 431 Q. Did you come to learn of it? 14:19

21 A. I probably came to learn of it at some stage but I
22 can't remember now.

23 432 Q. The next paragraph there seems to be dealing with a
24 complaint about, primarily, Sergeant Nyhan being kept
25 in the dark, but do you record there that Sergeant Liam 14:19
26 Hughes and his staff were invited --

27 A. Yes.

28 433 Q. -- by you to take part in the murder investigation?

29 A. Yes.

1 434 Q. And you conclude that paragraph saying "there is no
2 issue with regard to sharing information with the
3 members concerned"?

4 A. No, none whatsoever, no.

5 435 Q. Had somebody raised that as a possible concern or is 14:20
6 that you just addressing that issue?

7 A. It must be some issue that was raised in the previous
8 correspondence or something.

9 436 Q. The final paragraph then seems to relate to a
10 suggestion or a consideration of isolation of members 14:20
11 at this point in time. Had that been an issue that was
12 reported to you?

13 A. No, it wasn't an issue for me. It wasn't something
14 that was reported to me and it wasn't an issue for me.
15 I didn't know Garda Declan Nyhan but I certainly knew 14:20
16 Sergeant Liam Hughes and it wasn't an issue for me in
17 relation to any issue like that whatsoever.

18 437 Q. An issue that arose in the following year, and carried
19 into 2007 and slightly beyond perhaps, is that Sergeant
20 Hughes was asked to make a statement for the purpose of 14:21
21 a murder investigation. I think you became involved in
22 that, is that right?

23 A. Yes.

24 438 Q. And you refer in your statement to a number of job
25 assignments which were called over at conferences? 14:21
26 A. Yes.

27 439 Q. And is that the normal way?

28 A. That's the normal way, yeah. It's an update.

29 440 Q. People say, has that been done yet?

1 A. Has it been completed? A report in relation to it?
2 Yes.

3 441 Q. Can I ask you to look the a page 695 of our documents.
4 This is a report signed by you I think?

5 A. Yes. 14:21

6 442 Q. And in the second paragraph it refers to Mr. Hennessy,
7 and that related to an issue of whether threats had
8 been made directly by a person to him?

9 A. Yes.

10 443 Q. And then the third paragraph records that you made a 14:22
11 request to Sergeant Hughes, is that correct --

12 A. Yes.

13 444 Q. -- on the 20th September. Could you just explain the
14 circumstances in which you did that, or how you did
15 that? 14:22

16 A. Well I telephoned him on the 20th -- it says the 20th
17 there -- on the 20th, and I asked him for I think a
18 formal statement of witness comprehensively covering
19 his dealings with Baiba Saulite and Mr. A, and any
20 investigation undertaken by him in relation to the 14:22
21 child abduction. So, I think he asked me why do you
22 want this particular statement? So I said it would go
23 in some way to proving motive with regard to the murder
24 investigation. So, he said, look, listen, I'll have to
25 take legal advice on it. So I said, okay, fine. That 14:22
26 was that. So, I telephoned him back again in early
27 October to inquire about the status of his statement,
28 and he said it was with his solicitor I think and that
29 he would have it for me within the week.

1 445 Q. Yes...

2 A. And then I telephoned him again then later on, I think
3 around mid-October, and he said it was still with his
4 solicitor but he would get back to me.

5 446 Q. Yes. I was wondering is that why you delayed until 14:23
6 writing this report on the 25th November?

7 A. Well, I was waiting for the statement to be delivered,
8 and then it wasn't delivered, so then I wrote my report
9 on the, whatever date that was.

10 447 Q. And just, in relation to any conversation with him on 14:23
11 the occasion when you spoke to him on the phone about
12 his statement, did you link it to other issues?

13 A. In what respect?

14 448 Q. Well, did he raise any other issues with you about why 14:24
15 he was speaking to a solicitor or what he might want to
16 put into the statement?

17 A. No, no.

18 449 Q. And specifically, did he raise issues about systems
19 failures or the like?

20 A. No, no. The first time I heard of a systems failure 14:24
21 was in 2009 when it was prepared to me in a
22 questionnaire document from the confidential recipient
23 office. But no mention of a systems failure certainly
24 was mentioned to me by Sergeant Liam Hughes on that
25 occasion. 14:24

26 450 Q. Had you participated -- just going back a little bit in
27 time -- had you participated in the Mangan inquiry?

28 A. Well, except to present for interview.

29 451 Q. Pardon?

1 A. Except to present for interview.

2 452 Q. Yes. Well, that's what I was going to ask you about. 14:25
3 Could I ask you to look at page 2049. And this is a
4 somewhat later report in which Inspector Mangan is
5 reporting to Assistant Commissioner Feehan about the
6 fact-finding?

7 A. Yes.

8 453 Q. And the first three paragraphs there are 14:25
9 uncontroversial. Paragraph 3 recites that Inspector
10 Mangan contacted Superintendent Byrne to establish if
11 he had any information in his possession in relation to
12 the matter, and he indicated he was not in possession
13 of any such information.

14 A. Yes.

15 454 Q. Then if we go over the page. He deals with Sergeant 14:25
16 Hughes in the report, at number 4. At number 5 with
17 Garda Nyhan. Then he deals with Detective Sergeant
18 McEneaney in paragraph 6. And then he refers to other
19 matters there where he spoke to Inspector Donal Waters?

20 A. Mmm. 14:26

21 455 Q. He looks at files, he refers to Garda Aidan Walsh at
22 the bottom. And then, if we just scroll down a bit
23 further down to the bottom of page, then he refers to
24 those matters. It doesn't appear from the report that
25 he is reporting having spoken to you? 14:26

26 A. Yes, that is correct.

27 456 Q. And I was just going to ask you about that. Are you
28 clear that he did interview you?

29 A. Oh yes.

1 457 Q. Okay. I notice that you did give evidence in Garda
2 Nyhan's case, and I am sure you recall that?
3 A. I did, yeah, in a civil action, in the civil case in
4 the High Court, yes.

5 458 Q. There's a couple of references during your evidence to 14:26
6 this, and perhaps we'd just ask you to look at them and
7 confirm them and if it's correct.
8 Page 7556. And if we just go down to the bottom of the
9 page there, the last question:
10
11 "Did you have any involvement in Inspector Mangan's
12 fact-finding investigation?
13 Answer: No, except that I was interviewed as well in
14 relation to it, that's all.
15 Question: So, you were interviewed in relation to it? 14:27
16 Answer: Interviewed, yes, but I had no involvement. I
17 wasn't involved in the investigation."
18
19 And it goes on. Then question 79 you say you were
20 interviewed in relation to it and you were asked then 14:27
21 what your understanding was. You said it was to
22 establish what information was available or known.
23
24 Now, can you recall when Inspector Mangan interviewed
25 you, at this remove in time? 14:27
26 A. I can't really, but I know it was down in Store Street.
27 459 Q. And what do you recall? Do you recall being able to
28 tell him anything about --
29 A. Well, I recall telling -- he asked a question was there

1 information in relation to a threat to Baiba Saulite, I
2 said, no, there was no specific information in relation
3 to that.

4 460 Q. And --

5 A. That was it.

14:28

6 461 Q. Was there anything further that you recall?

7 A. No, that was it. No, that was it.

8 462 Q. Perhaps if we just go on down then. You are being
9 asked about the reports put in by the other Gardaí.

10 And if we just go onto the next page, you are being

14:28

11 asked whether you told Superintendent Mangan about a

12 particular visit to Baiba Saulite's house, and you say

13 you didn't. And then you are asked about what was in

14 it or not in it. And then if we go to page 7561, and

15 just go down there, and you are being asked about what
16 matters are not reflected in the Mangan report. Do you
17 recall that?

14:29

18 A. Mmm.

19 463 Q. Okay. Was that in the presence of Chief Superintendent
20 Feehan, as you recall?

14:29

21 A. Yes.

22 464 Q. It was, okay. They may be able to shed more light on
23 what was asked. You had -- presumably you had no note
24 of what you were going to be asked?

25 A. No, none.

14:29

26 465 Q. I think you were subsequently asked to provide a
27 statement for Chief Superintendent Feehan's -- the
28 discipline report, is that correct?

29 A. No.

1 466 Q. Could I ask you to look at this document, it's at page
2 2353. It starts at page 2352, and it's dated the 2nd
3 October, and it's addressed to Chief Superintendent
4 Feehan, and he appears to have appended that to his
5 report in relation to the discipline aspect. 14:30

6 A. Okay.

7 467 Q. Do you recall being asked to provide a statement?

8 A. No, not for the discipline, no.

9 468 Q. First paragraph just deals with where you were
10 attached, what rank you held, what you did to advance 14:30
11 the investigation, and it mentions Sergeant Hughes then
12 at that point in time in the last paragraph, do you see
13 that?

14 A. Yeah.

15 469 Q. And it goes on then: 14:30

16

17 "He was troubled by the document and expressed a view
18 it may lead to professional difficulties for him due to
19 the information contained in it."

20 14:31

21 And it says:

22

23 "The investigation team later obtained a copy of this
24 document from Sergeant Hughes.

25 14:31

26 I informed Sergeant Hughes he was welcome to join the
27 investigative case conference that was held later in
28 the day. Sergeant William Hughes did not attend."
29

1 So, that's your record there --

2 A. Yes.

3 470 Q. -- that you were reporting to Chief Superintendent
4 Feehan at the time?

5 A. Yes. 14:31

6 471 Q. Okay. I think prior to that, you had got a phone call
7 from Superintendent Curran, do you recall getting a
8 phone call?

9 A. I do.

10 472 Q. On the 17th July -- 14:31

11 A. Yes.

12 473 Q. -- of 2008. And what did he tell you in that?

13 A. He made -- this is 17th July, he made reference that he
14 had -- that Sergeant Liam Hughes had called to his
15 office and Sergeant Hughes had stated to him that, that 14:31
16 I had said that there was information in relation to,
17 that Baiba Saulite had a threat to her and that I think
18 the Garda Commissioner had not provided protection,
19 some words to that effect. So I said, look, listen,
20 send down an official report to me and I'll answer it. 14:32
21 which I did.

22 474 Q. I think you wrote a report, isn't that correct?

23 A. I did.

24 475 Q. And that's dated the 17th July, isn't that right?

25 A. 2008, yes. 14:32

26 476 Q. 2008. And perhaps we'll look at that -- page 690. And
27 the first two paragraphs deal with the murder and the
28 aftermath -- page 690. And you report there at the
29 bottom:

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"Neither I nor my officers were in receipt of any information prior to the murder of Baiba Saulite on the 19th November 2006 which stated there was a threat to her life from [blank] and his associates. No information has been collected to date by the investigation team during the course of this comprehensive investigation which states that the Garda Síochána were in receipt of information from intelligence sources that related to a specific threat to the life of Baiba Saulite prior to her death."

And then you say:

"Sergeant William Hughes suggests that during the course of a conversation with him that I reported to him that the Garda Síochána and the Commissioner of An Garda Síochána had possession of information prior to the 19th November 2006 relating to a specific threat to the life of Baiba Saulite from [blank blank] and his associates. This is not the case. No such information existed and Sergeant William J Hughes is incorrect and mistaken in his assertions concerning any conversations that I held with him."

A. Yes.

477 Q. Superintendent Curran forwarded that report by a report dated the same date, 17th July, at page 688, and he recites a conversation with Sergeant Hughes there in the middle paragraph, and then a meeting with him,

1 arranging a meeting, and then a telephone call, and he
2 raises the issue of work related stress. And then,
3 Sergeant Curran recalls the claim that he had heard
4 about the possession of prior information. And it's
5 quoted there in the following terms, the quotation in 14:35
6 the middle of the paragraph:

7
8 "That the Commissioner was aware of a threat to Bai ba
9 Saulite's life."
10 14:35

11 And he refers to your report. Did you have any
12 conversation in which this was touched upon by Sergeant
13 Hughes with you?

14 A. With whom?

15 478 Q. You and Sergeant Hughes? 14:35

16 A. No.

17 479 Q. Okay. Did you ever say to him at any stage that you
18 had said words to that effect?

19 A. No.

20 480 Q. In relation to the Feehan investigation concerning the 14:36
21 confidential recipient complaint, I think you were
22 contacted by the chief superintendent's investigating
23 team, either Inspector Dwyer and/or Sergeants O'Boyle
24 and O'Gara, do you remember that?

25 A. It was Superintendent Gabriel O'Gara that made contact 14:36
26 with me.

27 481 Q. And I think you received a number of requests I think,
28 all in January of 2009 --

29 A. Yes.

1 482 Q. -- to provide information. I think the first of those
2 was on the 5th January, and if we look at page 686
3 there, this related to a number of jobs, an inquiry
4 directed to you, amongst others, to make these
5 inquiries. If we could look at the following page as 14:37
6 well. And I think you answered those in one of your
7 statements to the Feehan inquiry?

8 A. I answered all the questions that were put to me, yes.

9 483 Q. If we go over the next page, if we scroll down, we can
10 see the second lot of contacts -- questions there. I 14:37
11 think there was another three ones dated the 17th
12 January 2009. If we look at page 682, and this was
13 investigating details of what Sergeant Hughes had
14 stated; that, you had taken notes in a green diary on
15 the occasion of the conversation with him on the 20th 14:38
16 November. And you answered that I think in one of your
17 statements --

18 A. Yeah.

19 484 Q. -- to Chief Superintendent Feehan, isn't that correct?
20 The second job that you were required to provide an 14:38
21 answer for is at 681. And that was a particular job
22 about attending the murder conference?

23 A. Yes.

24 485 Q. And you answered that as well, isn't that right?

25 A. I did. 14:39

26 486 Q. Okay. Then there was a comprehensive one at page 675,
27 dated the 23rd January of '09, which goes over some
28 five pages with 20 questions and a number of
29 sub-questions relating to all of the issues raised by

1 Chief Superintendent Feehan. And I think you supplied
2 answers to those queries?

3 A. I answered all the questions, yes.

4 487 Q. And they are all included in the Feehan report, is that
5 correct? 14:39

6 A. Yes.

7 488 Q. There is a suggestion in Sergeant Hughes's statement,
8 at page 39, and I'm not sure we need to go to it, that
9 you were targeting him in relation to the issue of a
10 statement because of his desire to include an 14:40
11 allegation of systems failure in it, do you recall
12 seeing that allegation in --

13 A. I recall seeing that in the statement that Sergeant
14 Hughes made to the Tribunal, yes.

15 489 Q. And that's recounted by you at page 671 of your 14:40
16 statement, if we just go to the bottom paragraph there.

17 A. Yes. And just for the record, I didn't target him.

18 490 Q. I just wanted to raise this issue with you. Apart from
19 the description of something as a systems failure, did
20 he raise with you, either in connection with the 14:40
21 furnishing of a statement for the murder investigation
22 or otherwise, an issue of failure to coordinate
23 inquiries, to centralise control of the investigation
24 of different incidents?

25 A. No, he made no reference to it. 14:41

26 491 Q. The assertion there at the end of the page is related
27 to a sense of being isolated, that this was an abuse of
28 process, it was a cover-up, and proper investigations
29 of the issues raised by him were being suppressed, and

1 in this regard it was Detective Inspector Walter
2 O'Sullivan who targeted him?

3 A. Can you repeat that, please?

4 492 Q. This is a quotation from the bottom of the page there,
5 it should be on the screen, the last sentence. Would 14:41
6 you like to respond to that.

7 A. Well, Sergeant Hughes says -- "My response to Sergeant
8 William Hughes' issues is as follows. I informed
9 Sergeant William Hughes that I was seeking his
10 statement for inclusion in the report to the Director 14:42
11 of Public Prosecutions. I did not inform Sergeant
12 William Hughes that the DPP was looking for his
13 Statement of Evidence. Sergeant William Hughes did not
14 tell me that he had absolutely no problem in providing
15 a statement." Yes. 14:42

16 493 Q. And I think you transferred to become district officer
17 in Kilkenny in May 2008?

18 A. May 2008, yes.

19 494 Q. Did you become aware whether Sergeant Hughes had made a
20 protected disclosure to anyone? 14:42

21 A. I had no information on that. I had no knowledge or
22 information on that.

23 495 Q. And did you understand, when you were replying to
24 either Inspector Dwyer, or O'Boyle and O'Gara, that
25 they were investigating an allegation of Sergeant 14:42
26 Hughes as --

27 A. No, I had no information on that.

28 496 Q. Okay. Would you answer any questions anyone else may
29 have?

1 A. Yes.

2 CHAIRMAN: I think the way it should work is that
3 Mr. O'Dwyer should go first, isn't that right,
4 Mr. O'Higgins? Are you happy with that, Mr. O'Dwyer?
5 Sorry, just to be fair, the way I thought it would work 14:43
6 would be that the cross-examiner, so to speak, the
7 prime challenger of the evidence should go first and be
8 followed by Mr. O'Higgins, who is entitled to revisit
9 any such issues with the intention of clarifying or
10 amplifying or whatever it is, is everybody happy with 14:43
11 that system? That seems to be the obvious way.
12 MR. O'HIGGINS: Yes, Chairman. I should indicate
13 Ms. Egan will be asking the questions on behalf of An
14 Garda Síochána.
15 CHAIRMAN: That's very good. Thank you very much. 14:43
16 Okay. Thanks very much Mr. O'Dwyer, yes, please.
17
18 THE WITNESS WAS CROSS-EXAMINED BY MR. O'DWYER AS
19 FOLLOWS:
20 14:44
21 CHAIRMAN: Mr. O'Dwyer is for Sergeant Hughes.
22 A. Very good, Chairman.
23 497 Q. MR. O'DWYER: Sorry, detective chief superintendent, I
24 don't know should I refer you to as retired, but --
25 A. No, I am retired without rank or title. 14:44
26 498 Q. well --
27 CHAIRMAN: So, you are mister.
28 A. I am a private citizen.
29 CHAIRMAN: If he says retired detective chief

1 superintendent we'll be here another five -- so you are
2 happy to be called Mr. O'Sullivan, are you?

3 A. Indeed I am, whatever is easiest.

4 CHAIRMAN: I understand.

5 MR. O'DWYER: There is no disrespect in that at all. 14:44

6 CHAIRMAN: Thanks, Mr. O'Dwyer. I don't think that the
7 witness is under any impression that there is
8 disrespect. So please. Thanks very much.

9 499 Q. MR. O'DWYER: Just to take a step back for a second,
10 Mr. O'Sullivan. You mentioned -- and I mean it's 14:44

11 frequently referred to in your statements -- you
12 mentioned High Court proceedings in respect of Garda

13 Nyhan. You are aware, and you may even have had an
14 involvement, that Sergeant Hughes had his own

15 proceedings right back from I think 2008 they were 14:45
16 initiated, it might even have been 2007, and that he

17 was making a claim -- I mean, we use, the shorthand is
18 being used that it was bullying and harassment, but it

19 was actually for bullying, infliction of emotional
20 suffering, work related stress and breach of contract. 14:45

21 And are you aware that those proceedings were settled
22 or were compromised with a payment -- I won't say how

23 much, but with a significant payment to him and costs
24 and everything else?

25 A. Yes. 14:45

26 500 Q. Okay. You can see that that puts us in a slightly
27 difficult position because this case is settled that's

28 about some of the issues, some of the issues, that
29 might be before the Tribunal, but it's settled and he

1 receives a payment, and yet, everybody here --
2 everybody that comes to the Tribunal in their
3 statements and everything is denying any such activity,
4 so any targeting, any bullying, any harassment,
5 anything like that.

14:46

6 A. And what's the question?

7 501 Q. Just, well, I suppose I was asking are you aware, but
8 to a certain extent I am making a statement, that you
9 can see what our difficulty might be: that on the one
10 hand the case is settled; on the other hand, everybody
11 denies doing anything wrong.

14:46

12 A. I don't know why the State settled with Sergeant Liam
13 Hughes.

14 502 Q. Okay. well, just, sorry to -- I mean, just, it was
15 something that struck me looking at it in the round as
16 such.

14:47

17 A. I don't know why the State settle with Sergeant Liam
18 Hughes. I wasn't party to it. I have no information
19 on it.

20 503 Q. Okay. well, it was just really the reference to
21 Nyhan's case all the time, when, in fact, Sergeant
22 Hughes had his own case, just that seems to be --
23 MR. McGUI NNESS: Chairman, I am reluctant to intervene
24 but there is an assumption in Mr. Dwyer's question that
25 there is an equivalence of issues between Sergeant
26 Hughes's proceedings and what the Tribunal is inquiring
27 into here, and I think it might be pointed out that I
28 don't submit that -- or I don't accept that there is an
29 equivalence of issues, apart from --

14:47

14:47

1 CHAIRMAN: Yes, we can see the issue. I think there is
2 a slight, and perhaps understandable, complication, I
3 might as well say -- take a moment to say something
4 about it.

5
6 A number of the witnesses refer to the Garda Nyhan
7 proceedings. Sometimes they refer to the decision, the
8 judgment of Mr. Justice Cross and they say that they
9 agree with that. And Mr. Justice Cross, in his
10 judgment, deals in some detail with the evidence of
11 Sergeant Hughes, among others. But the relevant part
12 is Sergeant Hughes. And in that case he did that and
13 ultimately came to a conclusion that Garda Nyhan's case
14 should be dismissed, and so it was.

15
16 So I suppose there is an understandable feeling on
17 Sergeant Hughes's side: well, I settled my case and
18 therefore it shows a difference between my situation
19 and Garda Nyhan's. So, it seems to me, it's legitimate
20 for parties here to refer to evidence given by Sergeant
21 Hughes in the trial insofar as they wish to say, well,
22 he said A in the trial and B in some other statement.
23 That's legitimate. And it's legitimate to cite
24 evidence of a particular witness and say, well, what do
25 you say to this? You said that before. It's a
26 previous allegedly inconsistent statement. So, to that
27 extent, evidence given in the trial in the High Court
28 can be relevant to the evidence here insofar as it
29 allegedly contradicts a statement of a witness.

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Otherwise, this inquiry is not concerned with the transaction -- the proceedings in the High Court. It is theoretically possible, but it has not been made known to me, it is theoretically possible that somebody would say that the State or the Gardaí might say because Mr. Justice Cross found A, B and C, you, in this Tribunal, are not entitled to find something other than A, B and C. That hasn't been suggested, hinted or implied. If it is, we'll have to discuss that on the basis of what used to be a very fashionable thing when I was at the Bar, of issue estoppel. And we had a great deal of time for it over a number of years before it went the way of some other notions like that and seemed to have evaporated.

14:50
14:50
14:50

So unless somebody mentions that, that's the only, in my opinion, conceivable way in which a decision in the Nyhan case could be relevant. But it also follows -- and I understand, Mr. O'Dwyer, why you would want to make it clear, but it has already been made clear that Sergeant Hughes's case was compromised.

14:51

I am not permitted to draw inferences from the circumstances, whether it was a good settlement, a bad settlement, was he wise to settle, was he not wise? None of those are of any relevance, and neither, in truth, is the fact that he settled his case. So that is not actually material evidence unless somebody says

14:51

1 it is material evidence. And insofar as it is, we have
2 the evidence.

3
4 So I can understand the instinct between it, the
5 advocate's desire to avoid what might be thought to be 14:51
6 an adverse reflection or finding, but it's unnecessary.
7 I am aware of the issues. I think I know the law on
8 the subject, and if anybody wants to make any
9 submission at the end of the inquiry, they are free to
10 do so. 14:52

11
12 So that's not a criticism of anybody, but it's just
13 what I understand to be the position. Perhaps I might
14 have mentioned that earlier, that's my view as to the
15 situation. As I say, subject to what anybody else 14:52
16 says, they may say I'm wrong and they may seek to
17 establish why I am incorrect. But it follows that it's
18 not a matter -- it's not a matter for Mr. O'Sullivan to
19 be asked to debate, okay.

20
21 Now, sorry about all that. I hope that's clear. 14:52

22 MR. O'DWYER: Thank you, Judge. Thank you not for the
23 clarification -- or Chairman.

24 504 Q. To move to the -- and we'll start after the murder and
25 immediately after the murder of Ms. Saulite. The 14:53
26 meeting you had with Sergeant Hughes on the morning of
27 the 20th I think -- I think this is common case, I mean
28 this took place around eleven o'clock, in and around
29 that time?

1 A. I think between ten and eleven, yes.

2 505 Q. Okay. And I mean I don't want to say I put it to you
3 four or five times running, but Mr. Hughes -- or
4 Sergeant Hughes's recollection of how that meeting came
5 to take place is quite different from yours. He says 14:53
6 that he rang you, and that you were -- you had been in
7 the station but you came back to the station to meet
8 him, you were outside the station for a time and that
9 you came back to meet him and then it was at that point
10 you did meet him where you said you met him, which I 14:54
11 think was close to the conference room, is that right,
12 where the conference was --

13 A. The station is quite small anyway like, you know, so...

14 506 Q. Okay.

15 507 Q. CHAIRMAN: You said the meeting happened in his office, 14:54
16 the community policing office?

17 A. Correct.

18 CHAIRMAN: And I think Sergeant Hughes agrees with
19 that?

20 MR. O'Dwyer: That's right. 14:54

21 CHAIRMAN: So the venue of the meeting is not in
22 dispute.

23 508 Q. MR. O'DWYER: No, the venue of the meeting is not in
24 dispute. First of all, Sergeant Hughes says that he
25 rang you. I don't know if anything really turns on 14:54
26 that but nonetheless it is a difference in the story.
27 And then you came back and you met him in that office.
28 He says that there was a conference already going on.
29 So, in other words, a conference that may have started

1 at nine or ten in the morning before that. I have
2 heard today you say that certainly the murder
3 investigation conference didn't start until the
4 afternoon. So, I suppose I put it to you first that a
5 quite important part of his evidence in another respect 14:55
6 is that he was there in the morning, that a conference
7 had started to take place and there were people meeting
8 and nobody invited him or nobody asked him to come in.
9 This was before you arrived or he saw you that this
10 happened. So otherwise, that the case conference, or a 14:55
11 form of case conference was already taking place. And
12 in fact, he, at one stage, went a little bit further
13 and said by the time you met certainly the morning
14 conference was finished. So that would appear -- that
15 would appear to differ from what you have said? 14:55
16 A. I have no recollection of that.
17 509 Q. Is that possible? I mean, again, I'm not sure a huge
18 amount hinges on it, but it's just --
19 A. All I know is that I, as the detective inspector, would
20 be chairing the murder investigation conference. 14:56
21 510 Q. Yes.
22 A. Whatever gathering or conference took place before
23 that, I don't know.
24 511 Q. Okay. And what about the ringing you?
25 A. I beg your pardon? 14:56
26 512 Q. What about the ringing you?
27 A. I have no recollection of that.
28 513 Q. No recollection?
29 A. No recollection.

1 514 Q. So could have happened or it may not?

2 A. No recollection of it.

3 515 Q. Okay. So one way or the other, you meet him. And I
4 suppose straight off, I better deal with the -- I mean
5 it's been described as a bombshell, but certainly the, 14:56
6 to a certain extent, the elephant in the room, which
7 is, you have probably heard and you probably know this
8 from the other -- you know, from some of the other
9 reports, Sergeant Hughes has a very clear recollection
10 of you telling him that -- at the end of this meeting, 14:56
11 which we all accept was quite short, of you telling him
12 not to be concerned - this is about the victim impact,
13 or the draft Victim Impact Statement - but not to be
14 concerned on his own behalf because protection had been
15 requested, and I think this is the words in his 14:57
16 statement, and in fact you reflect these in your own
17 statement, that protection had been requested in
18 respect of John Hennessy and Baiba Saulite, and that
19 had not been granted. I say you mention that when you
20 are recording what Sergeant Hughes said back to you 14:57
21 later on in, I think it was much later on in October of
22 2007, that that's what he was saying you had said. You
23 say you didn't say that?

24 A. That's not correct.

25 516 Q. Okay. It's just, it does appear, and Sergeant Hughes 14:57
26 has given very clear evidence on this, that he is --
27 you know, this isn't something he barely remembers, or
28 he even I think used the gesture you used as you left
29 the office, but certainly he has a very clear memory of

1 you saying that and then his evidence was you left the
2 office after that. And in fact he took some comfort,
3 to a certain extent, in that. Do you still --

4 A. That's not correct.

5 517 Q. Okay. You know -- I mean, My Friend for the Tribunal, 14:58
6 opened that letter, I don't think we need to open it
7 again, but it was a letter from -- a letter in which
8 Inspector Curran was reflecting back -- sorry, it was
9 at page 688. It was 17th July 2008. But Inspector
10 Curran was looking back, and I think My Friend -- it 14:59
11 was just on the lower part of the -- sorry, if we could
12 scroll down, Mr. Kavanagh, thank you. It's further.
13 And there, it is there.

14
15 "He also claimed that An Garda Síochána in his opinion 14:59
16 had information in its possession concerning threats.
17 He claimed that subsequent to Baiba Saulite's murder
18 Detective Inspector Walter O'Sullivan, now
19 superintendent, informed him that the Commissioner was
20 aware of a threat to Baiba Saulite's life." 14:59

21
22 That's slightly different, but it may be a -- now I'm
23 not saying -- this is just simply a record of -- it
24 appears to be a record from my understanding of it that
25 Inspector Curran had been told this by Mr. Hughes back 14:59
26 in -- or Sergeant Hughes back in April of 2007.

27 A. I have no information on that.

28 518 Q. Okay. And you do accept that he did talk to you about
29 this claim, because you say it in your statement --

1 A. On the 17th July.

2 519 Q. CHAIRMAN: There was a conversation with Superintendent
3 Curran in April 2007.

4 A. which?

5 520 Q. CHAIRMAN: It wasn't said on that occasion. I thought 15:00
6 it was said in a subsequent conversation with
7 Superintendent Curran that generated a response from
8 Superintendent Curran to send the query to -- am I
9 wrong about that?

10 MR. O'DWYER: well, it is just in this letter, Judge, I 15:00
11 know -- I understand that there was several mentions of
12 it.

13 MR. MCGUINNESS: Chairman, I opened the first page of
14 the letter which shows the date of the letter, and then
15 the reference to the two conversations that 15:00
16 Superintendent Curran had on the 18th June and then
17 subsequently of 2008.

18 CHAIRMAN: April 2007, 23rd April 2010. And when was
19 the second one?

20 MR. MCGUINNESS: This is June 2008. Chairman, that's 15:01
21 referred to in the letter.

22 CHAIRMAN: A June 2008 conversation?

23 MR. MCGUINNESS: Yes, page 688.

24 CHAIRMAN: That's what I thought Mr. O'Dwyer. You have
25 referred to a 2007 conversation, and that's what 15:01
26 alerted me. That's what got my curiosity. Because
27 April 2007 is the conversation that Sergeant Hughes
28 says he talked about systems failure and serious
29 consequences if not investigated, et cetera, et cetera,

1 et cetera, and he complains that Superintendent Curran
2 didn't report that up the line, but Superintendent
3 Curran did report I think five specific points and
4 Superintendent Curran is going to say he read over that
5 to Mr. Hughes, to Sergeant Hughes. But we're now 15:01
6 talking about a different conversation with
7 Superintendent Curran, as a result of which
8 Superintendent Curran contacted Detective Chief
9 Superintendent O'Sullivan and that's in '08, not in
10 '07. 15:02

11 MR. O'DWYER: Sorry, Judge, just if the page goes
12 down -- it's accept that, Judge,

13 CHAIRMAN: I don't want to be unfair. I just want to
14 be as clear as I can, but that suddenly jumped out at
15 me. And I hope I am right because I will be 15:02
16 disappointed if I'm wrong.

17 MR. O'DWYER: You probably are right, Judge. I am sure
18 you are right. But if I can just go down the page, I
19 could just explain why I thought this was -- if we
20 could just go down the page. 15:02

21 CHAIRMAN: I am asking Mr. McGuinness for a moment.
22 We'll save the problem for a moment.

23 MR. MCGUINNESS: Yes, Chairman. It may be that
24 Mr. O'Dwyer thinks a different construction or
25 interpretation should be put on the second page of 15:02
26 this, but the sequence of events, as I understand it,
27 is that the request to detective chief superintendent
28 about in issue was made as a result of the phone call
29 that Superintendent Curran had with Sergeant Hughes in

1 June 2008, and not earlier.

2 MR. O'DWYER: I am sorry, Judge, as you can see, it's
3 just that in the preceding paragraph he says "in April
4 2007 I spoke with Sergeant Hughes regarding the
5 matter..." So, he is talking about April 2007. Then he 15:03
6 goes on to say -- I mean perhaps it's a matter we can
7 clarify. I am not --

8 CHAIRMAN: Sorry, okay.

9 MR. O'DWYER: You see he goes on to say "He also
10 claimed..." 15:03

11 CHAIRMAN: Let me put it this way, Mr. O'Dwyer: If I'm
12 wrong about that, which is perfectly possible, I'd like
13 to be corrected on it. My assumption is that there was
14 a second conversation with Superintendent Curran, that
15 that happened in '08, as a result of which 15:03
16 Superintendent Curran followed it up. As you say, for
17 what it's worth, if I'm wrong about that, please let me
18 know.

19 MR. MCGUINNESS: Chairman, just one final matter,
20 Mr. Marrinan reminds me that Sergeant Hughes himself 15:04
21 accepted that he did not convey this information in the
22 second paragraph to Superintendent Curran --

23 CHAIRMAN: Sorry, that's the whole point. If he is
24 being -- he was examined on the basis that, so to
25 speak, I mean let's be blunt about it, so to speak, it 15:04
26 undermined his case as to the original conversation
27 with detective chief superintendent, that it --
28 Inspector O'Sullivan, that it undermined his case that
29 he didn't mention it to Superintendent Curran, that is

1 the very point that he debated. It doesn't mean it's
2 the end of the matter but that was the context. Okay.
3 MR. O'DWYER: Sorry, I apologise. I was reading it as
4 it was, and it just appeared to me that it said in
5 April 2007, but that's -- sorry, Judge, I accept that's 15:04
6 my mistake.

7 521 Q. But nonetheless, he certainly did raise it, as in your
8 own statement, that you had said this to him in 2007,
9 when you were looking for the statement in respect of
10 the murder investigation, is that correct? 15:05

11 A. I don't follow you.

12 522 Q. That he mentioned that you had told him that, what you
13 had told him about Baiba Saulite and the Commissioner
14 and John Hennessy?

15 A. In his statement to the Tribunal? 15:05

16 523 Q. No. In your statement to the Tribunal, you say "It is
17 my recollection --" You are talking about October
18 2007, and I am sorry I haven't got the page number
19 because I didn't -- it's internal page 11 of your
20 statement, I'll get it brought up. 15:05

21 CHAIRMAN: Page 667.

22 MR. O'DWYER: Page 667.

23 CHAIRMAN: we'll get that up for you now
24 Mr. O'Sullivan. Do you see "It is my recollection..."
25 That's what you are referring to. 15:06

26 A. Yes.

27 524 Q. MR. O'DWYER: "It is my recollection it was during the
28 course of the conversation..." So you can see I think
29 that he had brought it up again with you --

1 A. On the third telephone call he brought it up, yes.

2 525 Q. Yes. And I suppose I am putting this to you as -- I
3 mean it seems, certainly, that he was -- he still had
4 this in his mind and he certainly believed that you had
5 said this at the time. 15:06

6 A. He may have believed that, yes.

7 526 Q. And he said you responded at that point that I wouldn't
8 have used those exact words?

9 A. Not correct.

10 527 Q. And you say -- sorry? 15:07

11 A. I am quite clear, I said that did not form part of any
12 conversation I had with you, or words to that effect.

13 528 Q. On the telephone?

14 A. Say again. On the telephone, yes.

15 529 Q. On the telephone in October? 15:07

16 A. Yes.

17 530 Q. Okay. Is it possible that -- I mean, there seems to be
18 a, I suppose a direct conflict between you on that --
19 is it possible you said something along those lines, or
20 something very similar to that, that he might have 15:07
21 picked up? So, in other words, not those exact words?

22 A. No.

23 531 Q. Okay. You so you didn't say anything about protection
24 of either --

25 A. No. 15:07

26 532 Q. -- John Hennessy --

27 A. No.

28 533 Q. -- or Baiba Saulite --

29 A. No.

1 534 Q. -- and the Commissioner?
2 A. No.
3 535 Q. And were you aware of any request for protection that
4 may have been made to the Commissioner either for Baiba
5 Saulite or for John Hennessy? 15:08
6 A. I had no information with regard to any request that
7 was made for protection for Baiba Saulite.
8 536 Q. Okay. What about John Hennessy?
9 A. I'm not aware of any request made for protection, to
10 the Commissioner for protection for John Hennessy. 15:08
11 537 Q. John Hennessy was provided --
12 A. He was provided, yes, he was, yes.
13 538 Q. Prior to --
14 A. He was aware there was protection on him, yes.
15 539 Q. Prior to the murder? 15:08
16 A. Prior to the murder of Baiba Saulite, yes.
17 540 Q. And one thing I suppose I have to put to you just --
18 and it struck me again and again in hearing the
19 evidence here -- at that point, I mean if protection
20 was needed for John Hennessy, and I am aware that all 15:08
21 of the evidence is there wasn't any specific threat, as
22 in nobody -- well, the preponderance of the evidence is
23 that there was no specific threat to Baiba Saulite, or
24 made to Baiba Saulite, but nonetheless would it not
25 seem that, you know, Mr. Hennessy this morning said 15:09
26 that all of his problems flowed from his acting for
27 Ms. Saulite, that it was through his contact with
28 Ms. Saulite, that if he was in danger and if there was
29 a hit, shall we say, ordered on him, that she would

1 also have been in similar peril?

2 A. I don't agree.

3 541 Q. Okay.

4 A. I don't agree.

5 542 Q. All right. And in relation to that issue, I mean you 15:09
6 have said, I think, that you were unaware of any
7 threats to her or concerns about her safety relayed to
8 the Guards before her death. But you are, and it came
9 up in Garda Nyhan's case -- but you do know now about
10 the statements that she made to Gardaí in early 2005, 15:10
11 or do you? Or are you unaware?

12 A. That she made to the Gardaí?

13 543 Q. Yes, she made statements?

14 A. I wouldn't have any detailed knowledge of it at the
15 time. 15:10

16 544 Q. But do you have any knowledge of those --

17 A. I do, yeah, that she had made statements, yes.

18 545 Q. And do you know what those statements -- and we
19 probably don't need to go into too much detail about
20 them but do you know generally what they said? 15:10

21 A. I think she was complaining about Mr. A and his
22 behaviour.

23 546 Q. But it was a little bit more than that. I mean I don't
24 really -- I won't -- the page number of the statement
25 is 1982, perhaps it might be better not to put it on 15:11
26 the screen, but she indicated in the statement that "he
27 wants to kill me, he doesn't need me any more, I am
28 very frightened of him." Sorry, for the Chairman's
29 record, it's at page 1989 in the second statement of

1 the 4th January 2005. "He has so many connections --"
2 and this is a quote "-- he can get things done even if
3 he is in prison very easily." So that would appear to
4 be fairly clear evidence of a threat and a fear for her
5 life? 15:12

6 A. [REDACTED]
7 [REDACTED].

8 547 Q. How can you say that's unimaginable?
9 A. It is unimaginable, in my view.

10 548 Q. Okay. No, I'm not at all trying to catch you out on 15:12
11 it. It is just that you would think that a threat as
12 clear -- and I mean at another point in that statement
13 she does refer to her being hospitalised and --

14 A. This is what happens in domestic violence issues where
15 people -- 15:12

16 549 Q. I know --
17 A. -- where people try to exercise power and control over
18 people.

19 550 Q. Yes.
20 A. This is what happens. 15:12

21 551 Q. Yes.
22 A. [REDACTED]
23 [REDACTED]
24 [REDACTED]

25 552 Q. Yes, so you didn't -- so even if you had been aware of 15:13
26 those, you wouldn't have considered that they might
27 lead -- might indicate that her life was at risk,
28 despite that she said that?

29 A. She may -- any partner or any wife or any spouse of a

1 domestic violence, issue of serious domestic violence,
2 where people are exercising power and control, there is
3 always an element of danger where people will step
4 beyond those issues, [REDACTED]

5 [REDACTED] 15:13
6 [REDACTED].

7 553 Q. Okay. Just to go back to the meeting on the morning of
8 the 20th with Sergeant Hughes, if I may? We have
9 established that he -- and you say that he showed you
10 the Victim Impact Statement -- 15:14

11 A. Yes.

12 554 Q. He says that he -- well he says, and again I don't know
13 if a huge amount hinges on this, but that did you look
14 at part of it, as in read?

15 A. No. 15:14

16 555 Q. So you didn't look at it at all?

17 A. Well, I looked at it --

18 556 Q. Sorry, looked at the document?

19 A. -- because it was there in front of me. He took it out
20 of the drawer, put it on the desk, put it back into the 15:14
21 drawer, took it out of the drawer again, it was there,
22 I looked at it, certainly I saw it. But did I read it?
23 No.

24 557 Q. And he, I suppose, he describes, well, what it said, or
25 at least he -- I mean you could see from it that it was 15:14
26 hand written, I would imagine, could you?

27 A. Well I presume so, I forget now, but -- I know it was
28 handwritten, but I forget.

29 558 Q. Okay. And Sergeant Hughes says that he told you about

1 the -- and that was the context perhaps of any
2 statement about being in trouble himself. He says he
3 told you about the mention of in fear of her life from
4 Mr. A at the very end of it, and that he hadn't read
5 that, is that correct or what's -- 15:15

6 A. Em, Sergeant Liam Hughes told me, as I say, that Baiba
7 had called to him in the days prior to her murder and
8 she had reported to him that she was in fear of, I
9 think Mr. A, and he was going to do harm to her and
10 harm to her solicitor. But he didn't make any 15:15
11 reference to me about reading it. He didn't say he had
12 read it. I don't believe he did say he had read it.

13 559 Q. Sorry, I just missed what you said there?

14 A. I don't believe he said he had read it. I don't recall
15 that he said he had read it. 15:16

16 560 Q. Now, this is Sergeant Hughes had indicated that at that
17 point when he met you?

18 A. No, no, I don't recall him saying that he hadn't read
19 it.

20 561 Q. Okay, but what was he -- 15:16

21 562 Q. CHAIRMAN: Sorry, you don't recall saying that he
22 hadn't read it?

23 A. Yes.

24 563 Q. MR. O'DWYER: Sorry, yes. But at that point he had
25 read it and he was describing -- he was telling you 15:16
26 that there were things in it that, you know, were --

27 A. Yes, made reference to the fact that, about Baiba
28 saying that it was -- that she feared that Mr. A was
29 going to do harm to her and to her solicitor.

1 564 Q. So that's what he told you. And I mean it's at that
2 point I suppose after that that -- well, you -- and
3 again I think this is common case, but you tried to
4 reassure him at that point, it seems, not to be so
5 concerned? 15:17

6 A. Well, what I said to him was, look, to settle down and
7 that the Victim Impact Statement of itself wouldn't be
8 of much value to the abduction case, that was just my
9 opinion, my view, because it was unsigned and
10 incomplete. But that it would be of, of importance to 15:17
11 the murder investigation.

12 565 Q. And how did you know it was unsigned and incomplete?

13 A. That's what he said.

14 566 Q. So he told you that?

15 A. He said that, yeah. 15:17

16 567 Q. Okay. And you -- I mean we know you say you told him
17 to copy it, but nonetheless, you left it in the office
18 and I'm not -- I mean this is not meant as a criticism,
19 but you left it?

20 A. Yes. 15:18

21 568 Q. You didn't take it or --

22 A. Well, it was in the custody of the sergeant --

23 569 Q. Yes.

24 A. -- so there was no issue with regard to it not being
25 safe. 15:18

26 570 Q. Did you think it was important?

27 A. It's important, yes.

28 571 Q. But I mean, it seems to have become of huge importance
29 over the following days, but at that point did you not

1 realise that this could be very significant and perhaps
2 you should be taking it with you?

3 A. No.

4 572 Q. You are in charge?

5 A. My recollection is that I told him to make a copy of it 15:18
6 and hand it into the incident room; that's my
7 recollection.

8 573 Q. But that would suggest, if I can suggest to you, that
9 you didn't consider it to be -- at that point, to be of
10 huge significance or importance? 15:18

11 A. It was of importance to the murder investigation, yes.

12 574 Q. Okay. So you left him in the office -- sorry, I should
13 mention one other thing. In respect of the conference,
14 you asked Sergeant Hughes would he go to the
15 conference, presumably that's in the afternoon, this is 15:19
16 in the morning so you are talking about the afternoon.
17 Did you order him to go?

18 A. No.

19 575 Q. Okay. And did he seem to be receptive?

20 A. Em, he didn't say he wouldn't go. But, I got the 15:19
21 impression probably that he wouldn't be there.

22 576 Q. And was that really -- was that -- I mean was that a
23 particularly serious matter for you? He didn't go, we
24 know that.

25 A. Serious, as in? 15:19

26 577 Q. Well, when you went in the afternoon and you saw he
27 wasn't there and you had asked him -- requested him I
28 think is probably, is that a fair way of putting it?

29 A. Requested, yeah. Asked, requested, yes.

1 578 Q. And he didn't. Did that, I mean was that -- I mean did
2 you consider that to be a very serious matter or did
3 you think, well --

4 A. Well, I probably felt that he probably was in no fit
5 condition to go there in the first instance. 15:20

6 579 Q. Okay, in the afternoon, but you still -- you mentioned
7 it to --

8 A. I did, yes.

9 580 Q. To who?

10 A. Detective Superintendent Michael Byrne, yeah. 15:20

11 581 Q. Michael Byrne. The non-attendance and that, I mean if
12 that was actually a serious matter, would you not have
13 contacted his line manager, in effect, who would have
14 been I think, would it be inspector, Detective
15 Inspector Waters, was it, at the time? 15:20

16 A. Well not really, but I didn't consider it.

17 582 Q. Okay. And then were there other conferences?

18 A. Normally with a murder investigation, you'd have a
19 conference everyday for approximately two or three
20 weeks. 15:21

21 583 Q. Okay. So you never asked him to turn up at any of
22 these other ones or anything?

23 A. No.

24 584 Q. Okay. So, presumably his absence, given you didn't --
25 and you didn't report it to -- I am sorry the titles 15:21
26 are sometimes difficult for me, but I think it's
27 Detective Inspector Waters?

28 A. No, no.

29 585 Q. So his absence wasn't of -- in relation to that, wasn't

1 of huge significance or didn't appear to, you know --
2 nothing really unusual arose, certainly it didn't
3 appear to be worthy of contacting his line manager to
4 tell him to tell --

5 A. Well, as I say, I didn't consider it. 15:21

6 586 Q. Okay?

7 A. Because my focus was probably on the investigation.

8 587 Q. Okay. And just going back to those two days and the
9 Victim Impact Statement, or the draft Victim Impact
10 Statement, how did it end up? So, you meet him on the 15:22
11 20th, he shows you, or you see the Victim Impact
12 Statement, you have some idea of what it might say, and
13 then two days pass before it's taken -- you know,
14 before somebody collects it or takes it?

15 A. Yes. 15:22

16 588 Q. And at that point, there appears to have been a huge
17 rush -- on the 22nd there is seen a, I won't call it a
18 threat, but there is an indication that his locker
19 might be broken open to get it if he doesn't come and
20 come into work and hand it to Inspector Cryan. 15:22

21 A. Yes...

22 589 Q. What had changed --

23 A. Well, I don't know --

24 590 Q. -- I mean, that had made it so urgent?

25 A. I don't know, because I wasn't involved in any of that. 15:22

26 591 Q. Okay. And did you -- I mean had you told anyone about
27 the Victim Impact Statement?

28 A. Well I probably -- as I say, I don't recollect now, but
29 I must have mentioned to the incident room as to

1 whether or not the Victim Impact Statement had been
2 delivered, but as I say, I don't have any recollection
3 of that.

4 592 Q. And did you talk to anyone else about the significance
5 of it or what was in it or anything like that? 15:23

6 A. No, no.

7 593 Q. So how do you think it became so urgent two days later?

8 A. Well I don't know because, as I say, I wasn't concerned
9 with it.

10 594 Q. Yes. Okay. Moving onto the murder investigation. 15:23
11 Well sorry, I should, just to try and do things in a
12 little bit of sequence. Were you consulted -- were you
13 consulted about the establishment of the, we'll call
14 it, the Mangan fact-finding scoping exercise?

15 A. No. 15:23

16 595 Q. But you said earlier you were interviewed?

17 A. I was interviewed, yes, I was interviewed, yes.

18 596 Q. And did you know anything about, or were you involved
19 in any way with the disciplinary?

20 A. None, nothing. 15:24

21 597 Q. Had you any -- did you receive any information about
22 it?

23 A. Nothing. Not to my knowledge, no. Nothing.

24 598 Q. Nothing. Even though it was --

25 A. Nothing. 15:24

26 599 Q. -- it was in the station?

27 A. I had no involvement whatsoever, no, or no contact.

28 600 Q. But would the matters involved in the disciplinary
29 investigation not have been relevant to the murder

1 investigation, even if you found out about them later
2 on, because they did involve issues of what Baiba
3 Saulite had written and what she had given to Sergeant
4 Hughes?

5 A. They are two separate investigations. 15:25

6 601 Q. Okay. So you weren't in any way -- even, this is
7 after, now, it was instigated?

8 A. I wasn't in any way involved in the disciplinary
9 investigation in any respect.

10 602 Q. And you weren't contacted about what was happening? 15:25

11 A. No.

12 603 Q. Okay. So in respect of the murder investigation, it
13 seems from your statement that the first time you
14 sought a statement directly from -- well, from Sergeant
15 Hughes was in late September, 20th September? 15:25

16 A. 20th September, yes.

17 604 Q. That's, what, ten months after the murder?

18 A. Yes, roughly.

19 605 Q. Would it not be normal to seek a statement a lot faster
20 than that? 15:25

21 A. I don't know. I don't know. It was part of the --

22 606 Q. Would it not be -- I am sorry, I'm not a guard but --

23 A. Say again.

24 607 Q. I am not a garda so... But would it not be normal to
25 try and seek statements, those type of statements, from 15:26
26 people almost immediately after, or as soon as possible
27 after?

28 A. You can. You can. I suppose the report was being
29 prepared, it was an investigative task, this was

1 outstanding. And I was tasked to it.

2 608 Q. I think that job --

3 A. Say again?

4 609 Q. I think that job number 734 --

5 A. Yes. 15:26

6 610 Q. -- wasn't that sort of drawn up, or whatever they do
7 with those, in the summer, before September, in --
8 sorry, I haven't got it to hand now, but I think it's
9 in June or July, was it?

10 A. Yes. 15:26

11 611 Q. And then you had a number of reports based on that job
12 because it comes up at meetings, isn't that correct?

13 A. Yes.

14 612 Q. And it just came up at the meeting and you said I
15 haven't got it, I haven't got it, I haven't got it up, 15:27
16 and that kept going?

17 A. Yes.

18 613 Q. And then you came to September. why did it take so
19 long?

20 A. Well honestly I think it was, I was normally away for 15:27
21 the month of August, I'd be away myself for the month
22 of August, for most of August, a little bit of July,
23 and part of September, so...

24 614 Q. But even for the job, I mean even for the job spec to
25 only be done at that point, you know, so many, whatever 15:27
26 many months that was, what was that, seven, eight, nine
27 months after the murder, but then your own -- I mean,
28 you know, why was that not dealt with more
29 expeditiously, quicker?

1 A. I don't know.

2 615 Q. Okay. So in September you say you contacted him and he
3 - this is Sergeant Hughes - referred to -- well, what
4 he did he say when you contacted him?

5 A. He said he would have to seek legal advice on the 15:27
6 matter. I said okay.

7 616 Q. That was the first time?

8 A. The first time, yeah.

9 617 Q. Okay. And then he didn't, what happened then?

10 A. Then I rang him I think in the early October, and he 15:28
11 said it was with his solicitor and he'd have it for me
12 within the week.

13 618 Q. Well it's just Sergeant Hughes's position is that it
14 was never with his solicitor, he never made a
15 statement. He never -- you know, it wasn't a matter of 15:28
16 a statement being with a solicitor. He never made a
17 statement.

18 A. That may be the case but this is what he said to me.

19 619 Q. Okay. And then you had the following, you say you had
20 the following conversation later in October, on the 15:28
21 phone, the subsequent conversation I should say?

22 A. Yes.

23 620 Q. Now, Sergeant Hughes's evidence is that there was only
24 two conversations. But I mean that's -- you know, that
25 there wasn't three, that there was only two. But 15:28
26 nonetheless, in that later conversation in October --
27 well, for a start, as I said to you, Sergeant Hughes
28 says he didn't say that it was with his solicitor, that
29 he had done a statement. But in your conversation

1 after that, when you rang him, he not only mentioned
2 about what he thought you had said to him, or what he
3 believed you had said to him at the time on the 20th
4 November, but also that he intended, in the statement,
5 to refer to, shall we say, systems failure issues that 15:29
6 he had been talking about to many people before that
7 time?

8 A. He made no reference to systems failure to me.

9 621 Q. Well, given the importance of that particular issue to
10 Sergeant Hughes, I have to put it to you that he did? 15:30

11 A. Not so.

12 622 Q. Because, it just seems, you know, that after that, even
13 by your own account, it was effectively left, was it?
14 You know, that that was the end of it. So, you had a
15 conversation with him, you say he said that the final 15:30
16 word was, it's with my solicitor?

17 A. He said, look, it's with my solicitor, I'll -- it's
18 with my solicitor and that was that.

19 623 Q. CHAIRMAN: The first one was legal advice.

20 A. That's right. 15:30

21 624 Q. CHAIRMAN: The second one, according to your evidence:
22 with his solicitor and he'd have it within a week?

23 A. Correct.

24 625 Q. CHAIRMAN: And number three?

25 A. It was with his solicitor and he would be back to me in 15:30
26 the near future.

27 CHAIRMAN: Thank you.

28 626 Q. MR. O'DWYER: I mean, if the matter was, as you say,
29 with his solicitor, I mean A) that would suggest he had

1 done a statement and B) that it would come, that there
2 wasn't any problem with it?

3 A. Yes.

4 627 Q. But I mean what would be the relevance then of, say,
5 for example, the conversation, which you acknowledge 15:31
6 you had, about what you had said to him back on the
7 20th November in 2006, about the protection, do you
8 follow my point?

9 A. I don't.

10 628 Q. If he said to you, as you say, that it's with my 15:31
11 solicitor, how did the matter of what he had said to
12 you on the 20th November, the day after the murder --
13 or, sorry, what you had said to him, or what he says
14 you said to him, how did that come up?

15 629 Q. CHAIRMAN: Are you understanding? 15:31

16 A. I am not really, no.

17 MR. O'DWYER: Okay. The Chairman will probably explain
18 it better than I.

19 630 Q. CHAIRMAN: On the third occasion, or the last occasion,
20 you say that Sergeant Hughes raised a question -- 15:32
21 sorry, Sergeant Hughes alleged that on the day after
22 the murder, or on some earlier occasion, you had said
23 that personal protection was sought and refused. Am I
24 right so far?

25 A. Yes. 15:32

26 631 Q. CHAIRMAN: So that was on the last occasion, whether it
27 was the second or the third is a matter of debate.

28 A. Mmm.

29 632 Q. CHAIRMAN: Okay. And what counsel, what Mr. O'Dwyer is

1 saying is: what was the context? How did that come up?

2 A. He just dropped it into the conversation.

3 633 Q. CHAIRMAN: So to speak, out of the blue?

4 A. Out of the blue.

5 CHAIRMAN: Now, sorry, I don't think that the witness 15:32
6 and yourself were on the same wavelength, Mr. O'Dwyer,
7 now I think we know where we are going. Do you
8 understand?

9 A. Yes.

10 CHAIRMAN: Okay, that's where we are. Thank you. 15:33

11 634 Q. MR. O'DWYER: I suppose -- I mean I have to put it to
12 you, a more obvious interpretation would be that in
13 fact Sergeant Hughes said that in the context of what
14 he has claimed he told you, which was that he was going
15 to raise systems failures and included within the, 15:33
16 shall we say, umbrella of that, was this issue --

17 A. He made no reference to systems failures.

18 635 Q. Well, he may not perhaps have used the words systems
19 failure, but nonetheless he may -- he certainly is
20 clear himself, or has been very clear, that he referred 15:33
21 to the systems failure -- to systems failures matters,
22 matters of policing failures before the death of Baiba
23 Saulite?

24 A. He made -- he made no reference to systems failures in
25 my conversation with him. 15:34

26 636 Q. So if we move on slightly, I mean that seems to have
27 been the end of it with you?

28 A. Correct.

29 637 Q. He didn't follow up again?

1 A. Correct.

2 638 Q. I mean, if he said it was coming and it was with his
3 solicitor, why would you not just --

4 A. Well, I think I gave him a reasonable amount of time to
5 present it and it didn't arrive, so... 15:34

6 639 Q. Was it not -- I mean, the statement, I think everybody
7 would agree, would have been something very important,
8 would have been very useful. I mean, it seems a
9 strange reaction to just leave is hang like that
10 without contacting him again? 15:34

11 A. Well, I contacted him three times in relation to it.

12 640 Q. Yes, but I mean a fourth time?

13 A. Say again.

14 641 Q. A fourth time or a fifth time?

15 A. I didn't. I did not. 15:34

16 642 Q. And then you have produced that very short report, at
17 page 695, if I could just -- My Friend Mr. McGuinness
18 opened it earlier, but it's at page 695, and if we
19 could just scroll down a tiny bit. I mean, while
20 that's technically true - "To date no statement has 15:35
21 been presented to my office" - I mean what are you
22 saying there? You know, would it not have been a
23 fairer report to say -- if what you said is correct, to
24 say that it's awaited, it's coming, it's with his
25 solicitor, I have given him ten days or whatever it is? 15:35
26 I mean that seems --

27 A. Can I see the date on the --

28 643 Q. Sorry?

29 A. Can I see the date on it?

1 644 Q. 23rd November. So this is, what, September, October,
2 November, two months later.

3 A. Yeah.

4 CHAIRMAN: The 5th November, '07.

5 645 Q. MR. O'DWYER: Roughly speaking, two months later 15:36

6 A. 23rd November -- 25th November, sorry, yeah.

7 646 Q. So, by your account, your last conversation with him is
8 in October.

9 A. Correct.

10 647 Q. And he says it's with his solicitor, and you don't 15:36
11 follow up on that as such, and then you write a report
12 in relation to that job number, which was given to you,
13 wasn't it? That was, your responsibility was that job?

14 A. Mmm.

15 648 Q. And you simply say to date no statement has been 15:36
16 presented. And this is to the officer in charge, who
17 is?

18 A. Of the incident room.

19 649 Q. Of?

20 A. Of the incident room. 15:36

21 650 Q. And who would that be?

22 A. I can't recall offhand who it was, but --

23 651 Q. Okay. And what was the point? That was just to deal
24 with the job, was it?

25 A. Well, to close off the job. Yes, make a record of it, 15:36
26 close off the job.

27 652 Q. And the end result of that was that it simply got left
28 and no statement was included from him?

29 A. Correct.

1 653 Q. Right. And did that seem -- did that not concern you
2 to the extent that you might do something more about
3 that, given the importance that it had to the murder?
4 A. A statement has to be free and voluntary.
5 654 Q. Pardon me? 15:37
6 A. A statement has to be free and voluntary. I have asked
7 him for a statement and he didn't present it.
8 655 Q. But he indicated, by your account, that it was with his
9 solicitor?
10 A. Correct. 15:37
11 656 Q. Another matter, going back -- I am sorry to -- but it
12 came up at the end of what My Friend was asking you
13 about. Was it the sentencing that you attended or was
14 it an application for bail --
15 A. An application for bail. 15:37
16 657 Q. -- for suspect A a few days after the murder.
17 A. Yes.
18 658 Q. And we know you were referring to him as a very, as a
19 very - this is suspect, or Mr. A - as a very dangerous
20 man? 15:38
21 A. Yes.
22 659 Q. Except there may have been some -- Sergeant Hughes said
23 you mentioned terrorist, but, you know, that you said
24 with criminal, with very serious criminal connections?
25 A. Yes. 15:38
26 660 Q. At that point. I suppose an obvious question must
27 be -- and that he would be somebody who would be more
28 than capable of interfering. Now, sorry, I am
29 paraphrasing you, but you can correct me if I'm wrong,

1 of course. That he was somebody who was more than
2 capable of, shall we say, reaching out from prison and
3 getting witnesses and, you know, operating from within
4 prison. So, in other words, he was somebody who was so
5 dangerous and had connections of a sort that he was 15:39
6 able to do things from within prison?

7 A. Yes.

8 661 Q. What exactly had you found out, if anything, since the
9 murder that led you to that conclusion?

10 A. Information came into my possession in relation to 15:39
11 him --

12 662 Q. Yes...

13 A. -- concerning his criminal activities.

14 663 Q. Is that on the 20th?

15 A. Yes, after the 20th, yes. 15:39

16 664 Q. Okay. But a lot of the information, and I think there
17 may have been reference to this in the High Court in
18 Garda Nyhan's case, a lot of the information about him
19 was obviously already available?

20 A. A lot of information, yes. 15:39

21 665 Q. And could you have formed that view from the
22 information you had even before the 20th?

23 A. I would have recognised he was a very dangerous
24 individual, yes.

25 666 Q. You would have recognised a very dangerous individual. 15:39
26 And again, I mean it's the same question I asked
27 earlier about I suppose about the threat, the specific
28 threat, the hit, whatever you want to call it, on John
29 Hennessy, was it not -- I mean if you knew that, or if

1 people knew that, people such as yourself, working --
2 senior guards, would it not have seemed appropriate to
3 perhaps provide some form of protection, or even crime
4 prevention advice?

5 A. Certainly there was no realisation on my part that he 15:40
6 was going to --

7 667 Q. No, but -- so which part of, if we take the statement
8 being "he is a very dangerous criminal" --

9 A. Yes.

10 668 Q. -- is it the second part you didn't know about, that he 15:40
11 had the connections to do horrible things from inside,
12 or order horrible things from inside prison, is that
13 what --

14 A. No, as I say, there was no realisation on my part that
15 he was certainly going to [REDACTED] 15:41
16 [REDACTED]

17 669 Q. Yes. But in this hearing you are saying that he is a
18 person that could be well capable of doing that?

19 A. He is a dangerous criminal, yes.

20 670 Q. Yes. And just the information you received on the 15:41
21 20th, I mean we don't want -- we all obviously have to
22 be very careful about what we talk about, but that was
23 intelligence information, was it?

24 A. Well, I'm not saying.

25 671 Q. Okay. But that had been prepared, that was a prepared 15:41
26 before -- I mean obviously you got it on the 20th,
27 that's when it first came to your attention?

28 A. After the 20th, yes.

29 MR. McGUI NNESS: Chairman, sorry, I am just very

1 anxious there shouldn't be a straying over the line
2 into areas that have very considerable sensitivity.
3 This, now, is such an area, and --
4 MR. O'DWYER: I am not going to say anything about the
5 information. It's just simply that it would have been 15:42
6 information that was already available.
7 MR. MCGUINNESS: That's the whole point. It's new
8 information as I understand it.
9 CHAIRMAN: The witness says new information came in.
10 MR. O'DWYER: To him. 15:42
11 CHAIRMAN: There was also something new. There was no
12 longer a doubt about whether there was a threat to the
13 life of Ms. Baiba Saulite. There was no longer a
14 question about the threat. She had been murdered.
15 Obviously, in retrospect, there was obviously a threat 15:42
16 and more than a threat, there is now a fact, she was at
17 risk, that's a fact. She is dead.
18
19 Now, if this were an inquiry into some other aspect of
20 the case we would be debating the fact that it was no 15:43
21 longer a threat, that it was a fact and that obviously
22 there was -- looking back, there was a threat to her
23 life.
24
25 Mr. O'Dwyer, I am conscious -- I have this dilemma: 15:43
26 what Mr. McGuinness says is irresistible and, in my
27 view, entirely correct, if I may say so, entirely
28 correct. At the same time, I know this is important
29 and I am very reluctant to interfere with the

1 cross-examination. But it does seem to me not to be of
2 sufficient connection with the issues that we're
3 talking about, it's straying into the very issue that
4 Sergeant Hughes would, with some sympathy I accept, I
5 have some sympathy for the fact that he'd like us to be 15:44
6 investigating this matter. He mightn't be the only one
7 who, in the circumstances would find it a satisfying
8 exercise to do so, but that would be a different
9 inquiry from the one we have. And we, in the Tribunal,
10 have stuck as rigidly as we can to the brief that we 15:44
11 have from the Oireachtas, and the brief that we have
12 from the Oireachtas comes at a later stage; it says
13 after Sergeant Hughes made his protected disclosure,
14 whenever that was, he was targeted and -- I keep
15 getting it up -- not disrespected, he was -- 15:45
16 MR. O' DWYER: Discredited.
17 CHAIRMAN: Sorry? I have just forgotten the word for
18 the moment.
19 MR. O' DWYER: Discredited.
20 CHAIRMAN: Discredited, I am sorry. Disrespected is 15:45
21 the one that will not go out of my head. So, that's
22 where we are.
23 MR. O' DWYER: Yes, Judge.
24 CHAIRMAN: Now this Tribunal -- I made an order, or the
25 Tribunal made an order saying -- discussing when the 15:45
26 first protected disclosure was made, and we rejected
27 the proposition that he made it in the Mangan report,
28 we rejected the suggestion that he made it to
29 Inspector Waters, we rejected that he made it to

1 Inspector Cryan and we rejected the fact that he made
2 it to Detective Inspector O'Sullivan, as he then was,
3 we rejected that on the basis even of what he said.
4 Therefore, we have to move on beyond this.

15:46

5
6 Obviously, the Mangan report is relevant as part of
7 that background and context, but I -- this Tribunal
8 cannot write a report saying he was victimised as a
9 result of anything he allegedly said, or didn't say, to
10 Mr. O'Sullivan.

15:46

11
12 Now, so, that is off limits. As I say, my desire is to
13 allow as much cross-examination as I can in order to be
14 as fair as possible, but, Mr. O'Dwyer, I have to draw a
15 line. And you'll understand why I have to draw that
16 line.

15:46

17 MR. O'DWYER: Yes, Judge. I appreciate --

18 CHAIRMAN: Look, I am aware of the difficulties that
19 everybody is facing. It's not an easy one, and it's
20 legitimate to look at at least some elements of the
21 context, and we know in this case -- I do not think
22 it's in dispute that the horrifying events of Sunday
23 night, the 19th November 2006, in North Dublin, had a
24 powerful, arguably, devastating effect on some of the
25 people involved. So, that's understandable.

15:47

15:47

26
27 Okay. So, I hope that's clear. As I say, it's not a
28 huge criticism or anything of that kind, but it's just
29 that I do have to be conscious, and perhaps I should

1 have intervened earlier, but I mean Mr. McGuinness's
2 intervention is timely and is appropriate, it seems to
3 me. Okay, so be it...

4 MR. O'DWYER: Finally, this is I suppose by way of --

5 CHAIRMAN: Can I stop you for one second, Mr. O'Dwyer? 15:48
6 I assume you have a fair amount more to go with -- is
7 that correct or -- am I wrong?

8 MR. O'DWYER: No.

9 CHAIRMAN: Okay. That's great. Sorry. Please
10 proceed. Sorry. Thanks very much. 15:48

11 MR. O'DWYER: I was going to -- oh sorry, I understand
12 what it means.

13 CHAIRMAN: So he says anyway, he got -- the witness
14 says, Mr. O'Sullivan says, look, he got information
15 subsequent to the murder, which was the basis of his 15:48
16 statement to the court on the application for bail, to
17 the Circuit Court, I assume, on the application for
18 bail following the murder, which was Mr. A's
19 application for compassionate leave to attend the
20 funeral of his late partner. Okay. That's the 15:49
21 situation I think.

22 A. Yes.

23 672 Q. MR. O'DWYER: Just I suppose in terms of context, there
24 was huge media attention about this case straightaway,
25 straight after the murder, almost immediately, we have 15:49
26 seen newspaper reports, some of them -- many of them
27 are included in the papers. Is that the case? Had you
28 experienced such a focus before?

29 A. There was huge media interest of course, any time where

1 you have a young woman and a young mother of two
2 children gunned down there is going to be interest,
3 yes.

4 673 Q. And a lot of that media attention, certainly what we
5 have looked at here, seems to focus on -- or seemed to 15:50
6 focus on police failings, including alleged failings on
7 the part of Sergeant Hughes. You know, some of the
8 articles seem to focus very much on what he might have
9 done wrong, but nonetheless, there was a sort of a --
10 you know, there seemed to be a media focus on the 15:50
11 Guards not doing things correctly in respect of this
12 case?

13 A. There probably was. I forget the articles now. There
14 probably was, I forget the articles, as I say I can't
15 recall the articles. 15:50

16 674 Q. Now admittedly some of them seemed, unfortunately, we
17 have heard this morning, seemed to focus very much on
18 Sergeant Hughes, but nonetheless I just mean the theme
19 to a certain extent seemed to be that the Guards had --
20 you know, that there were -- that there had been 15:51
21 problems before, or there were issues in respect of --
22 before she died, that warnings and things like that
23 hadn't been heeded. I suppose the point I'm going to
24 make to you is that there would have been considerable
25 embarrassment, if not far more than that, if any claims 15:51
26 about systems failure or anything like that were found
27 to be well founded, would that be the case? It was
28 such a big case?

29 A. Well, I don't know what their embarrassment was. I

1 don't know, because nobody spoke to me about it. I
2 don't know what their embarrassment was.

3 675 Q. And I respectfully put it to you that that could have
4 given rise to a response to defend the institution, an
5 institution protecting itself? 15:52

6 A. As I say, I had no involvement whatsoever, or any
7 contact or conversation or communication or connection
8 with any individuals.

9 676 Q. Okay. And just finally, I should, for the sake of
10 completeness, put it to you, although My Friend 15:52
11 Mr. McGuinness did it, that certainly in relation to
12 the murder investigation statement and the not
13 collecting the statement, that that was targeting of
14 inspector -- or sorry, of Sergeant Hughes?

15 A. I don't accept that. 15:52

16 CHAIRMAN: Say that again.

17 A. I don't accept that, Chairman. The first I heard of
18 that was eleven and a half years after the actual
19 incident.

20 CHAIRMAN: In looking for a statement, Mr. O'Dwyer, how 15:53
21 could it be targeting? On the evidence there were
22 two -- the evidence, as I have it now at the moment,
23 there were two or three requests. How could that be
24 targeting? Please give us a statement!

25 MR. O'DWYER: Yes, Judge. I am simply putting the 15:53
26 allegation --

27 CHAIRMAN: well, note it, Mr. O'Dwyer. Please note it
28 as something that I would like assistance on in due
29 course.

1 MR. O'DWYER: Yes.

2 CHAIRMAN: I understand the point you have to make and
3 I understand what Sergeant Hughes says, but I would
4 like your assistance, and Mr. Lynn's, in due course as
5 to how, what seems on the face of it to be a request, 15:53
6 three requests by telephone could be targeting. That's
7 the question. You don't have to answer that. At some
8 point, at some point I would like your assistance on
9 that point. All right?

10 MR. O'DWYER: Yes, of course, I am simply, Judge, just 15:54
11 putting the matter as --

12 CHAIRMAN: No, no, I absolutely, completely understand
13 that and I want to alert you to a concern I have as to
14 how that might be targeting. So I just want to alert
15 you to that possibility. I would like to be addressed 15:54
16 on that at some point. Okay.

17

18 Now, Mr. O'Higgins, have you anything to ask?

19 MR. O'HIGGINS: Ms. Egan.

20 CHAIRMAN: I am sorry, that implies I think you 15:54
21 shouldn't have anything to ask. I am sorry
22 Mr. O'Higgins, have you -- what questions -- Ms.
23 Egan -- where is Ms. Egan?

24 MS. EGAN: Good afternoon, Chairman, indeed, I have a
25 couple of questions 15:54

26 CHAIRMAN: Absolutely, Ms. Egan. Ms. Egan, sorry,
27 don't mind the implication of what I said. Ask any
28 questions you like.

29

THE WITNESS WAS CROSS-EXAMINED BY MS. EGAN AS FOLLOWS:

- 1
2 677 Q. MS. EGAN: Good afternoon, Mr. O'Sullivan. Just a
3 couple of questions arising from what we have
4 already -- what you have already told the Tribunal this
5 afternoon. 15:55
6
7 Just starting first of all on the statement. The issue
8 has been raised as to the fact that you didn't seek out
9 a statement from Sergeant Hughes until the September
10 following the murder, and you have been asked about 15:55
11 what was happening in those intervening months. By
12 that stage did you have the file from the abduction
13 investigation at that stage?
14 A. It would have been, yes.
15 678 Q. So -- 15:55
16 A. It would have been with the incident room, yes.
17 679 Q. So you were versed on what had happened in that
18 investigation?
19 A. Yes.
20 680 Q. And as regards the jobs book, we have heard that job 15:55
21 number 734 was assigned. Just very briefly, can you
22 just tell us how those job numbers are assigned and how
23 it's organised?
24 A. Well, they are in numerical order, starting with job 1
25 obviously and working away. And as the information 15:55
26 comes into the incident room, a job is complete on it.
27 It may arise, a job may arise out of a statement of
28 witnesses that has been taken or some CCTV, whatever
29 information is collected, the information is read and a

1 job will be generated from that.

2 681 Q. CHAIRMAN: He ticks off --

3 A. I beg your pardon?

4 682 Q. CHAIRMAN: The incident room operator ticks off the
5 number if it's been done. 15:56

6 A. Correct.

7 683 Q. MS. EGAN: And who is it who assign those numbers?

8 A. I can't recall -- who assigns the numbers? The
9 incident room coordinator. It's done in numerical
10 order, on a jobs book, it is called. It's an old term. 15:56

11 684 Q. And I think a statement was requested from Sergeant
12 Nyhan also, isn't that right?

13 A. Yes.

14 685 Q. And I think, what was the response you got from
15 Sergeant Nyhan? 15:56

16 A. What he said to me was, that in principle he had no
17 objection but that he'd have to seek legal advice.

18 686 Q. Okay. And did you ever get a statement from Garda
19 Nyhan?

20 A. No. 15:56

21 687 Q. Going back then to the suggestion that protection was
22 requested and refused from the Commissioner --

23 A. Yes.

24 688 Q. -- in respect of Baiba Saulite, do you remember the
25 first time Sergeant Hughes brought this up with you? 15:56

26 A. In October 2007, on the occasion of my third telephone
27 call.

28 689 Q. On the occasion, pardon?

29 A. The occasion of my third telephone call with him.

1 690 Q. Your third. So when you were looking for the statement
2 to the submit with the file?

3 A. Correct.

4 691 Q. And did you ever -- you have clarified already that you
5 didn't say that you wouldn't have used those exact 15:57
6 words --

7 A. Yes.

8 692 Q. -- as Sergeant Hughes contended. You also described a
9 bail hearing you attended on the 24th November 2006?

10 A. Yes. 15:57

11 693 Q. And you described that, in your statement you said that
12 that went into the afternoon and I think you were in
13 the company of Sergeant Hughes and Detective Sergeant
14 Garland for the course of the day, is that right?

15 A. Yes. 15:57

16 694 Q. And did Sergeant Hughes mention that requests for
17 protection --

18 A. No.

19 695 Q. -- or that information to you at any stage?

20 A. No. 15:57

21 696 Q. So the only stage that he brought it up was this
22 request for -- when you requested the statement?

23 A. October 2007.

24 697 Q. Okay. And going back to the murder conference very
25 briefly, Sergeant Hughes said that there must be some 15:57
26 confusion, that you didn't invite him to the first
27 conference?

28 A. That's not correct.

29 698 Q. And I mean, would you have valued his assistance?

1 A. Yes.

2 699 Q. And what did you think that he could contribute to the
3 conference?

4 A. Well, normally the community policing, they have a
5 fixed task with regard to house to house inquiries and 15:58
6 questionnaires and all that, so he would -- that's
7 fixed -- so, he would lead out on that. And obviously
8 he would be able to brief as well, brief the officers
9 in the investigation with regard to the history of the
10 abduction case and the history of the character of 15:58
11 Mr. A and his interactions with Baiba Saulite. All
12 that.

13 700 Q. And it might be obvious, but how would inform the
14 murder investigation?

15 A. Well, the -- it would inform with regard to, I suppose, 15:58
16 motive really, I suppose.

17 701 Q. Motive?

18 A. Motive.

19 702 Q. And as regards subsequent conferences, you have
20 described they were taking place every day. Sergeant 15:58
21 Hughes felt he was being sidelined by not being invited
22 to subsequent conferences. Do you want to say anything
23 about that?

24 A. Well, from when I invited him to the conference and, as
25 I say, I suppose I got on with my work, I got on with 15:59
26 my focus on the investigation and there was no issue
27 with regard to Sergeant Hughes attending any of the
28 conferences.

29 703 Q. Yes, and I think you have already said that you felt he

1 had something to add?

2 A. Yes.

3 CHAIRMAN: Say that again, Ms. Egan.

4 MS. EGAN: I think Mr. O'Sullivan has already said that
5 he felt that Sergeant Hughes had something to add to 15:59
6 the conference.

7 CHAIRMAN: Yes, thank you, I just didn't hear you for a
8 second

9 A. Sergeant Hughes is an experienced criminal
10 investigator. 15:59

11 704 Q. MS. EGAN: Indeed. And you commended his investigation
12 in your statement?

13 A. Yes.

14 705 Q. In respect of the bail hearing, do you recall, in
15 general terms, the evidence given by Sergeant Hughes 15:59
16 during that hearing?

17 A. Roughly, yeah, roughly.

18 706 Q. And do you recall evidence -- any evidence that he gave
19 as regards concerns for certain person's safety prior
20 to -- 15:59

21 A. I can't recollect now, I can't recollect now.

22 707 Q. Sorry. Do you recall Sergeant Hughes giving evidence
23 as regards expressions of concerns that had been given
24 to him regarding certain person's safety?

25 A. I don't understand. 16:00

26 708 Q. Does that ring a bell at all?

27 A. I don't understand.

28 CHAIRMAN: Ms. Saulite's safety, is that right, Ms.
29 Egan?

1 MS. EGAN: So, Sergeant Hughes told the court that
2 Ms. Saulite had expressed concerns for her safety and
3 that of Mr. Hennessy, her solicitor.
4 A. Yes.
5 709 Q. Does that ring a bell with you? 16:00
6 A. It does.
7 710 Q. Do you remember him saying that?
8 A. It does ring a bell, yes.
9 711 Q. And just finally then, as regards the sentencing of
10 Mr. A, I think that took place on the 18th December 16:00
11 2006?
12 A. Yes.
13 712 Q. And Sergeant Hughes said that he called you afterwards
14 to let you know the outcome and that you said you'd
15 take it from there? 16:00
16 A. I have no recollection of that telephone call.
17 713 Q. Okay. Would it have been expected that you, or some of
18 the murder team, would have attended that sentencing
19 hearing?
20 A. Em, I don't -- I suppose they could have. Was there an 16:00
21 expectation that they be there? Probably. But, as I
22 say, I don't recall that conversation or that telephone
23 call from Sergeant Hughes.
24 714 Q. Okay. Was there anything unusual in your not being
25 there? 16:01
26 A. No, nothing unusual, no. I mean Sergeant Hughes was
27 there, you know, so...
28 715 Q. Okay. And just as regards more generally, finally, you
29 are very clear in your statement in that you said you

1 had never any reason to treat Sergeant Hughes
2 unfavourably?

3 A. Absolutely not.

4 716 Q. And you found him a good colleague and you never
5 singled him out for any unfavourable --

16:01

6 A. He was always very helpful to me, yes.

7 717 Q. Okay. Thank you, Mr. O'Sullivan.

8 CHAIRMAN: Now, anything else?

9

10 THE WITNESS WAS RE-EXAMINED BY MR. MCGUINNESS AS

16:01

11 FOLLOWS:

12

13 MR. MC GUINNESS: I have a few further questions just
14 to tidy up a few matters. Could we look at page 740 of
15 our documents, and this is a typed version of Sergeant
16 Cryan's notes relating to the 21st November. And at
17 the bottom of the page there, it commences:

18

19 "I later rang him again at about 6:30 p.m. on request
20 of D/Inspector O'Sullivan and requested the Victim
21 Impact Report he had taken on the 14/11/06. He stated
22 he only had a copy as she had original and was in the
23 process of completing it and keeping a log of all
24 dealing she had with [blank]. Sergeant Hughes asked me
25 to ensure that all in authority were told that what was
26 in the report was not a complaint as such but rather
27 part of the Victim Impact Report."

16:02

16:02

28

29 Now, as I understand your evidence, you have told the

1 Chairman that you had asked Sergeant Hughes to leave
2 the Victim Impact Report in the Incident Room?
3 A. Yes.
4 718 Q. Inspector Cryan was given a copy of the file earlier,
5 and a copy of the disclosure file apparently by 16:02
6 Sergeant Hughes, but you must have learnt that the
7 Victim Impact Report had not been handed in with it or
8 separately?
9 A. I must have, but I can't, I can't recall that, you
10 know. I can't recall that. 16:03
11 719 Q. Okay. If we could just then go to page 715, and this
12 is I think an extract from your journal?
13 A. Yes.
14 720 Q. And it's kept in hand, and at the bottom of the page,
15 you might tell us about your own practice? Did you 16:03
16 normally write your journal late in the evening or --
17 A. Yes, at the end of the day I'd make a number of entries
18 into it, yes.
19 721 Q. Would it normally reflect the order in which you had
20 done things? 16:03
21 A. Not really, no, I'd just be making a number of entries
22 into the --
23 722 Q. Okay. This is for Monday the 20th. It says: "Engaged
24 in the murder investigation of Bai ba Saul ite. Met wi th
25 [bl ank], [bl ank]and [bl ank] in relati on, and" I can't 16:03
26 read the third line there, and -- "fri ends of [bl ank]"?
27 A. Yes.
28 723 Q. "Consul ted wi th the crime scene manager Sergeant
29 Michael Keating, consul ted wi th sergeant Nual a Finn re

1 Crime Call. Consulted with Ms. Marie Cassidy at 3:00pm
2 in the postmortem at City Morgue."
3 Did you attend that?
4 A. I probably would have -- I would have gone down to
5 brief her anyway, yes. 16:04
6 724 Q. Then you have:
7 "Spoke with Sergeant Liam Hughes who was disturbed by
8 the murder of Baiba Saulite." Is that question mark
9 conference or "at conference"?
10 A. "At conference." 16:04
11 725 Q. "At conference." So that presumably refers to an
12 earlier portion of the day, is that right?
13 A. Yes.
14 726 Q. Okay. Could we just have a look then at page -- the
15 top of page 739, and again these are Sergeant Cryan's 16:04
16 notes. He'll be giving evidence tomorrow -- or
17 Inspector Cryan, I beg your pardon. And at the first
18 entry there is :
19
20 "20/11/06 -- attended conference 11am Assistant 16:04
21 Commissioner McHugh, Detective Chief White, Chief
22 Phillips, Detective Superintendents Fitzpatrick and
23 Byrne, Inspector O'Sullivan, Inspector Waters and me."
24
25 An then it's got: 16:05
26
27 "20/11/06 -- attended conference 12:45 p.m., chief
28 office, as above present bar D/I O'Sullivan."
29

1 So it appears that you weren't at the second conference
2 there.

3 Does that assist you in your recollection as to whether
4 you met Sergeant Hughes before the first conference or
5 maybe perhaps later in the morning while the second
6 conference was going on. 16:05

7 A. When I am speaking about the actual murder
8 investigation conference itself, that was in --
9 certainly I think in the afternoon, because I was
10 chairing it -- directing it. So I'm not so sure what 16:05
11 the first conference was about, it might have been a
12 preliminary or something, you know, but I'm not so sure
13 what that was about at this remove but it probably was
14 a preliminary.

15 727 Q. All right. Thank you very much, Mr. O'Sullivan. 16:05

16 CHAIRMAN: Very good. Thanks very much indeed, Mr.
17 O'Sullivan. Thank you. You are free to go and thank
18 you for coming and giving us your assistance.

19 A. Very good. Thank you.

20 16:06

21 THE WITNESS THEN WITHDREW.

22
23 MR. O'HIGGINS: Chairman, could I raise one matter very
24 briefly --

25 CHAIRMAN: Does it concern Mr. O'Sullivan? 16:06

26 MR. O'HIGGINS: Sorry, it does not concern this
27 witness.

28 CHAIRMAN: Okay.

29 MR. O'HIGGINS: Thank you, Chairman. Just a very brief

1 matter. The Tribunal has, if I may say, exercised very
2 considerable care in relation to ensuring no absent
3 parties' rights are compromised or that any operational
4 matters of An Garda Síochána would be compromised.
5 Could I just, in that connection, ask the Tribunal to 16:06
6 -- ask you Chairman, to give consideration, perhaps, to
7 -- either by reference to the transcript perhaps being
8 addressed or perhaps giving encouragement to any
9 journalists that might be present, the last witness in
10 response to questions, stated that he had no 16:06
11 realisation or suspicion that a person would go on to
12 organise the murder of their partner. And just on
13 behalf of the An Garda Síochána, could I just request,
14 Chairman, that consideration might be given perhaps to
15 that not being published or publicised, and if that 16:07
16 means the transcript might be perhaps addressed, that
17 would be my formal request, mindful, Chairman, that
18 these matters remain operationally important --
19 CHAIRMAN: I understand.
20 MR. O'HIGGINS: -- even today. 16:07
21 CHAIRMAN: Mr. McGuinness, that seems like a reasonable
22 point, I have to say, by Mr. O'Higgins.
23 MR. MCGUINNESS: Yes. Obviously I'm not in a position
24 to know what members of the press may have been here or
25 either virtually to hear it -- 16:07
26 CHAIRMAN: what form of order do you suggest I make,
27 Mr. McGuinness? I recall the evidence -- I mean I have
28 some -- I have a lot of sympathy for the position that
29 Mr. Dwyer is in and was in, and Sergeant Hughes, and

1 Mr. O'Sullivan, in his evidence, and his evidence was a
2 response to a question which was a rational -- it
3 wasn't eccentric dragging in of some issue, so it was
4 a, so to speak, a legitimate exchange. But there is an
5 assumption in -- an assumption or a presumption in what 16:08
6 Mr. O'Sullivan said about the guilt of a particular
7 person, or the involvement of a particular person. So,
8 I propose to make an order to say that that particular
9 answer, if you can identify the answer with
10 Mr. McGuinness, that that evidence should not be 16:09
11 published. And that is under the inherent jurisdiction
12 I have, or whatever -- Mr. McGuinness will tell me what
13 precise section it is.

14
15 So I'll make an order in that regard, but what you need 16:09
16 to do, Mr. O'Higgins, in conjunction with Mr. O'Dwyer
17 and Mr. McGuinness, is to identify the particular
18 portion so we can inform the stenographer that that
19 part will be simply excised and it won't be published.

20 MR. O'HIGGINS: That would meet the situation, 16:09
21 Chairman, thank you very much.

22 CHAIRMAN: We have to just identify the part and for
23 the reason, for the obvious reason that it's an
24 understandable reaction and was logical as -- it
25 doesn't mean it's right, but it was not something -- I 16:09
26 want to make sure that I'm not criticising Mr.
27 O'Sullivan because his answer was not something dragged
28 in and thrown into the evidence. It arose, rightly or
29 wrongly, it arose as a logical inference -- it was an

1 answer to a question to which it was not the correct
2 answer but it was an answer within the realms of
3 rational, is what I'm really endeavouring to express.
4

5 So, Mr. McGuinness, can you look after that with your 16:10
6 colleagues, and I am sure that -- I know that anybody
7 from the press, you can help them if they need any
8 assistance, but we have to be careful, as far as we
9 can, to preserve the rights of persons not here and to
10 endeavour not to prejudice and, who knows, any future 16:11
11 proceedings that may or might ensue. All right, can I
12 leave that to you?

13 MR. MC GUINNESS: Yes, Chairman. I should raise one
14 other issue, Chairman, in relation to tomorrow's
15 schedule. Due to circumstances beyond our control at 16:11
16 the moment, it will not be possible for the Tribunal to
17 take the evidence of Retired Inspector Waters tomorrow
18 as planned. So, he will not be in the list of
19 witnesses to be dealt with tomorrow.

20 CHAIRMAN: Very good. If any difficulty arises, any 16:11
21 complications arise, we can consider that, Mr. Lynn and
22 Mr. O'Dwyer and Mr. O'Higgins can make any concerns
23 known and we'll seek to mitigate the impact of any
24 absence of evidence. But it seems to me, and I was
25 aware of this, it seems to me that the reason is an 16:12
26 unavoidable reason and it's not one that we have any
27 control over, and possibly even that the witness has
28 any much control over. So, we'll leave it at that.
29 Okay. Thank you very much. Thanks for your

1 assistance.

2
3 THE HEARING ADJOURNED UNTIL TUESDAY, 15TH FEBRUARY 2022
4 AT 10:30 A.M.

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7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29

	1989 [1] - 141:29 19th [4] - 66:20, 120:4, 120:19, 163:23 1ST [1] - 4:7	2022 [3] - 4:8, 6:1, 181:3 2049 [1] - 115:3 20th [24] - 33:11, 71:27, 99:18, 99:19, 113:13, 113:16, 113:17, 122:15, 130:27, 143:8, 148:11, 150:15, 150:16, 153:3, 154:7, 154:12, 159:14, 159:15, 159:22, 160:21, 160:26, 160:28, 175:23 21st [2] - 89:11, 174:16 22 [1] - 71:19 22nd [1] - 148:17 2352 [1] - 118:2 2353 [1] - 118:2 23rd [5] - 110:8, 122:27, 135:18, 157:1, 157:6 2475 [2] - 89:10, 89:11 24th [5] - 11:25, 110:8, 110:14, 110:16, 170:9 25 [1] - 90:5 25th [2] - 114:6, 157:6 26/11/06 [1] - 74:3 2684 [1] - 52:22 2689 [2] - 44:11, 44:12 28th [2] - 23:25, 72:12 2nd [1] - 118:2	5	8	51:21, 53:18 abuse [2] - 24:12, 123:27 abused [2] - 13:13, 46:1 abusive [5] - 22:22, 22:26, 45:28, 49:28, 50:1 accept [20] - 47:11, 48:23, 58:2, 58:6, 60:14, 69:14, 69:18, 69:20, 70:1, 70:2, 70:7, 74:5, 127:28, 133:11, 134:28, 136:12, 138:5, 162:4, 166:15, 166:17 accepted [2] - 65:12, 137:21 access [3] - 10:13, 101:5, 101:6 accidentally [3] - 78:17, 79:11 according [3] - 34:17, 107:27, 153:21 account [11] - 34:17, 93:6, 93:9, 93:11, 93:12, 102:20, 106:10, 106:18, 153:13, 157:7, 158:8 accurate [3] - 24:17, 24:18, 24:22 accused [2] - 101:26, 109:7 acknowledge [1] - 154:5 acorns [1] - 76:20 acquaintance [1] - 50:18 acquiescence [2] - 58:26 acquired [3] - 7:19, 13:2, 79:11 act [5] - 8:7, 12:8, 33:16, 65:7, 86:11 acted [1] - 25:28 acting [5] - 64:1, 64:27, 89:6, 99:8, 140:26 action [4] - 31:4, 62:9, 62:10, 116:3
'07 [2] - 136:10, 157:4 '08 [3] - 75:5, 136:9, 137:15 '09 [3] - 23:25, 37:1, 122:27 'Garda [1] - 89:20 'high [1] - 87:5 'no [1] - 68:22 'senior [6] - 87:5, 87:6, 95:10, 95:12, 95:13, 95:19	2	6	9		
1	2 [2] - 4:18, 52:25 20 [2] - 72:21, 122:28 20/11/06 [2] - 176:20, 176:27 20/3/2000 [1] - 72:17 2000 [1] - 71:22 2002 [1] - 71:21 2004 [1] - 7:19 2005 [8] - 18:9, 18:15, 38:25, 45:22, 63:28, 64:4, 141:10, 142:1 2006 [22] - 13:1, 18:28, 19:4, 19:11, 19:19, 20:28, 40:5, 42:15, 45:22, 45:26, 48:29, 49:2, 57:15, 63:27, 98:21, 98:25, 120:4, 120:19, 154:7, 163:23, 170:9, 173:11 2007 [17] - 33:14, 50:5, 112:19, 126:16, 133:22, 134:26, 135:3, 135:18, 135:25, 135:27, 137:4, 137:5, 138:5, 138:8, 138:18, 169:26, 170:23 2008 [14] - 33:12, 71:28, 72:21, 119:12, 119:25, 119:26, 124:17, 124:18, 126:15, 134:9, 135:17, 135:20, 135:22, 137:1 2009 [6] - 23:25, 53:5, 89:11, 114:21, 121:28, 122:12 2010 [1] - 135:18	6 [1] - 115:18 65 [1] - 5:7 657 [1] - 97:26 662 [1] - 105:24 665 [1] - 110:3 667 [2] - 138:21, 138:22 671 [1] - 123:15 675 [1] - 122:26 681 [1] - 122:21 682 [1] - 122:12 686 [1] - 122:2 688 [3] - 120:27, 134:9, 135:23 690 [2] - 119:26, 119:28 695 [3] - 113:3, 156:17, 156:18 698 [1] - 110:21 6:30 [1] - 174:19	A	93 [1] - 5:12 976 [1] - 73:29 98 [1] - 5:15 9:30 [1] - 100:12 9:45 [1] - 100:13	
1 [1] - 168:24 1,000 [2] - 35:16, 35:18 10:30 [1] - 181:4 11 [1] - 138:19 11:00am [1] - 99:29 11am [1] - 176:20 11th [1] - 104:6 12 [1] - 41:12 12-page [2] - 27:24, 30:20 123 [1] - 90:29 125 [1] - 5:16 12:45 [1] - 176:27 13 [1] - 3:7 137 [1] - 91:22 14 [3] - 14:13, 28:20, 41:12 14/11 [1] - 54:21 14/11/06 [1] - 174:21 14th [2] - 8:10, 11:25 14TH [1] - 6:1 154 [1] - 92:22 15TH [1] - 181:3 168 [1] - 5:17 174 [1] - 5:18 17th [7] - 119:10, 119:13, 119:24, 120:27, 122:11, 134:9, 135:1 18th [3] - 86:19, 135:16, 173:10 1982 [1] - 141:25	3	7	A's [2] - 43:27, 164:18 A.M [1] - 181:4 aback [1] - 85:6 abducted [4] - 8:28, 9:20, 12:17, 49:4 abduction [17] - 12:6, 14:28, 16:15, 16:28, 16:29, 28:14, 29:20, 38:27, 44:6, 66:29, 67:2, 102:20, 105:26, 113:21, 145:8, 168:12, 171:10 ability [1] - 25:9 able [8] - 10:3, 10:13, 10:14, 79:10, 116:27, 117:22, 159:6, 171:8 absence [4] - 43:19, 147:24, 147:29, 180:24 absent [1] - 178:2 absolute [1] - 27:11 absolutely [10] - 11:6, 38:7, 56:13, 57:11, 62:27, 77:12, 124:14, 167:12, 167:26, 174:3 absurd [2] -		
	3	7			
	4	7			
	4 [1] - 115:16 4th [1] - 142:1	7 [1] - 5:4 71 [1] - 5:10 715 [1] - 175:11 734 [2] - 151:4, 168:21 739 [1] - 176:15 740 [1] - 174:14 7556 [1] - 116:8 7561 [1] - 117:14 7737 [2] - 71:16, 86:20 7742 [2] - 71:15, 90:23 7744 [1] - 90:28 7745 [1] - 91:21 7746 [1] - 92:20 7747 [1] - 92:7 7749 [1] - 72:2 7750 [2] - 71:13, 72:13 7752 [2] - 7:13, 25:18 78 [1] - 90:24 79 [1] - 116:19			

<p>actions [6] - 27:9, 30:18, 30:19, 56:5, 56:13, 63:22</p> <p>active [1] - 11:25</p> <p>activities [1] - 159:13</p> <p>activity [1] - 127:3</p> <p>actual [4] - 43:15, 54:6, 166:18, 177:7</p> <p>add [4] - 15:29, 50:3, 172:1, 172:5</p> <p>added [3] - 17:13, 17:25, 105:29</p> <p>additional [1] - 59:16</p> <p>addressed [5] - 72:1, 118:3, 167:15, 178:8, 178:16</p> <p>addressing [2] - 23:26, 112:6</p> <p>adds [1] - 35:4</p> <p>adducing [1] - 46:5</p> <p>ADJOURNED [2] - 97:21, 181:3</p> <p>adjourned [2] - 8:19, 21:22</p> <p>admire [1] - 73:17</p> <p>admitted [1] - 39:20</p> <p>admittedly [1] - 165:16</p> <p>advance [6] - 35:15, 60:24, 60:25, 61:19, 76:12, 118:10</p> <p>adverse [1] - 130:6</p> <p>advice [14] - 21:24, 31:25, 32:4, 50:23, 55:21, 55:23, 55:27, 64:11, 64:12, 113:25, 152:5, 153:19, 160:4, 169:17</p> <p>advised [3] - 64:7, 64:12, 76:10</p> <p>advocate's [1] - 130:5</p> <p>Affairs [1] - 14:2</p> <p>affairs [1] - 18:4</p>	<p>affected [1] - 85:5</p> <p>afforded [1] - 104:1</p> <p>afraid [4] - 23:4, 57:8, 95:21, 95:29</p> <p>aftermath [4] - 29:8, 37:13, 53:7, 119:28</p> <p>afternoon [13] - 65:26, 65:28, 89:5, 132:4, 146:15, 146:16, 146:26, 147:6, 167:24, 168:2, 168:5, 170:12, 177:9</p> <p>afterwards [3] - 22:3, 39:1, 173:13</p> <p>agencies [1] - 56:12</p> <p>agitated [3] - 50:25, 103:13, 105:12</p> <p>ago [7] - 14:13, 28:20, 41:12, 78:15, 86:26, 86:27, 89:9</p> <p>agree [20] - 37:2, 42:7, 42:19, 42:20, 42:21, 42:22, 42:29, 46:16, 46:29, 48:23, 49:8, 49:26, 49:27, 54:23, 60:3, 68:20, 128:9, 141:2, 141:4, 156:7</p> <p>agreed [1] - 19:12</p> <p>agrees [2] - 43:1, 131:18</p> <p>Aidan [1] - 115:21</p> <p>akin [1] - 51:29</p> <p>albeit [1] - 14:18</p> <p>alert [2] - 167:13, 167:14</p> <p>alerted [1] - 135:26</p> <p>allegation [7] - 51:16, 53:29, 54:8, 123:11, 123:12, 124:25, 166:26</p> <p>alleged [4] - 43:28, 92:11,</p>	<p>154:21, 165:6</p> <p>allegedly [3] - 128:26, 128:29, 163:9</p> <p>allow [2] - 41:29, 163:13</p> <p>allowed [4] - 32:29, 45:21, 57:21, 86:12</p> <p>alluded [2] - 26:26, 91:4</p> <p>almost [7] - 64:10, 68:19, 71:19, 78:17, 103:13, 150:26, 164:25</p> <p>alternative [1] - 15:19</p> <p>amaze [1] - 12:19</p> <p>Ambrose [1] - 20:29</p> <p>amount [6] - 14:12, 107:23, 132:18, 143:13, 156:4, 164:6</p> <p>amounted [2] - 51:15, 51:18</p> <p>amplifying [1] - 125:10</p> <p>AND [2] - 4:17, 97:21</p> <p>anecdotal [1] - 48:16</p> <p>anecdotaly [2] - 21:8, 26:6</p> <p>angle [3] - 73:14, 74:14, 93:16</p> <p>announce [1] - 66:26</p> <p>annoyed [1] - 27:6</p> <p>answer [36] - 7:8, 21:11, 21:19, 22:20, 32:18, 40:14, 47:22, 48:15, 85:20, 88:2, 88:5, 88:7, 88:16, 88:25, 90:25, 92:25, 94:26, 94:28, 95:15, 95:16, 95:21, 95:22, 95:27, 116:13, 116:16, 119:20, 122:21, 124:28, 167:7, 179:9, 179:27, 180:1, 180:2</p>	<p>answered [7] - 69:19, 95:26, 122:6, 122:8, 122:16, 122:24, 123:3</p> <p>answering [2] - 94:24, 95:26</p> <p>answers [2] - 23:16, 123:2</p> <p>anxious [1] - 161:1</p> <p>anyway [16] - 10:19, 22:25, 45:3, 46:11, 47:27, 60:6, 62:24, 73:20, 82:23, 100:5, 100:26, 103:7, 107:26, 131:13, 164:13, 176:5</p> <p>apart [7] - 26:27, 29:11, 56:6, 74:13, 96:6, 123:18, 127:29</p> <p>apologies [2] - 6:9, 89:12</p> <p>apologise [3] - 53:8, 53:10, 138:3</p> <p>apparent [5] - 8:15, 12:2, 27:6, 40:20, 72:3</p> <p>appeal [1] - 17:15</p> <p>appear [13] - 19:10, 63:17, 73:10, 83:26, 104:4, 107:4, 115:24, 132:14, 132:15, 133:25, 142:3, 148:1, 148:3</p> <p>appearance [1] - 14:16</p> <p>appearances [2] - 9:26, 13:18</p> <p>appeared [6] - 8:9, 62:3, 62:15, 72:20, 83:20, 138:4</p> <p>appearing [1] - 60:24</p> <p>appended [1] - 118:4</p> <p>application [16] - 8:13, 13:14, 13:17, 39:7, 39:11, 39:13, 39:24, 57:6, 110:10, 110:12,</p>	<p>110:13, 158:14, 158:15, 164:16, 164:17, 164:19</p> <p>apply [2] - 4:18, 59:10</p> <p>appreciate [6] - 8:21, 59:9, 59:11, 59:26, 76:2, 163:17</p> <p>appreciated [1] - 19:4</p> <p>appreciation [1] - 23:26</p> <p>apprehended [1] - 39:20</p> <p>apprehension [1] - 48:19</p> <p>approached [4] - 28:12, 30:24, 64:4, 64:12</p> <p>appropriate [2] - 160:2, 164:2</p> <p>appropriatenes [1] - 47:8</p> <p>April [8] - 134:26, 135:3, 135:18, 135:27, 137:3, 137:5, 138:5</p> <p>area [5] - 37:11, 88:4, 88:11, 95:25, 161:3</p> <p>areas [1] - 161:2</p> <p>arguably [1] - 163:24</p> <p>argument [3] - 15:15, 15:16, 15:27</p> <p>arguments [2] - 16:7, 51:9</p> <p>arise [3] - 168:27, 180:21</p> <p>arises [3] - 37:19, 37:20, 180:20</p> <p>arising [2] - 83:3, 168:3</p> <p>arose [4] - 112:18, 148:2, 179:28, 179:29</p> <p>arranged [1] - 72:11</p> <p>arranging [1] - 121:1</p> <p>arrested [4] - 16:26, 16:27, 39:1, 78:16</p> <p>arrive [1] - 156:5</p> <p>arrived [4] - 20:2, 50:25,</p>	<p>101:13, 132:9</p> <p>arriving [1] - 100:10</p> <p>arson [2] - 20:6, 20:8</p> <p>article [43] - 25:18, 26:10, 28:13, 29:12, 29:24, 30:5, 35:1, 60:17, 60:18, 60:19, 60:27, 61:17, 62:23, 66:7, 69:24, 69:27, 71:26, 71:27, 72:19, 72:23, 72:24, 73:10, 73:23, 78:25, 79:25, 81:21, 81:26, 83:20, 84:7, 86:17, 89:17, 89:20, 90:16, 90:26, 91:3, 91:10, 91:13, 91:29, 92:2, 92:11, 92:12, 94:9, 111:14</p> <p>articles [7] - 62:14, 73:28, 77:18, 165:8, 165:13, 165:14, 165:15</p> <p>AS [13] - 6:1, 7:2, 38:13, 52:8, 65:23, 71:6, 88:29, 93:3, 97:21, 98:2, 125:18, 168:1, 174:10</p> <p>aspect [8] - 11:24, 63:20, 72:23, 75:5, 83:25, 90:16, 118:5, 161:19</p> <p>assassination [1] - 75:13</p> <p>assault [1] - 109:12</p> <p>assertion [1] - 123:26</p> <p>assertions [1] - 120:23</p> <p>assiduous [1] - 45:1</p> <p>assign [1] - 169:7</p> <p>assigned [2] - 168:21, 168:22</p> <p>assignments [1] - 112:25</p>
---	--	---	--	--	---

<p>assigns [1] - 169:8</p> <p>assist [5] - 9:6, 23:21, 29:15, 39:23, 177:3</p> <p>assistance [14] - 13:15, 13:18, 19:17, 59:14, 59:17, 59:25, 87:18, 166:28, 167:4, 167:8, 170:29, 177:18, 180:8, 181:1</p> <p>Assistant [4] - 87:7, 98:20, 115:5, 176:20</p> <p>assisted [3] - 21:18, 56:11, 64:12</p> <p>assisting [2] - 11:21, 97:13</p> <p>associates [2] - 120:5, 120:21</p> <p>assume [4] - 84:22, 88:4, 164:6, 164:17</p> <p>assuming [1] - 106:23</p> <p>assumption [4] - 127:24, 137:13, 179:5</p> <p>assurances [1] - 14:15</p> <p>astray [1] - 42:12</p> <p>AT [1] - 181:4</p> <p>attached [1] - 118:10</p> <p>attack [6] - 18:4, 18:5, 20:6, 20:8, 40:5, 40:24</p> <p>attempted [3] - 20:17, 40:19, 85:24</p> <p>attend [7] - 19:7, 19:13, 107:25, 108:9, 118:28, 164:19, 176:3</p> <p>attendance [1] - 147:11</p> <p>attended [7] - 86:16, 87:14, 158:13, 170:9, 173:18, 176:20, 176:27</p> <p>attending [2] - 122:22, 171:27</p> <p>attention [9] - 18:12, 43:14, 64:14, 89:14,</p>	<p>91:22, 105:6, 160:27, 164:24, 165:4</p> <p>attributable [1] - 18:16</p> <p>August [7] - 20:27, 38:25, 48:29, 151:21, 151:22</p> <p>authored [1] - 71:26</p> <p>authorised [1] - 86:15</p> <p>authorities [1] - 32:21</p> <p>authority [1] - 174:25</p> <p>available [4] - 14:10, 116:22, 159:19, 161:6</p> <p>avoid [3] - 55:2, 55:7, 130:5</p> <p>awaited [1] - 156:24</p> <p>aware [76] - 10:25, 11:2, 12:9, 18:10, 18:25, 18:29, 20:24, 20:27, 20:29, 21:9, 21:11, 21:13, 22:21, 22:22, 25:5, 29:5, 29:7, 33:14, 33:16, 40:27, 41:6, 46:3, 47:12, 47:15, 47:17, 47:19, 47:20, 47:21, 47:24, 47:25, 47:27, 47:28, 48:3, 48:4, 50:1, 55:5, 55:6, 57:16, 62:18, 73:21, 75:15, 75:18, 78:11, 78:14, 80:12, 83:15, 83:18, 83:19, 83:24, 85:2, 101:29, 103:26, 103:29, 104:1, 104:3, 104:7, 104:11, 111:13, 121:8, 124:19, 126:13, 126:21, 127:7, 130:7, 134:20, 140:3, 140:9, 140:14, 140:20, 142:25, 163:18, 180:25</p> <p>awareness [2] -</p>	<p>42:3</p> <p style="text-align: center;">B</p> <p>background [1] - 163:7</p> <p>backwards [1] - 9:14</p> <p>bad [1] - 129:25</p> <p>Baiba [59] - 8:13, 14:11, 14:19, 18:16, 21:1, 21:10, 28:14, 29:19, 32:9, 37:13, 41:2, 41:7, 43:26, 47:13, 54:17, 54:29, 55:15, 56:2, 56:8, 56:14, 57:11, 64:1, 65:14, 66:23, 67:5, 67:10, 67:14, 80:9, 80:14, 85:5, 103:17, 105:14, 113:19, 117:1, 117:12, 119:17, 120:3, 120:11, 120:20, 121:8, 133:18, 134:17, 134:20, 138:13, 139:28, 140:4, 140:7, 140:16, 140:23, 140:24, 144:6, 144:27, 150:2, 155:22, 161:13, 169:24, 171:11, 175:24, 176:8</p> <p>Baiba's [1] - 72:19</p> <p>bail [26] - 16:16, 16:21, 16:23, 17:2, 17:4, 39:7, 39:11, 39:13, 39:15, 39:16, 39:20, 39:24, 39:29, 57:6, 108:27, 108:29, 109:11, 110:10, 110:12, 110:13, 158:14, 158:15, 164:16, 164:18, 170:9, 172:14</p> <p>bandied [1] - 29:9</p> <p>BAR [1] - 3:8</p> <p>bar [2] - 129:12, 176:28</p> <p>barely [1] -</p>	<p>133:27</p> <p>barring [4] - 12:27, 13:2, 45:24</p> <p>barristers [1] - 89:6</p> <p>base [1] - 34:27</p> <p>based [3] - 34:9, 35:2, 151:11</p> <p>basic [1] - 27:12</p> <p>basis [5] - 80:7, 129:11, 137:24, 163:3, 164:15</p> <p>bear [3] - 43:7, 43:8, 58:1</p> <p>became [14] - 8:15, 11:22, 12:2, 18:10, 18:29, 20:27, 20:29, 21:9, 31:28, 57:16, 79:1, 83:24, 112:21, 149:7</p> <p>become [5] - 20:24, 21:11, 124:16, 124:19, 145:28</p> <p>BEEN [3] - 7:1, 71:5, 98:2</p> <p>beforehand [2] - 77:22, 109:7</p> <p>beg [4] - 90:2, 132:25, 169:3, 176:17</p> <p>began [1] - 107:29</p> <p>beggars [1] - 88:22</p> <p>behalf [8] - 14:22, 14:23, 40:28, 80:26, 92:10, 125:13, 133:14, 178:13</p> <p>behaviour [2] - 43:27, 141:22</p> <p>behind [1] - 18:20</p> <p>belief [2] - 59:13, 84:2</p> <p>bell [3] - 172:26, 173:5, 173:8</p> <p>benefit [1] - 97:25</p> <p>best [10] - 9:5, 16:24, 25:8, 25:23, 44:29, 45:5, 45:6, 77:22, 92:16, 94:29</p> <p>better [7] - 33:28, 35:17,</p>	<p>46:13, 65:26, 133:4, 141:25, 154:18</p> <p>between [9] - 11:25, 36:9, 70:20, 85:3, 127:25, 128:18, 130:4, 131:1, 139:18</p> <p>beyond [5] - 40:10, 112:19, 143:4, 163:4, 180:15</p> <p>bid [1] - 75:13</p> <p>big [3] - 68:22, 77:21, 165:28</p> <p>biggest [3] - 69:5, 77:19, 77:20</p> <p>bit [20] - 7:28, 17:9, 24:24, 38:22, 41:13, 44:2, 45:8, 49:7, 50:5, 51:12, 53:2, 56:18, 65:9, 114:26, 115:22, 132:12, 141:23, 149:12, 151:22, 156:19</p> <p>bitterly [1] - 16:1</p> <p>BL [1] - 3:5</p> <p>blank [10] - 24:9, 45:2, 45:8, 120:5, 120:20, 175:25, 175:26</p> <p>blank] [1] - 174:24</p> <p>blend [1] - 90:6</p> <p>blowing [1] - 20:20</p> <p>blue [3] - 77:4, 155:3, 155:4</p> <p>blunt [1] - 137:25</p> <p>bodyguards [3] - 80:11, 80:12, 80:19</p> <p>bombshell [1] - 133:5</p> <p>bond [1] - 17:6</p> <p>bones [1] - 26:20</p> <p>book [4] - 48:9, 74:19, 168:20, 169:10</p> <p>Book [2] - 14:27, 21:16</p> <p>bother [1] - 61:12</p> <p>bottom [11] -</p>	<p>44:11, 44:14, 105:23, 115:22, 115:23, 116:8, 119:29, 123:16, 124:4, 174:17, 175:14</p> <p>box [3] - 20:9, 20:10</p> <p>breach [4] - 56:1, 89:23, 90:11, 126:20</p> <p>break [1] - 97:19</p> <p>Brendan [1] - 110:27</p> <p>bridge [1] - 40:17</p> <p>brief [8] - 102:21, 109:20, 162:10, 162:11, 171:8, 176:5, 177:29</p> <p>briefed [2] - 87:20, 87:24</p> <p>briefly [6] - 21:12, 22:15, 52:23, 168:21, 170:25, 177:24</p> <p>bring [11] - 15:9, 16:23, 17:4, 17:22, 17:23, 17:27, 38:22, 38:23, 41:8, 42:15, 44:10</p> <p>bringing [4] - 11:29, 16:3, 107:19, 108:20</p> <p>broadly [2] - 41:3, 41:5</p> <p>broke [1] - 73:18</p> <p>broken [1] - 148:19</p> <p>brought [9] - 15:8, 17:7, 24:26, 39:4, 138:20, 138:29, 139:1, 169:25, 170:21</p> <p>bulletin [1] - 104:7</p> <p>bullying [3] - 126:18, 126:19, 127:4</p> <p>bump [1] - 21:6</p> <p>Bureau [1] - 98:14</p> <p>burn [1] - 56:23</p> <p>burnt [1] - 20:25</p> <p>business [3] - 48:10, 100:8, 107:22</p> <p>BY [23] - 3:6,</p>
--	---	--	--	--	---

5:4, 5:5, 5:6, 5:7, 5:10, 5:11, 5:12, 5:15, 5:16, 5:17, 5:18, 7:1, 38:13, 52:8, 65:23, 71:5, 88:29, 93:3, 98:2, 125:18, 168:1, 174:10 Byrne [7] - 104:8, 108:11, 108:13, 115:10, 147:10, 147:11, 176:23	128:12, 128:13, 128:17, 129:19, 129:22, 129:28, 130:27, 132:10, 132:11, 137:26, 137:28, 141:9, 145:3, 145:8, 152:18, 159:18, 161:20, 163:21, 164:24, 164:27, 165:12, 165:27, 165:28, 171:10 cases [3] - 24:9, 85:29, 92:26 Cassidy [1] - 176:1 catastrophic [1] - 65:8 catch [1] - 142:10 causes [1] - 95:25 cautious [1] - 8:23 CCTV [1] - 168:28 ceased [1] - 22:13 central [1] - 80:14 centralise [1] - 123:23 centrally [1] - 11:21 centre [1] - 66:15 certain [9] - 13:23, 57:9, 87:21, 127:8, 133:6, 134:3, 165:19, 172:19, 172:24 certainly [27] - 15:24, 21:29, 38:29, 46:12, 53:12, 56:22, 63:16, 63:28, 66:10, 73:20, 112:15, 114:23, 132:2, 132:13, 133:5, 133:29, 138:7, 139:3, 139:4, 143:22, 148:2, 155:19, 160:5, 160:15, 165:4, 166:11, 177:9 cetera [3] - 135:29, 136:1 chairing [2] -	132:20, 177:10 Chairman [74] - 6:4, 6:9, 6:13, 9:7, 37:24, 37:27, 38:7, 38:18, 41:21, 41:28, 43:3, 43:13, 45:17, 47:23, 52:10, 59:7, 59:13, 65:20, 68:12, 70:24, 71:1, 71:10, 71:29, 73:1, 75:8, 75:29, 76:29, 77:5, 77:16, 77:19, 78:13, 78:22, 82:5, 83:15, 87:2, 88:1, 88:15, 89:4, 91:26, 92:3, 93:18, 93:22, 94:17, 95:27, 97:9, 97:23, 98:7, 98:16, 98:22, 98:29, 99:4, 99:7, 104:14, 125:12, 125:22, 127:23, 130:23, 135:13, 135:20, 136:23, 137:19, 154:17, 160:29, 166:17, 167:24, 175:1, 177:23, 177:29, 178:6, 178:14, 178:17, 179:21, 180:13, 180:14 CHAIRMAN [175] - 6:5, 6:8, 6:10, 6:15, 7:4, 7:10, 7:14, 7:23, 7:26, 8:3, 8:20, 8:28, 9:9, 9:14, 9:19, 9:22, 10:3, 10:7, 10:9, 10:11, 10:19, 11:8, 11:13, 15:4, 15:8, 15:11, 15:14, 16:2, 16:9, 16:26, 17:2, 17:18, 19:26, 20:1, 20:5, 20:18, 20:21, 22:26, 22:29, 23:29, 35:20, 35:25, 35:29, 36:3, 37:17, 37:26, 38:1, 38:9, 38:16, 41:15, 41:23, 42:5, 42:11, 42:18, 43:4, 43:12, 44:25, 44:28,	46:1, 46:9, 46:13, 47:19, 47:21, 47:24, 47:29, 49:16, 50:12, 50:17, 50:22, 51:6, 51:19, 52:5, 57:25, 58:3, 58:7, 59:22, 64:16, 64:18, 65:16, 70:25, 71:3, 71:7, 71:17, 73:7, 75:9, 75:11, 76:2, 77:6, 78:1, 78:5, 78:9, 78:11, 78:14, 78:18, 82:6, 82:11, 82:16, 82:21, 82:23, 82:25, 88:7, 88:27, 89:3, 92:1, 93:1, 97:6, 97:10, 97:18, 98:4, 125:2, 125:15, 125:21, 125:27, 125:29, 126:4, 126:6, 128:1, 131:15, 131:18, 131:21, 135:2, 135:5, 135:18, 135:22, 135:24, 136:13, 136:21, 137:8, 137:11, 137:23, 138:21, 138:23, 144:21, 153:19, 153:21, 153:24, 153:27, 154:15, 154:19, 154:26, 154:29, 155:3, 155:5, 155:10, 157:4, 161:9, 161:11, 162:17, 162:20, 162:24, 163:18, 164:5, 164:9, 164:13, 166:16, 166:20, 166:27, 167:2, 167:12, 167:20, 167:26, 169:2, 169:4, 172:3, 172:7, 172:28, 174:8, 177:16, 177:25, 177:28, 178:19, 178:21, 178:26, 179:22, 180:20 Chairman's [1] - 141:28 challenger [1] - 125:7 challenging [1] - 51:12 changed [3] -	16:8, 94:15, 148:22 changes [2] - 64:8 character [2] - 80:14, 171:10 characterised [1] - 55:8 charade [1] - 17:10 charge [10] - 12:15, 51:5, 52:1, 53:28, 55:16, 98:14, 101:19, 101:20, 146:4, 157:16 charge.. [1] - 53:1 charged [6] - 12:22, 16:15, 16:16, 39:8, 102:2, 106:9 charges [2] - 16:28, 16:29 charging [1] - 38:26 CHEALLACHÁI [1] - 3:6 checking [1] - 6:11 CHIEF [2] - 5:14, 98:1 Chief [16] - 7:12, 22:8, 23:24, 34:23, 71:12, 97:24, 104:8, 117:19, 117:27, 118:3, 119:3, 122:19, 123:1, 136:8, 176:21 chief [10] - 61:29, 98:4, 98:13, 99:5, 121:22, 125:23, 125:29, 136:27, 137:27, 176:27 child [2] - 44:6, 113:21 children [33] - 8:6, 8:17, 8:28, 9:28, 11:28, 12:7, 12:17, 13:21, 15:9, 16:3, 16:23, 17:4, 17:6, 17:12, 17:14, 17:22, 17:23, 17:27, 18:1, 19:9, 19:27, 24:26, 29:20, 47:4, 49:4, 56:11, 56:15, 57:13,	67:1, 67:2, 105:27, 106:8, 165:2 chime [1] - 42:9 choice [1] - 70:12 choosers [1] - 88:22 choosing [1] - 81:18 Circuit [4] - 17:15, 19:20, 105:28, 164:17 circumstances [7] - 57:27, 59:15, 110:22, 113:14, 129:25, 162:7, 180:15 cite [1] - 128:23 citizen [2] - 95:22, 125:28 city [1] - 101:1 City [1] - 176:2 civil [4] - 11:21, 13:7, 116:3 claim [6] - 19:25, 79:5, 87:22, 121:3, 126:17, 134:29 claimed [3] - 134:15, 134:17, 155:14 claimed.. [1] - 137:10 claims [1] - 165:25 clarification [2] - 63:25, 130:23 clarified [1] - 170:4 clarify [2] - 27:20, 137:7 clarifying [1] - 125:9 clear [24] - 43:12, 47:16, 52:18, 81:7, 90:7, 91:6, 93:16, 107:8, 107:10, 115:28, 129:21, 130:21, 133:9, 133:26, 133:29, 136:14, 139:11, 142:4, 142:12, 155:20, 163:27, 173:29 cleared [1] - 52:28 clearly [6] - 52:19, 53:11,
C					
camera [2] - 9:7, 17:10 cannot [3] - 31:5, 40:1, 163:8 canvassed [1] - 86:8 capable [3] - 158:28, 159:2, 160:18 capacity [3] - 31:27, 66:22, 81:4 car [3] - 19:7, 20:25, 48:29 cards [1] - 17:21 care [2] - 32:14, 178:2 cared [1] - 32:20 career [1] - 62:28 careful [4] - 40:3, 59:27, 160:22, 180:8 careful.. [1] - 58:24 carried [2] - 58:12, 112:18 carry [2] - 10:19, 49:12 case [52] - 13:13, 13:27, 19:26, 19:29, 21:14, 21:21, 27:20, 27:21, 27:22, 28:14, 41:19, 44:6, 48:26, 65:6, 73:11, 79:9, 101:18, 101:24, 105:26, 105:28, 116:2, 116:3, 118:27, 120:21, 126:27, 127:10, 127:21, 127:22,					

<p>56:28, 58:9, 63:13, 69:27 client [1] - 7:19 Cloonan [1] - 110:27 close [3] - 131:11, 157:25, 157:26 closed [3] - 21:5, 21:27, 40:12 clothes [1] - 103:11 coconuts [1] - 76:20 Code [2] - 73:5, 86:11 colleague [5] - 9:11, 39:2, 101:5, 101:8, 174:4 colleagues [2] - 76:21, 180:6 collect [1] - 10:1 collected [2] - 120:6, 168:29 collecting [1] - 166:13 collects [1] - 148:14 Colm [1] - 52:11 coloured [1] - 41:13 comfort [1] - 134:2 comfortable [5] - 76:15, 76:16, 76:28, 77:1, 95:16 coming [16] - 7:15, 8:1, 18:25, 31:25, 31:27, 50:17, 50:19, 70:26, 71:7, 80:8, 89:22, 90:10, 97:12, 156:2, 156:24, 177:18 commenced [2] - 40:29, 99:29 commencemen t [1] - 47:8 commences [1] - 174:17 commendation [1] - 13:24 commended [1] - 172:11 commending [1] - 56:5 comment [22] - 25:26, 29:1,</p>	<p>29:12, 29:24, 31:8, 32:23, 34:27, 46:15, 69:28, 72:23, 80:7, 85:24, 85:27, 85:28, 86:15, 90:16, 92:24, 92:25, 92:26, 96:2, 96:6 commented [1] - 16:22 comments [2] - 59:26, 60:3 Commissioner [17] - 37:1, 80:25, 87:7, 98:21, 109:27, 115:5, 119:18, 120:17, 121:8, 134:19, 138:13, 140:1, 140:4, 140:10, 169:22, 176:21 commit [1] - 109:11 committal [1] - 16:13 common [3] - 15:17, 130:27, 145:3 communicate [1] - 47:1 communicated [3] - 36:17, 37:7, 48:12 communicatio n [5] - 48:14, 89:21, 90:9, 110:26, 166:7 communicatio ns [1] - 14:7 community [4] - 100:24, 102:9, 131:16, 171:4 company [1] - 170:13 compared [1] - 23:14 compassionat e [1] - 164:19 compelled [1] - 17:11 competent [1] - 101:11 competition [1] - 75:20 compiled [1] - 43:16 complained [1] - 43:26 complaining [2]</p>	<p>- 46:23, 141:21 complains [1] - 136:1 complaint [8] - 33:13, 46:22, 46:23, 72:4, 89:24, 111:24, 121:21, 174:26 complaints [1] - 43:29 complete [3] - 17:19, 28:6, 168:26 completed [2] - 12:9, 113:1 completely [16] - 19:5, 23:10, 27:24, 30:22, 45:27, 55:17, 55:18, 62:2, 62:26, 63:7, 63:19, 65:29, 96:8, 167:12 completeness [1] - 166:10 completing [1] - 174:23 complication [1] - 128:2 complications [1] - 180:21 complimentary [1] - 13:29 comprehensiv e [2] - 120:8, 122:26 comprehensiv ely [1] - 113:18 comprised [1] - 98:27 compromise [1] - 93:7 compromised [4] - 126:22, 129:22, 178:3, 178:4 conceivable [1] - 129:18 concern [10] - 43:12, 47:14, 48:26, 49:13, 57:19, 112:5, 158:1, 167:13, 177:25, 177:26 concerned [12] - 11:9, 43:7, 53:8, 59:29, 105:2, 112:3, 129:2, 133:12, 133:14, 145:5, 149:8</p>	<p>concerning [8] - 41:2, 48:4, 67:10, 80:28, 120:23, 121:20, 134:16, 159:13 concerns [6] - 50:8, 141:7, 172:19, 172:23, 173:2, 180:22 conclude [1] - 112:1 conclusion [8] - 20:14, 24:15, 26:15, 46:27, 74:23, 75:2, 128:13, 159:9 condition [7] - 16:23, 17:5, 17:13, 17:23, 17:25, 107:6, 147:5 Conduct [1] - 73:5 conducted [1] - 106:7 conference [51] - 99:22, 99:24, 100:5, 102:12, 102:13, 102:14, 102:15, 102:17, 102:21, 106:20, 107:13, 107:16, 107:22, 107:25, 107:28, 108:9, 108:12, 108:14, 118:27, 122:22, 131:11, 131:12, 131:28, 131:29, 132:3, 132:6, 132:10, 132:11, 132:14, 132:20, 132:22, 146:13, 146:15, 147:19, 170:24, 170:27, 171:3, 171:24, 172:6, 176:9, 176:10, 176:11, 176:20, 176:27, 177:1, 177:4, 177:6, 177:8, 177:11 conferences [5] - 112:25, 147:17, 171:19, 171:22, 171:28 confidential [6] - 22:7, 33:13, 52:15, 83:8, 114:22, 121:21 confirm [9] -</p>	<p>21:23, 28:23, 46:10, 87:23, 87:28, 88:23, 90:24, 91:23, 116:7 confirmed [5] - 35:11, 47:23, 86:28, 87:6, 91:18 conflict [1] - 139:18 confused [2] - 46:15, 46:17 confusing [2] - 45:19, 45:27 confusion [1] - 170:26 conjunction [1] - 179:16 connected [1] - 36:15 connection [11] - 4:14, 8:10, 21:20, 25:12, 46:2, 86:17, 110:9, 123:20, 162:2, 166:7, 178:5 connections [8] - 109:14, 109:15, 109:17, 142:1, 158:24, 159:5, 160:11 conscious [2] - 161:25, 163:29 consent [3] - 17:16, 17:26, 17:29 consented [1] - 17:28 consequences [2] - 63:3, 135:29 conservation [1] - 84:18 consider [6] - 46:17, 146:9, 147:2, 147:16, 148:5, 180:21 considerable [3] - 161:2, 165:24, 178:2 consideration [3] - 112:10, 178:6, 178:14 considered [3] - 93:25, 104:29, 142:26 consistent [2] - 24:5, 87:22 constantly [1] -</p>	<p>43:26 constraint [1] - 11:13 construction [1] - 136:24 consulate [1] - 14:7 consultant [1] - 23:28 consulted [7] - 21:23, 50:6, 149:12, 149:13, 175:28, 175:29, 176:1 contact [25] - 12:4, 14:6, 14:8, 21:1, 21:26, 21:28, 22:14, 24:25, 49:5, 63:8, 80:9, 85:24, 85:26, 86:2, 96:11, 96:13, 96:14, 96:20, 96:29, 97:1, 97:3, 121:25, 140:27, 149:27, 166:7 contacted [16] - 40:20, 75:25, 77:2, 87:10, 92:24, 96:1, 96:4, 96:12, 115:10, 121:22, 136:8, 147:13, 150:10, 152:2, 152:4, 156:11 contacting [2] - 148:3, 156:10 contacts [3] - 110:3, 110:5, 122:10 contained [1] - 118:19 contempt [9] - 11:28, 15:6, 15:14, 15:17, 15:22, 15:25, 15:27, 16:6, 16:13 contended [1] - 170:8 content [4] - 28:17, 62:11, 84:4, 84:6 contents [1] - 21:13 context [49] - 9:27, 12:16, 14:11, 19:17, 21:27, 23:9, 23:12, 26:17,</p>
---	---	--	---	--	---

<p>26:24, 27:19, 28:5, 29:17, 29:20, 30:16, 30:19, 30:20, 33:17, 33:22, 33:23, 42:7, 45:28, 46:18, 47:3, 49:21, 52:24, 55:14, 56:8, 56:11, 57:6, 61:13, 62:8, 63:18, 63:19, 64:1, 64:7, 66:1, 66:24, 66:29, 68:22, 89:15, 89:28, 106:2, 138:2, 144:1, 155:1, 155:13, 163:7, 163:21, 164:23</p> <p>contextualise [1] - 88:6</p> <p>continued [1] - 104:16</p> <p>contract [2] - 111:15, 126:20</p> <p>contradicts [1] - 128:29</p> <p>contrary [1] - 43:20</p> <p>contribute [1] - 171:2</p> <p>control [8] - 33:1, 57:22, 123:23, 142:17, 143:2, 180:15, 180:27, 180:28</p> <p>controversy [1] - 36:9</p> <p>convenience [2] - 7:6, 71:10</p> <p>convenient [1] - 60:17</p> <p>conversation [51] - 28:18, 33:10, 36:21, 40:15, 62:16, 66:26, 67:29, 68:15, 76:27, 78:1, 78:7, 78:28, 79:1, 79:2, 79:14, 80:4, 83:4, 83:13, 83:27, 84:1, 84:3, 93:20, 108:11, 108:16, 110:1, 114:10, 120:16, 120:28, 121:12, 122:15, 135:2, 135:6, 135:22, 135:25, 135:27,</p>	<p>136:6, 137:14, 137:26, 139:12, 152:20, 152:21, 152:26, 152:29, 153:15, 154:5, 155:2, 155:25, 157:7, 166:7, 173:22</p> <p>conversation.. [1] - 138:28</p> <p>conversations [5] - 41:12, 43:23, 120:23, 135:15, 152:24</p> <p>convey [2] - 77:3, 137:21</p> <p>convicted [1] - 9:10</p> <p>convinced [1] - 57:11</p> <p>Coolock [3] - 98:27, 99:25, 99:26</p> <p>cooperated [1] - 25:8</p> <p>coordinate [1] - 123:22</p> <p>coordination [1] - 32:13</p> <p>coordinator [1] - 169:9</p> <p>cop [2] - 72:19, 111:16</p> <p>copy [9] - 72:18, 107:2, 107:11, 118:23, 145:17, 146:5, 174:22, 175:4, 175:5</p> <p>core [2] - 59:15, 59:19</p> <p>correct [77] - 8:8, 8:18, 9:13, 12:23, 13:4, 13:28, 15:2, 15:3, 15:29, 16:19, 17:1, 22:11, 25:13, 30:26, 30:27, 31:26, 34:13, 36:5, 39:6, 45:19, 46:21, 46:24, 50:6, 51:17, 53:6, 69:1, 69:13, 71:20, 71:29, 72:10, 72:25, 77:5, 80:29, 87:12, 87:20, 90:13, 91:5, 91:23, 92:14, 93:8, 93:18, 93:22,</p>	<p>98:16, 98:22, 99:3, 105:4, 108:28, 109:4, 113:11, 115:26, 116:7, 117:28, 119:22, 122:19, 123:5, 131:17, 133:24, 134:4, 138:10, 139:9, 144:5, 151:12, 153:23, 155:28, 156:1, 156:23, 157:9, 157:29, 158:10, 158:29, 161:27, 161:28, 164:7, 169:6, 170:3, 170:28, 180:1</p> <p>corrected [1] - 137:13</p> <p>correctly [1] - 165:11</p> <p>correspondenc e [4] - 14:1, 14:3, 72:16, 112:8</p> <p>correspondent [2] - 71:23, 77:15</p> <p>corridor [1] - 108:2</p> <p>Costello [2] - 50:15, 92:17</p> <p>costs [1] - 126:23</p> <p>Council [1] - 73:2</p> <p>counsel [14] - 9:25, 13:15, 19:8, 49:17, 51:4, 51:9, 52:12, 55:22, 109:8, 109:9, 109:16, 109:18, 154:29</p> <p>countries [1] - 46:5</p> <p>country [6] - 10:15, 12:18, 29:9, 39:21, 69:6, 69:8</p> <p>couple [8] - 21:6, 27:29, 30:17, 89:7, 108:7, 116:5, 167:25, 168:3</p> <p>course [22] - 22:6, 28:2, 49:22, 54:23, 59:27, 60:9, 64:28, 71:11, 73:22, 78:24, 80:6, 89:23, 90:11,</p>	<p>120:7, 120:16, 138:28, 159:1, 164:29, 166:29, 167:4, 167:10, 170:14</p> <p>Court [25] - 8:9, 15:10, 15:12, 15:18, 15:20, 15:26, 17:3, 17:15, 17:21, 19:20, 39:4, 39:11, 39:16, 39:24, 39:26, 39:29, 65:9, 105:29, 109:7, 116:4, 126:12, 128:27, 129:3, 159:17, 164:17</p> <p>court [20] - 9:6, 9:26, 11:28, 12:1, 13:18, 14:16, 15:9, 16:6, 17:15, 18:1, 19:7, 19:11, 19:12, 19:16, 24:9, 109:19, 164:16, 173:1</p> <p>courts [2] - 101:25, 106:9</p> <p>cover [2] - 59:1, 123:28</p> <p>cover-up [1] - 123:28</p> <p>covering [2] - 75:12, 113:18</p> <p>credibility [1] - 35:5</p> <p>Crime [1] - 176:1</p> <p>crime [8] - 38:27, 48:11, 71:18, 71:22, 72:16, 96:19, 160:3, 175:28</p> <p>crimes [1] - 67:5</p> <p>Criminal [1] - 105:28</p> <p>criminal [18] - 11:24, 12:26, 18:24, 21:14, 21:20, 46:23, 51:16, 52:1, 55:10, 57:5, 65:9, 98:15, 158:24, 159:13, 160:8, 160:19, 172:9</p> <p>criticised [1] - 51:2</p> <p>criticising [1] - 179:26</p> <p>criticism [6] - 7:26, 51:7, 85:7,</p>	<p>130:12, 145:18, 163:28</p> <p>CRO [2] - 42:2, 44:9</p> <p>CROSS [14] - 5:5, 5:6, 5:7, 5:11, 5:12, 5:16, 5:17, 38:13, 52:8, 65:23, 88:29, 93:3, 125:18, 168:1</p> <p>cross [6] - 41:17, 42:27, 43:6, 125:6, 162:1, 163:13</p> <p>Cross [3] - 128:8, 128:9, 129:7</p> <p>Cross's [1] - 19:2</p> <p>cross- examination [5] - 41:17, 42:27, 43:6, 162:1, 163:13</p> <p>CROSS- EXAMINED [14] - 5:5, 5:6, 5:7, 5:11, 5:12, 5:16, 5:17, 38:13, 52:8, 65:23, 88:29, 93:3, 125:18, 168:1</p> <p>cross- examiner [1] - 125:6</p> <p>crossed [3] - 44:20, 45:11, 65:2</p> <p>Cryan [5] - 99:28, 148:20, 163:1, 175:4, 176:17</p> <p>Cryan's [2] - 174:16, 176:15</p> <p>cultural [1] - 23:9</p> <p>culture [5] - 23:10, 23:11, 23:13, 23:14, 57:9</p> <p>curiosity [1] - 135:26</p> <p>Curran [20] - 119:7, 120:26, 121:3, 134:8, 134:10, 134:25, 135:3, 135:7, 135:8, 135:16, 136:1, 136:3,</p>	<p>136:4, 136:7, 136:8, 136:29, 137:14, 137:16, 137:22, 137:29</p> <p>custodian [2] - 19:9, 19:27</p> <p>custody [12] - 8:16, 16:11, 16:17, 16:20, 16:28, 17:12, 17:20, 17:26, 19:25, 102:1, 102:3, 145:22</p>
D					<p>D/I [1] - 176:28</p> <p>D/Inspector [1] - 174:20</p> <p>daily [1] - 71:19</p> <p>danger [4] - 44:21, 45:11, 140:28, 143:3</p> <p>dangerous [11] - 22:27, 23:2, 57:4, 57:5, 109:15, 158:19, 159:5, 159:23, 159:25, 160:8, 160:19</p> <p>dark [1] - 111:25</p> <p>date [13] - 25:6, 74:2, 74:23, 99:5, 114:9, 120:6, 120:27, 135:14, 156:20, 156:27, 156:29, 157:15</p> <p>DATED [1] - 4:7</p> <p>dated [5] - 118:2, 119:24, 120:27, 122:11, 122:27</p> <p>DAY [1] - 4:7</p> <p>days [18] - 4:18, 15:23, 15:25, 16:4, 23:3, 27:10, 63:20, 103:18, 105:14, 108:15, 144:7, 145:29, 148:8, 148:13, 149:7, 156:25, 158:16</p> <p>de [1] - 71:22</p> <p>dead [1] - 161:17</p> <p>deal [5] - 11:1, 119:27, 129:13, 133:4, 157:23</p> <p>deal' [1] - 68:22</p> <p>dealing [6] -</p>

<p>13:27, 44:4, 56:8, 57:17, 111:23, 174:24</p> <p>dealings [1] - 113:19</p> <p>deals [4] - 115:15, 115:17, 118:9, 128:10</p> <p>dealt [5] - 30:29, 56:10, 91:21, 151:28, 180:19</p> <p>death [8] - 31:9, 32:10, 63:22, 67:15, 91:7, 120:11, 141:8, 155:22</p> <p>debate [3] - 60:9, 130:19, 154:27</p> <p>debated [1] - 138:1</p> <p>debating [1] - 161:20</p> <p>December [5] - 8:10, 11:25, 11:26, 42:14, 173:10</p> <p>decision [6] - 12:13, 12:20, 19:3, 68:13, 128:7, 129:18</p> <p>Declan [3] - 101:22, 111:11, 112:15</p> <p>decline [1] - 90:25</p> <p>declined [1] - 43:28</p> <p>deduced [1] - 78:2</p> <p>defamation [1] - 92:12</p> <p>defence [1] - 76:23</p> <p>defend [1] - 166:4</p> <p>definitely [1] - 82:28</p> <p>delayed [1] - 114:5</p> <p>delivered [3] - 114:7, 114:8, 149:2</p> <p>denies [1] - 127:11</p> <p>denying [1] - 127:3</p> <p>Department [1] - 14:1</p> <p>departments [1]</p>	<p>- 14:8</p> <p>depth [1] - 32:15</p> <p>describe [5] - 25:23, 30:28, 56:21, 76:5, 102:29</p> <p>described [8] - 63:17, 65:3, 87:5, 109:6, 133:5, 170:8, 170:11, 171:20</p> <p>describes [2] - 111:2, 143:24</p> <p>describing [2] - 24:15, 144:25</p> <p>description [1] - 123:19</p> <p>deserve [1] - 33:25</p> <p>desire [3] - 123:10, 130:5, 163:12</p> <p>desk [5] - 103:10, 103:12, 105:10, 143:20</p> <p>desperately [1] - 31:14</p> <p>despite [1] - 142:28</p> <p>destroys [1] - 34:1</p> <p>detail [7] - 18:9, 26:23, 32:6, 74:16, 98:19, 128:10, 141:19</p> <p>detailed [2] - 40:3, 141:14</p> <p>details [3] - 75:16, 98:17, 122:13</p> <p>detaining [1] - 38:23</p> <p>Detective [14] - 97:24, 108:10, 110:26, 115:17, 124:1, 134:18, 136:8, 147:10, 147:14, 147:27, 163:2, 170:13, 176:21, 176:22</p> <p>detective [10] - 19:10, 98:13, 98:20, 100:7, 100:22, 125:23, 125:29, 132:19, 136:27, 137:27</p> <p>DETECTIVE [2] - 5:14, 98:1</p> <p>detectives [1] - 74:20</p>	<p>devastating [1] - 163:24</p> <p>device [2] - 20:8, 20:21</p> <p>diary [1] - 122:14</p> <p>died [1] - 165:22</p> <p>differ [1] - 132:15</p> <p>difference [8] - 36:4, 41:18, 41:27, 42:21, 43:1, 43:8, 128:18, 131:26</p> <p>different [20] - 14:8, 14:15, 14:16, 19:5, 23:10, 46:5, 47:13, 47:18, 58:10, 65:29, 75:14, 80:26, 82:20, 96:22, 123:24, 131:5, 134:22, 136:6, 136:24, 162:8</p> <p>difficult [10] - 7:28, 14:5, 14:10, 14:17, 24:21, 46:1, 75:29, 80:5, 126:27, 147:26</p> <p>difficulties [5] - 23:6, 23:7, 106:4, 118:18, 163:18</p> <p>difficulty [8] - 8:21, 12:3, 37:25, 42:23, 88:1, 95:26, 127:9, 180:20</p> <p>dilemma [1] - 161:25</p> <p>dimension [1] - 35:4</p> <p>direct [3] - 77:10, 107:24, 139:18</p> <p>directed [1] - 122:4</p> <p>directing [1] - 177:10</p> <p>directions [1] - 38:26</p> <p>directly [7] - 4:13, 17:25, 18:16, 65:13, 72:1, 113:8, 150:14</p> <p>Director [1] - 124:10</p> <p>director [1] - 12:12</p>	<p>disagree [3] - 53:9, 68:8, 68:23</p> <p>disagrees [1] - 43:1</p> <p>disappointed [4] - 16:1, 82:18, 85:19, 136:16</p> <p>disciplinary [45] - 36:22, 36:26, 47:9, 50:12, 51:29, 52:20, 53:15, 58:16, 58:19, 59:1, 61:18, 62:3, 67:20, 67:27, 68:6, 68:9, 69:16, 69:28, 73:24, 73:25, 74:13, 75:6, 75:22, 75:23, 78:24, 78:26, 81:11, 81:23, 83:23, 84:13, 84:19, 85:29, 86:4, 86:5, 86:21, 92:26, 93:17, 94:5, 94:13, 94:17, 96:5, 97:2, 149:19, 149:28, 150:8</p> <p>discipline [7] - 30:26, 89:23, 90:12, 106:19, 117:28, 118:5, 118:8</p> <p>disciplined [1] - 61:25</p> <p>disclosure [11] - 11:7, 11:11, 36:23, 83:2, 83:3, 83:7, 83:16, 124:20, 162:13, 162:26, 175:5</p> <p>DISCLOSURES [1] - 4:8</p> <p>disclosures [1] - 31:12</p> <p>discovered [1] - 20:6</p> <p>discredited [4] - 58:25, 162:16, 162:19, 162:20</p> <p>discrete [3] - 88:20</p> <p>discuss [6] - 14:10, 27:15, 72:8, 72:27, 89:25, 129:10</p> <p>discussed [2] - 27:23, 32:9</p>	<p>discussing [4] - 31:17, 40:7, 84:4, 162:25</p> <p>discussion [7] - 32:10, 32:15, 32:19, 40:6, 40:24, 61:19, 109:8</p> <p>discussions [1] - 37:8</p> <p>dismissed [2] - 43:24, 128:14</p> <p>dispute [3] - 131:22, 131:24, 163:22</p> <p>disputes [1] - 47:16</p> <p>disrespect [3] - 42:26, 126:5, 126:8</p> <p>disrespected [2] - 162:15, 162:20</p> <p>disrespectful [1] - 41:24</p> <p>distorted [3] - 51:22, 96:25, 96:27</p> <p>distortion [2] - 30:22, 96:24</p> <p>distortionate [1] - 55:19</p> <p>distracted [1] - 40:17</p> <p>distress [1] - 26:5</p> <p>district [6] - 15:26, 98:26, 100:6, 100:22, 101:1, 124:16</p> <p>District [8] - 8:9, 15:10, 15:12, 15:18, 15:20, 39:4, 39:16, 65:9</p> <p>districts [1] - 98:27</p> <p>disturbed [1] - 176:7</p> <p>divisional [1] - 99:8</p> <p>document [20] - 27:24, 31:2, 41:4, 50:29, 51:23, 51:25, 54:8, 54:26, 68:3, 90:29, 103:15, 103:20, 107:3, 107:9, 107:20, 114:22, 118:1, 118:17, 118:24, 143:18</p>	<p>documentation [2] - 54:16, 77:23</p> <p>documents [6] - 35:23, 77:14, 77:16, 77:17, 113:3, 174:15</p> <p>dogs [1] - 30:9</p> <p>domain [5] - 53:25, 68:18, 68:25, 69:12, 91:2</p> <p>domestic [5] - 13:10, 45:28, 142:14, 143:1</p> <p>Donal [1] - 115:19</p> <p>done [14] - 22:19, 56:6, 105:11, 106:6, 106:16, 112:29, 142:2, 151:25, 152:29, 154:1, 165:9, 169:5, 169:9, 175:20</p> <p>doubt [8] - 20:16, 20:17, 25:3, 25:8, 36:24, 64:28, 100:16, 161:12</p> <p>down [37] - 7:4, 24:1, 24:23, 25:1, 44:23, 52:25, 53:13, 56:23, 60:27, 71:8, 72:6, 74:2, 76:21, 90:24, 103:14, 105:13, 106:6, 106:26, 106:28, 110:23, 115:22, 115:23, 116:8, 116:26, 117:8, 117:15, 119:20, 122:9, 134:12, 136:12, 136:18, 136:20, 145:6, 156:19, 165:2, 176:4</p> <p>DPP [4] - 38:25, 38:26, 109:8, 124:12</p> <p>draft [10] - 54:22, 54:25, 61:23, 67:13, 68:16, 75:17, 81:26, 102:27, 133:13, 148:9</p> <p>dragged [1] - 179:27</p> <p>dragging [1] - 179:3</p>
--	---	---	--	---	--

<p>dramatic [1] - 26:14</p> <p>draw [9] - 43:14, 57:25, 58:5, 89:14, 91:22, 105:6, 129:24, 163:14, 163:15</p> <p>drawer [6] - 103:15, 105:10, 105:11, 143:20, 143:21</p> <p>drawn [1] - 151:6</p> <p>drew [1] - 17:28</p> <p>dropped [1] - 155:2</p> <p>Dublin [3] - 7:17, 88:12, 163:23</p> <p>DUBLIN [1] - 3:8</p> <p>due [6] - 9:10, 60:9, 118:18, 166:28, 167:4, 180:15</p> <p>duress [1] - 18:2</p> <p>during [6] - 36:25, 116:5, 120:7, 120:15, 138:27, 172:16</p> <p>duties [3] - 55:1, 89:23, 90:11</p> <p>duty [2] - 56:1, 56:7</p> <p>Dwyer [10] - 72:2, 72:11, 72:18, 72:21, 89:11, 89:16, 89:28, 121:23, 124:24, 178:29</p> <p>Dwyer's [1] - 127:24</p>	<p>17:28, 55:28, 119:19, 121:18, 139:12, 147:13, 163:24</p> <p>effectively [2] - 105:3, 153:13</p> <p>efforts [1] - 9:11</p> <p>EGAN [8] - 5:17, 167:24, 168:1, 168:2, 169:7, 172:4, 172:11, 173:1</p> <p>Egan [8] - 125:13, 167:19, 167:23, 167:26, 172:3, 172:29</p> <p>eh.. [1] - 79:20</p> <p>eight [2] - 98:9, 151:26</p> <p>either [11] - 36:22, 36:25, 48:21, 104:26, 121:23, 123:20, 124:24, 139:24, 140:4, 178:7, 178:25</p> <p>element [4] - 62:2, 75:5, 75:7, 143:3</p> <p>elements [1] - 163:20</p> <p>elephant [1] - 133:6</p> <p>eleven [3] - 130:28, 131:1, 166:18</p> <p>ELIZABETH [1] - 3:6</p> <p>em [6] - 16:18, 25:25, 67:24, 144:6, 146:20, 173:20</p> <p>emanates [1] - 48:14</p> <p>embarrassmen t [3] - 165:25, 165:29, 166:2</p> <p>embassy [1] - 14:6</p> <p>emerge [1] - 78:17</p> <p>emotional [1] - 126:19</p> <p>emotions [2] - 14:15, 46:19</p> <p>emotive [2] - 24:21, 53:2</p> <p>emotively [1] - 51:3</p> <p>emotiveness [2]</p>	<p>- 24:19, 53:9</p> <p>encouragemen t [1] - 178:8</p> <p>end [21] - 24:24, 45:22, 51:8, 58:20, 78:7, 79:13, 82:22, 97:11, 110:19, 111:4, 123:26, 130:9, 133:10, 138:2, 144:4, 148:10, 153:14, 155:27, 157:27, 158:12, 175:17</p> <p>endeavour [1] - 180:10</p> <p>endeavoured [1] - 96:17</p> <p>endeavouring [1] - 180:3</p> <p>engaged [1] - 175:23</p> <p>enormous [2] - 14:12, 59:14</p> <p>enormously [5] - 14:5, 14:17, 14:19, 53:8, 63:13</p> <p>enough [5] - 87:5, 95:10, 95:12, 95:13, 95:19</p> <p>ensue [1] - 180:11</p> <p>ensure [1] - 174:25</p> <p>ensuring [1] - 178:2</p> <p>entered [1] - 21:21</p> <p>entire [5] - 31:7, 32:1, 35:15, 48:8, 62:28</p> <p>entirely [6] - 42:1, 45:28, 95:9, 110:9, 161:27</p> <p>entirety [1] - 74:17</p> <p>entitled [3] - 72:19, 125:8, 129:8</p> <p>entries [2] - 175:17, 175:21</p> <p>entry [1] - 176:18</p> <p>equally [1] - 48:2</p> <p>equated [1] - 51:5</p> <p>equivalence [2]</p>	<p>- 127:25, 127:29</p> <p>escalated [1] - 44:6</p> <p>escape [1] - 23:9</p> <p>escaped [1] - 20:4</p> <p>escapes [1] - 45:5</p> <p>especially [2] - 26:16, 63:3</p> <p>essentially [2] - 11:27, 60:6</p> <p>establish [3] - 115:10, 116:22, 130:17</p> <p>established [3] - 67:9, 75:22, 143:9</p> <p>establishment [1] - 149:13</p> <p>estoppel [1] - 129:12</p> <p>et [3] - 135:29, 136:1</p> <p>Europe [1] - 9:29</p> <p>evaporated [1] - 129:15</p> <p>evening [1] - 175:16</p> <p>event [13] - 11:20, 12:22, 14:26, 16:10, 17:17, 19:2, 20:16, 25:11, 34:11, 79:29, 81:20, 90:7, 108:26</p> <p>events [8] - 11:7, 31:9, 32:9, 63:20, 101:3, 101:4, 136:26, 163:22</p> <p>eventually [2] - 9:28, 17:9</p> <p>everyday [2] - 76:19, 147:19</p> <p>Evidence [4] - 14:27, 21:17, 124:13</p> <p>evidence [74] - 19:18, 19:21, 20:2, 24:11, 33:3, 34:24, 34:28, 37:4, 39:1, 39:15, 39:19, 39:25, 41:13, 46:6, 49:10, 58:4, 59:10, 59:24, 59:26, 59:28,</p>	<p>60:1, 66:10, 67:18, 68:5, 68:13, 70:27, 80:21, 84:27, 87:13, 87:16, 91:4, 95:25, 97:11, 102:11, 109:3, 109:9, 109:19, 109:20, 116:1, 116:5, 125:7, 128:10, 128:20, 128:24, 128:27, 128:28, 129:29, 130:1, 130:2, 132:5, 133:26, 134:1, 140:19, 140:21, 140:22, 142:4, 152:23, 153:21, 166:21, 166:22, 172:15, 172:18, 172:22, 174:29, 176:16, 178:27, 179:1, 179:10, 179:28, 180:17, 180:24</p> <p>exact [3] - 139:8, 139:21, 170:5</p> <p>exactly [7] - 9:23, 26:20, 50:21, 55:26, 56:3, 82:13, 159:8</p> <p>examination [5] - 41:17, 42:27, 43:6, 162:1, 163:13</p> <p>examine [2] - 37:18, 57:15</p> <p>EXAMINED [22] - 5:4, 5:5, 5:6, 5:7, 5:10, 5:11, 5:12, 5:15, 5:16, 5:17, 5:18, 7:1, 38:13, 52:8, 65:23, 71:5, 88:29, 93:3, 98:2, 125:18, 168:1, 174:10</p> <p>examined [1] - 137:24</p> <p>examiner [1] - 125:6</p> <p>example [2] - 88:13, 154:5</p> <p>except [5] - 18:24, 114:28, 115:1, 116:13, 158:22</p> <p>exchange [1] -</p>	<p>179:4</p> <p>excised [1] - 179:19</p> <p>exclusives [1] - 73:16</p> <p>exclusivity [2] - 69:13, 69:15</p> <p>exemplary [1] - 56:9</p> <p>exercise [3] - 142:17, 149:14, 162:8</p> <p>exercised [1] - 178:1</p> <p>exercising [1] - 143:2</p> <p>exhausting [1] - 64:2</p> <p>existed [1] - 120:22</p> <p>existence [1] - 78:26</p> <p>expect [1] - 82:27</p> <p>expectation [1] - 173:21</p> <p>expected [4] - 55:2, 55:7, 108:9, 173:17</p> <p>expeditiously [1] - 151:29</p> <p>experienced [3] - 95:11, 164:28, 172:9</p> <p>expert [2] - 31:11, 32:23</p> <p>explain [5] - 17:18, 81:19, 113:13, 136:19, 154:17</p> <p>express [5] - 24:8, 51:14, 52:19, 58:10, 180:3</p> <p>expressed [11] - 24:10, 31:12, 45:14, 47:14, 48:20, 48:26, 49:13, 51:8, 104:14, 118:17, 173:2</p> <p>expression [5] - 27:28, 33:29, 70:4, 70:16, 70:21</p> <p>expressions [1] - 172:23</p> <p>expressly [1] - 61:27</p> <p>extent [9] -</p>
E					
<p>early [7] - 6:12, 13:1, 45:22, 104:5, 113:26, 141:10, 152:10</p> <p>ease [1] - 106:25</p> <p>easiest [1] - 126:3</p> <p>easily [1] - 142:3</p> <p>East [1] - 10:15</p> <p>easy [2] - 58:10, 163:19</p> <p>eccentric [1] - 179:3</p> <p>editor [1] - 82:7</p> <p>effect [7] -</p>					

11:22, 50:1, 59:11, 127:8, 128:27, 133:6, 134:3, 158:2, 165:19 extra [1] - 78:12 extract [1] - 175:12	failures [8] - 32:12, 33:19, 114:19, 155:15, 155:17, 155:21, 155:22, 155:24 fair [15] - 14:24, 18:18, 18:21, 26:2, 46:15, 53:28, 59:22, 59:23, 62:19, 77:28, 78:8, 125:5, 146:28, 163:14, 164:6 fairer [1] - 156:23 fairly [3] - 20:8, 70:12, 142:4 fairness [1] - 46:21 fall [1] - 76:21 familiar [3] - 54:13, 66:2, 66:4 family [6] - 8:5, 17:9, 19:15, 19:24, 44:5, 65:6 far [4] - 102:17, 154:24, 165:25, 180:8 fashionable [1] - 129:11 faster [1] - 150:19 fatal [1] - 12:8 father [1] - 11:29 fear [11] - 24:9, 24:16, 26:25, 27:28, 46:28, 47:5, 48:20, 104:15, 142:4, 144:3, 144:8 feared [1] - 144:28 fears [6] - 22:10, 23:20, 23:27, 24:10, 43:21, 43:24 feature [1] - 24:25 FEBRUARY [3] - 4:8, 6:1, 181:3 February [6] - 19:4, 19:11, 19:19, 40:5, 49:1, 57:15 Feehan [13] - 22:8, 34:23, 37:1, 71:12, 115:5, 117:20, 118:4, 119:4, 121:20, 122:7, 122:19,	123:1, 123:4 Feehan's [4] - 7:12, 23:24, 62:1, 117:27 felt [12] - 11:15, 15:18, 19:15, 31:13, 41:5, 47:2, 51:15, 51:20, 147:4, 171:21, 171:29, 172:5 Fergus [2] - 72:18, 89:11 fertile [1] - 57:23 few [16] - 20:3, 23:3, 36:27, 45:26, 63:20, 65:20, 66:5, 73:20, 74:6, 76:20, 78:15, 89:9, 101:7, 158:16, 174:13, 174:14 fifth [1] - 156:14 figure [3] - 45:13, 56:19, 57:1 file [12] - 12:10, 12:12, 13:9, 21:5, 21:27, 40:12, 102:23, 168:12, 170:2, 175:4, 175:5 files [1] - 115:21 final [5] - 20:14, 72:6, 112:9, 137:19, 153:15 finally [5] - 64:25, 164:4, 166:9, 173:9, 173:28 fine [5] - 38:7, 53:3, 70:2, 85:8, 113:25 finished [3] - 65:16, 79:7, 132:14 Finn [1] - 175:29 fire [6] - 18:5, 20:3, 20:11, 40:18, 48:29, 49:1 first [45] - 6:7, 6:13, 36:29, 39:12, 47:12, 51:28, 63:29, 66:1, 67:25, 80:8, 88:3, 90:22, 94:10, 98:24, 98:25, 99:22, 107:13, 107:16,	108:5, 109:22, 111:4, 114:20, 115:8, 118:9, 119:27, 122:1, 125:3, 125:7, 131:24, 132:4, 135:13, 147:5, 150:13, 152:7, 152:8, 153:19, 160:27, 162:26, 166:17, 168:7, 169:25, 170:26, 176:17, 177:4, 177:11 firstly [1] - 73:9 fit [1] - 147:4 Fitzgibbon [1] - 100:29 Fitzpatrick [1] - 176:22 five [8] - 27:10, 82:20, 98:23, 122:28, 126:1, 131:3, 136:3 fixed [4] - 11:3, 18:26, 171:5, 171:7 flow [1] - 59:9 flowed [1] - 140:26 FLYNN [1] - 3:12 focus [11] - 51:23, 73:26, 86:21, 148:7, 164:28, 165:5, 165:6, 165:8, 165:10, 165:17, 171:26 focussing [1] - 27:27 follow [7] - 42:22, 74:11, 82:21, 138:11, 154:8, 155:29, 157:11 followed [3] - 56:9, 125:8, 137:16 following [17] - 14:16, 26:3, 26:5, 26:13, 68:8, 72:12, 92:10, 108:15, 108:29, 112:18, 121:5, 122:5, 145:29, 152:19, 152:20, 164:18, 168:10 FOLLOWS [13] - 6:2, 7:2, 38:14, 52:9, 65:24, 71:6,	88:29, 93:3, 97:21, 98:3, 125:19, 168:1, 174:11 follows [4] - 96:7, 124:8, 129:19, 130:17 foot [4] - 16:13, 18:11, 22:5, 72:3 footlocker [1] - 103:16 FOR [3] - 3:5, 3:11, 97:21 Foreign [1] - 14:2 forget [4] - 143:27, 143:28, 165:13, 165:14 forgive [1] - 24:19 forgotten [1] - 162:17 form [6] - 27:27, 56:1, 132:11, 139:11, 160:3, 178:26 formal [4] - 43:29, 83:7, 113:18, 178:17 formally [1] - 89:25 formed [1] - 159:21 forward [4] - 40:28, 41:4, 50:4, 83:17 forwarded [1] - 120:26 founded [1] - 165:27 four [6] - 27:9, 27:10, 44:13, 79:15, 82:20, 131:3 fourth [2] - 156:12, 156:14 fox [1] - 40:16 frankly [2] - 26:8, 51:1 free [6] - 51:13, 130:9, 158:4, 158:6, 177:17 frequently [1] - 126:11 friend [1] - 50:18 Friend [5] - 134:5, 134:10, 156:17, 158:12, 166:10 Friend's [1] -	59:9 friendly [3] - 31:28, 32:4, 50:18 friends [2] - 19:14, 175:26 frightened [1] - 141:28 front [10] - 7:24, 34:7, 54:11, 69:25, 69:26, 85:15, 85:16, 85:18, 85:21, 143:19 frustrated [2] - 11:14, 11:15 full [3] - 50:3, 93:6, 93:9 fully [1] - 33:8 funeral [3] - 80:9, 80:10, 164:20 furnishing [1] - 123:21 furrow [1] - 76:3 FURTHER [1] - 4:17 future [3] - 8:23, 153:26, 180:10
F		G			
face [1] - 167:5 faced [1] - 8:29 facing [1] - 163:19 fact [48] - 9:9, 9:10, 9:24, 9:29, 10:23, 19:9, 24:8, 25:27, 30:23, 33:12, 34:4, 35:1, 36:22, 40:29, 41:20, 42:13, 42:14, 43:22, 44:16, 45:10, 56:6, 59:16, 59:21, 67:20, 69:16, 69:26, 79:17, 91:17, 102:19, 104:6, 107:20, 115:6, 116:12, 127:21, 129:28, 132:12, 133:16, 134:2, 144:27, 149:14, 155:13, 161:16, 161:17, 161:20, 161:21, 162:5, 163:1, 168:8 fact-finding [7] - 40:29, 41:20, 42:13, 42:14, 115:6, 116:12, 149:14 facto [1] - 71:22 facts [1] - 48:3 factual [1] - 59:26 failed [2] - 54:29, 55:6 failings [2] - 165:6 fails [1] - 12:19 failure [13] - 30:18, 69:21, 114:20, 114:23, 123:11, 123:19, 123:22, 135:28, 153:5, 153:8, 155:19, 155:21, 165:26	Gabriel [1] - 121:25 game [1] - 9:27 gangland [7] - 18:21, 32:27, 32:29, 57:20, 57:21, 57:23, 65:3 garda [10] - 28:13, 29:29, 34:24, 35:11, 62:28, 75:25, 76:13, 86:29, 94:22, 150:24 GARDA [1] - 3:5 Garda [82] - 4:14, 21:15, 26:7, 27:7, 27:26, 28:16, 30:11, 31:10, 31:19, 32:24, 32:26, 35:2, 37:6, 38:20, 40:21, 41:1, 43:19, 43:24, 48:3, 48:7, 48:14, 48:24, 49:9, 54:13, 56:5,				

58:27, 60:28, 61:15, 64:7, 64:12, 69:27, 70:17, 72:22, 73:1, 80:11, 80:19, 81:12, 84:1, 86:9, 86:11, 87:1, 89:6, 92:24, 93:20, 96:1, 96:3, 96:12, 96:14, 97:3, 98:6, 98:14, 99:17, 99:19, 99:25, 99:26, 99:27, 101:13, 101:22, 104:22, 110:20, 111:10, 112:15, 115:17, 115:21, 116:1, 119:18, 120:8, 120:17, 120:18, 125:14, 126:12, 128:6, 128:13, 128:19, 134:15, 141:9, 159:18, 169:18, 178:4, 178:13 Gardaí [17] - 25:5, 27:1, 38:16, 40:11, 41:6, 48:18, 49:13, 49:29, 62:12, 64:4, 75:1, 83:11, 97:2, 117:9, 129:6, 141:10, 141:12 gardaí [2] - 86:7, 90:6 Garland [1] - 170:14 gas [5] - 20:14, 20:15, 20:18, 20:19, 20:22 gather [1] - 73:16 gathering [1] - 132:22 general [6] - 24:9, 37:22, 53:14, 61:19, 76:27, 172:15 generally [4] - 24:5, 48:23, 141:20, 173:28 generated [2] - 135:7, 169:1 genesis [1] - 75:4 Gerry [1] - 99:6 gesture [1] - 133:28	given [34] - 18:11, 19:11, 19:16, 27:13, 33:26, 35:17, 37:1, 47:22, 67:19, 75:1, 75:17, 77:17, 78:12, 79:18, 79:22, 79:23, 79:26, 93:12, 96:6, 96:8, 128:20, 128:27, 133:26, 147:24, 150:3, 153:9, 156:25, 157:12, 158:3, 166:4, 172:15, 172:23, 175:4, 178:14 gleaned [1] - 78:2 glib [1] - 30:9 glitches [1] - 45:5 Government [1] - 56:12 granted [1] - 133:19 graphic [1] - 50:24 grateful [1] - 14:19 great [4] - 73:7, 95:25, 129:13, 164:9 green [1] - 122:14 gross [2] - 30:22, 53:24 grossly [3] - 29:17, 29:21, 51:22 ground [2] - 57:23, 101:7 grounding [1] - 59:20 grunt [1] - 82:22 guard [5] - 28:23, 54:13, 77:3, 91:12, 150:22 guards [10] - 18:12, 21:10, 34:16, 48:28, 86:10, 109:25, 141:8, 160:2, 165:11, 165:19 guesswork [1] - 79:16 guilt [1] - 179:6 guilty [5] -	18:29, 21:21, 56:1, 101:27, 108:26 GUINNESS [3] - 75:25, 174:13, 180:13 gunned [1] - 165:2 guy [1] - 43:5	H	habits [1] - 64:8 habitual [1] - 64:11 half [1] - 166:18 hallway [1] - 20:11 halt [1] - 13:8 hand [10] - 104:24, 107:2, 107:12, 127:10, 143:26, 146:6, 148:20, 151:8, 175:14 handed [3] - 76:26, 105:1, 175:7 handwritten [2] - 54:25, 143:28 hang [1] - 156:9 happy [6] - 47:22, 94:18, 97:10, 125:4, 125:10, 126:2 harassment [2] - 126:18, 127:4 hard [2] - 56:20, 96:17 harm [5] - 103:22, 105:16, 144:9, 144:10, 144:29 HAVING [3] - 7:1, 71:5, 98:2 head [1] - 162:21 headed [1] - 22:8 headline [14] - 26:22, 62:9, 81:25, 81:27, 82:1, 82:8, 82:14, 82:17, 82:25, 82:27, 84:4, 93:28, 93:29, 94:1 headlines [1] - 81:27	hear [3] - 88:18, 172:7, 178:25 heard [16] - 16:24, 22:4, 25:29, 26:6, 26:9, 26:26, 27:2, 57:4, 57:5, 114:20, 121:3, 132:2, 133:7, 165:17, 166:17, 168:20 hearing [10] - 27:17, 27:18, 39:13, 108:29, 140:18, 160:17, 170:9, 172:14, 172:16, 173:19 HEARING [3] - 6:1, 97:21, 181:3 hearings [1] - 87:10 heeded [1] - 165:23 held [6] - 32:22, 73:21, 98:13, 118:10, 118:27, 120:24 hell [1] - 62:11 hello [2] - 52:11, 71:7 help [6] - 15:4, 41:15, 50:20, 78:5, 78:6, 180:7 helpful [2] - 101:8, 174:6 hence [1] - 12:3 HENNESSY [2] - 5:3, 7:1 Hennessy [57] - 6:14, 7:4, 7:7, 7:15, 7:23, 8:3, 8:29, 9:3, 10:21, 15:4, 17:19, 37:14, 38:11, 38:19, 41:19, 41:29, 42:19, 42:24, 42:25, 42:28, 43:15, 44:13, 44:24, 44:27, 51:6, 52:6, 52:11, 57:25, 65:19, 65:26, 70:24, 70:26, 74:26, 80:1, 80:21, 80:29, 83:5, 84:9, 94:21, 96:22, 96:26, 103:27, 104:7, 104:12, 105:17, 113:6, 133:18, 138:14, 139:26,	140:5, 140:8, 140:10, 140:11, 140:20, 140:25, 159:29, 173:3 Hennessy's [5] - 58:8, 59:23, 60:3, 60:8, 60:11 HEREBY [1] - 4:12 hereby [1] - 4:15 herself [4] - 8:13, 13:14, 13:17, 104:15 hesitant [1] - 22:28 hideous [1] - 22:23 high [7] - 29:29, 34:16, 34:18, 61:2, 62:12, 70:5, 70:10 High [11] - 17:3, 17:21, 39:11, 39:24, 39:25, 39:29, 116:4, 126:12, 128:27, 129:3, 159:17 himself [6] - 80:15, 101:22, 104:21, 137:20, 144:2, 155:20 hinges [2] - 132:18, 143:13 hinted [1] - 129:9 history [3] - 39:19, 171:9, 171:10 hit [2] - 140:29, 159:28 hmm [1] - 94:4 holding [1] - 17:21 holiday [1] - 32:3 holidays [1] - 54:4 holistic [1] - 50:3 holistically [1] - 49:20 home [4] - 20:2, 40:5, 40:25, 45:21 homicide [1] - 108:5 honest [5] - 23:5, 36:24, 47:6, 93:12, 95:16 honestly [4] -	28:17, 44:16, 45:10, 151:20 hope [7] - 43:12, 46:26, 50:27, 76:20, 130:21, 136:15, 163:27 hoping [1] - 50:20 HORAN [5] - 5:11, 88:29, 89:2, 89:4, 92:5 Horan [1] - 89:5 horrible [2] - 160:11, 160:12 horrifying [1] - 163:22 hospitalised [1] - 142:13 hour [1] - 107:18 hours [2] - 64:22, 108:7 house [20] - 18:4, 18:6, 18:14, 20:3, 20:4, 20:5, 20:6, 20:15, 20:26, 40:18, 49:1, 56:24, 57:17, 64:8, 64:13, 64:19, 104:2, 117:12, 171:5 huge [10] - 33:24, 132:17, 143:13, 145:28, 146:10, 148:1, 148:16, 163:28, 164:24, 164:29 hugely [1] - 64:5 HUGHES [2] - 3:6, 3:7 Hughes [210] - 9:11, 11:10, 11:14, 11:20, 12:4, 12:5, 13:19, 14:9, 14:17, 14:20, 26:16, 27:9, 27:13, 27:16, 28:27, 29:14, 30:19, 30:25, 31:11, 31:18, 32:10, 33:12, 34:12, 36:13, 37:4, 37:9, 39:2, 39:15, 40:7, 40:13, 40:15, 40:24, 40:28, 41:14, 41:20, 42:27, 43:16, 46:20, 47:9, 47:12, 47:16,
---	---	--	----------	---	---	--	--

<p>47:25, 47:26, 50:6, 51:11, 52:12, 52:21, 52:28, 53:17, 54:1, 54:12, 54:16, 54:29, 55:22, 55:29, 56:7, 56:14, 58:25, 60:11, 61:17, 62:7, 63:8, 66:10, 67:14, 67:16, 69:21, 69:25, 73:25, 74:16, 75:18, 77:11, 79:19, 79:23, 79:27, 83:1, 83:7, 84:21, 84:22, 84:24, 84:25, 84:27, 84:28, 85:3, 86:1, 86:2, 86:3, 86:13, 92:10, 93:6, 95:24, 96:11, 96:13, 96:16, 96:28, 96:29, 100:17, 100:19, 100:23, 100:28, 100:29, 101:2, 102:5, 102:17, 105:25, 106:3, 107:20, 108:12, 108:16, 109:3, 109:23, 110:6, 110:12, 110:17, 110:20, 111:10, 111:26, 112:16, 112:20, 113:11, 114:24, 115:16, 118:11, 118:24, 118:26, 118:28, 119:14, 119:15, 120:15, 120:22, 120:28, 121:13, 121:15, 122:13, 123:14, 124:7, 124:9, 124:12, 124:13, 124:19, 124:26, 125:21, 126:14, 127:13, 127:18, 127:22, 128:11, 128:12, 128:21, 130:26, 131:3, 131:18, 131:24, 133:9, 133:20, 133:25, 134:25, 134:26, 135:27, 136:5, 136:29, 137:4, 137:20, 143:8, 143:29, 144:6, 144:16, 146:14,</p>	<p>150:4, 150:15, 152:3, 152:27, 153:10, 154:20, 154:21, 155:13, 158:22, 162:4, 162:13, 165:7, 165:18, 166:14, 167:3, 168:9, 169:25, 170:8, 170:13, 170:16, 170:25, 171:21, 171:27, 172:5, 172:9, 172:15, 172:22, 173:1, 173:13, 173:23, 173:26, 174:1, 174:24, 175:1, 175:6, 176:7, 177:4, 178:29 Hughes' [1] - 124:8 Hughes's [16] - 13:27, 29:19, 38:5, 48:5, 49:23, 63:22, 72:4, 92:6, 111:2, 123:7, 127:26, 128:17, 129:22, 131:4, 152:13, 152:23 hundred [1] - 64:28 hypothetically [1] - 88:9 hysteria [3] - 26:3, 26:4, 53:24</p>	<p>143:26 immediate [3] - 26:2, 29:8, 54:28 immediately [8] - 11:27, 12:2, 26:5, 62:20, 63:9, 130:25, 150:26, 164:25 impact [5] - 27:3, 67:12, 86:25, 133:12, 180:23 Impact [55] - 21:22, 25:27, 26:7, 26:29, 27:8, 27:19, 29:2, 31:17, 31:20, 48:21, 49:21, 51:24, 51:25, 54:22, 54:24, 54:25, 61:23, 62:10, 67:13, 67:21, 67:25, 68:10, 68:16, 68:18, 69:23, 73:18, 73:27, 74:9, 74:17, 75:1, 75:16, 75:17, 78:27, 79:18, 81:23, 91:1, 91:6, 102:27, 103:16, 103:21, 104:24, 106:29, 108:21, 133:13, 143:10, 145:7, 148:9, 148:11, 148:27, 149:1, 174:21, 174:27, 175:2, 175:7 impart [1] - 95:18 implication [1] - 167:27 implied [1] - 129:10 implies [2] - 42:25, 167:20 imply [2] - 36:14, 51:7 importance [6] - 145:10, 145:28, 146:10, 146:11, 153:9, 158:3 important [9] - 95:23, 106:21, 107:9, 132:5, 145:26, 145:27, 156:7, 161:28, 178:18 imposing [1] -</p>	<p>19:20 impossible [1] - 64:10 impressed [2] - 19:14, 36:10 impression [3] - 105:21, 126:7, 146:21 in-depth [1] - 32:15 inaccurate [2] - 91:25, 92:2 inaction [1] - 69:22 Incident [1] - 175:2 incident [15] - 90:1, 100:7, 104:2, 107:3, 107:12, 111:8, 146:6, 148:29, 157:18, 157:20, 166:19, 168:16, 168:26, 169:4, 169:9 incidents [5] - 80:16, 101:17, 103:27, 104:2, 123:24 include [1] - 123:10 included [4] - 123:4, 155:15, 157:28, 164:27 including [2] - 32:21, 165:6 inclusion [2] - 14:27, 124:10 incomplete [3] - 103:20, 145:10, 145:12 inconsistent [1] - 128:26 incorrect [5] - 30:15, 33:21, 33:23, 120:22, 130:17 indeed [16] - 24:9, 27:21, 42:5, 46:2, 71:9, 82:14, 90:7, 97:14, 109:7, 110:7, 110:11, 126:3, 167:24, 172:11, 177:16 Independent [4] - 68:28, 69:2, 69:5, 73:17 independently [1] - 79:17</p>	<p>INDEX [1] - 5:1 indicate [2] - 125:12, 142:27 indicated [6] - 46:25, 55:4, 115:12, 141:26, 144:16, 158:8 indicating [1] - 72:7 indication [1] - 148:18 indicators [1] - 49:11 indignation [1] - 57:28 indirectly [1] - 4:13 individual [12] - 13:20, 22:24, 23:11, 49:10, 57:3, 57:7, 57:8, 57:18, 62:27, 159:24, 159:25 individuals [1] - 166:8 infants [2] - 8:12, 13:17 inference [2] - 67:15, 179:29 inferences [2] - 58:13, 129:24 infliction [1] - 126:19 inform [4] - 124:11, 171:13, 171:15, 179:18 information [67] - 26:27, 30:10, 37:3, 37:7, 54:17, 55:4, 62:14, 76:24, 77:3, 77:27, 78:7, 78:12, 79:10, 83:23, 88:10, 88:19, 88:22, 89:22, 90:10, 91:1, 93:19, 95:18, 96:7, 102:25, 104:11, 109:10, 111:9, 112:2, 115:11, 115:13, 116:22, 117:1, 117:2, 118:19, 119:16, 120:3, 120:6, 120:9, 120:18, 120:21, 121:4, 122:1, 124:21, 124:22, 124:27, 127:18, 134:16,</p>	<p>134:27, 137:21, 140:6, 149:21, 159:10, 159:16, 159:18, 159:20, 159:22, 160:20, 160:23, 161:5, 161:6, 161:8, 161:9, 164:14, 168:25, 168:29, 170:19 informed [11] - 18:7, 18:9, 28:12, 29:29, 30:1, 64:2, 67:13, 105:24, 118:26, 124:8, 134:19 inherent [1] - 179:11 inhibit [1] - 58:4 initial [2] - 16:5 initiated [3] - 92:14, 92:16, 126:16 injuries [1] - 65:8 injury [1] - 65:7 ink [1] - 88:22 innuendo [1] - 63:15 inquire [3] - 10:10, 64:23, 113:27 inquired [2] - 11:5, 100:22 inquiries [4] - 97:13, 122:5, 123:23, 171:5 inquiring [1] - 127:26 inquiry [22] - 7:12, 11:6, 22:8, 23:24, 48:28, 49:24, 49:25, 56:10, 58:1, 58:10, 58:16, 58:19, 59:1, 59:9, 73:25, 114:27, 122:3, 122:7, 129:2, 130:9, 161:19, 162:9 inside [2] - 160:11, 160:12 insofar [4] - 22:13, 128:21, 128:28, 130:1 inspector [9] - 72:11, 88:24, 91:19, 98:20, 99:10, 132:19, 137:28, 147:14,</p>
I					
	<p>idea [2] - 20:22, 148:12 identifiable [1] - 62:29 identification [1] - 4:12 identifies [1] - 63:14 identify [5] - 30:3, 61:9, 179:9, 179:17, 179:22 identities [1] - 84:17 identity [4] - 28:23, 72:22, 72:29, 79:4 ignite [1] - 20:22 ignore [1] - 45:3 ill [2] - 45:14, 47:3 imagine [3] - 31:19, 51:25,</p>				

<p>166:14 Inspector [35] - 40:9, 61:29, 72:2, 72:17, 72:21, 87:29, 89:10, 89:16, 89:28, 99:8, 99:9, 99:28, 115:4, 115:9, 115:19, 116:11, 116:24, 121:23, 124:1, 124:24, 134:8, 134:9, 134:18, 134:25, 147:15, 147:27, 148:20, 162:29, 163:1, 163:2, 175:4, 176:17, 176:23, 180:17 instance [2] - 87:29, 147:5 instigated [1] - 150:7 instinct [1] - 130:4 institution [2] - 166:4, 166:5 INSTRUCTED [1] - 3:6 instruction [1] - 8:4 instructions [1] - 107:11 intelligence [4] - 43:19, 104:4, 120:10, 160:23 intend [1] - 98:18 intended [1] - 153:4 intending [1] - 100:1 intention [5] - 100:26, 102:16, 102:18, 102:22, 125:9 interaction [2] - 40:10, 40:12 interactions [1] - 171:11 interest [5] - 73:21, 85:22, 93:26, 164:29, 165:2 interested [4] - 4:17, 75:21, 78:20, 93:26 interesting [1] - 93:25 interfere [3] - 41:16, 41:18,</p>	<p>161:29 interferences [1] - 109:12 interfering [1] - 158:28 interim [1] - 12:27 internal [2] - 52:29, 138:19 international [1] - 109:17 interpretation [3] - 11:4, 136:25, 155:12 interpreted [1] - 55:10 interrupt [2] - 95:8, 102:4 intervene [3] - 59:8, 76:10, 127:23 intervened [1] - 164:1 intervening [1] - 168:11 intervention [1] - 164:2 interview [19] - 35:4, 35:6, 35:7, 35:9, 35:10, 35:29, 36:2, 36:3, 36:5, 71:15, 77:21, 86:16, 87:14, 90:20, 91:20, 92:7, 114:28, 115:1, 115:28 interviewed [13] - 35:22, 35:24, 71:14, 71:26, 90:6, 116:13, 116:15, 116:16, 116:20, 116:24, 149:16, 149:17 intimate [1] - 31:29 intimidation [2] - 46:23, 109:13 introduction [1] - 94:9 introductory [1] - 94:11 investigate [6] - 12:4, 31:3, 49:6, 49:19, 49:20, 53:23 investigated [4] - 31:21, 54:9, 61:25, 135:29 investigating [8]</p>	<p>- 25:5, 33:7, 59:20, 101:21, 121:22, 122:13, 124:25, 162:6 investigation [107] - 11:23, 19:6, 20:13, 20:28, 21:17, 22:7, 29:19, 31:6, 31:7, 31:8, 31:29, 32:1, 32:13, 33:19, 40:8, 40:20, 40:22, 40:29, 42:3, 42:14, 44:9, 44:10, 47:9, 48:9, 49:12, 50:2, 50:3, 50:10, 50:16, 52:20, 56:10, 62:1, 66:25, 66:28, 67:20, 67:27, 68:6, 68:10, 69:17, 69:29, 71:12, 73:24, 74:13, 75:6, 78:24, 78:26, 81:23, 84:19, 86:5, 88:11, 89:24, 90:8, 94:6, 94:14, 97:2, 98:15, 99:14, 100:4, 100:8, 101:20, 101:22, 102:15, 102:21, 105:26, 106:7, 106:17, 106:20, 106:21, 107:10, 108:6, 111:7, 111:18, 111:28, 112:21, 113:20, 113:24, 116:12, 116:17, 118:11, 118:23, 120:7, 120:8, 121:20, 123:21, 123:23, 132:3, 132:20, 138:10, 145:11, 146:11, 147:18, 148:7, 149:10, 149:29, 150:1, 150:9, 150:12, 166:12, 168:13, 168:18, 171:9, 171:14, 171:26, 172:11, 175:24, 177:8 investigation.. [1] - 84:14 investigations [5] - 4:14, 27:5, 86:6, 123:28, 150:5</p>	<p>investigative [3] - 107:23, 118:27, 150:29 investigator [4] - 101:10, 101:19, 101:23, 172:10 investigators [6] - 35:22, 40:9, 71:14, 86:17, 90:21, 95:22 invite [1] - 170:26 invited [8] - 38:4, 59:12, 108:8, 108:14, 111:26, 132:8, 171:21, 171:24 involve [1] - 150:2 involved [16] - 11:21, 18:19, 28:14, 34:25, 53:29, 56:12, 84:16, 111:18, 112:21, 116:17, 148:25, 149:18, 149:28, 150:8, 163:25 involvement [13] - 13:6, 13:9, 13:16, 18:23, 29:18, 101:15, 101:18, 116:11, 116:16, 126:14, 149:27, 166:6, 179:7 involving [2] - 19:6, 67:5 Ireland [6] - 18:21, 32:27, 32:29, 57:20, 57:21, 57:23 irresistible [1] - 161:26 IS [2] - 4:12, 4:17 isolate [1] - 30:17 isolated [2] - 55:13, 123:27 isolation [1] - 112:10 issue [43] - 11:16, 23:26, 27:2, 31:8, 32:7, 36:12, 37:21, 43:7, 49:20, 59:15, 59:19, 75:29, 84:4, 107:19, 109:29,</p>	<p>110:28, 112:2, 112:6, 112:7, 112:11, 112:13, 112:14, 112:16, 112:17, 112:18, 113:7, 121:2, 123:9, 123:18, 123:22, 128:1, 129:12, 136:28, 141:5, 143:1, 145:24, 153:9, 155:16, 162:3, 168:7, 171:26, 179:3, 180:14 issued [4] - 8:13, 80:24, 80:27, 104:8 issues [24] - 32:16, 32:18, 67:10, 80:28, 87:25, 103:28, 114:12, 114:14, 114:18, 122:29, 123:29, 124:8, 125:9, 126:28, 127:25, 127:29, 130:7, 142:14, 143:4, 150:2, 153:5, 162:2, 165:21 IT [2] - 4:12, 4:17 it.. [1] - 164:3 item [1] - 75:27 itself [6] - 49:25, 58:24, 91:10, 145:7, 166:5, 177:8</p>	<p>168:27, 169:1 jobs [3] - 122:3, 168:20, 169:10 John [30] - 6:14, 80:6, 80:9, 80:10, 80:13, 81:29, 84:8, 84:12, 85:3, 91:26, 92:3, 94:24, 94:25, 94:26, 94:27, 95:13, 95:21, 95:26, 105:17, 133:18, 138:14, 139:26, 140:5, 140:8, 140:10, 140:11, 140:20, 159:28 JOHN [2] - 5:3, 7:1 John's [1] - 84:26 join [1] - 118:26 joined [1] - 71:22 journal [2] - 127:12, 175:16 journalism [1] - 75:8 journalist [11] - 25:12, 66:4, 69:11, 71:19, 73:5, 73:17, 79:7, 93:24, 94:8, 95:23, 96:10 journalistic [2] - 81:8, 87:22 journalists [7] - 30:10, 61:14, 73:3, 86:8, 88:18, 96:19, 178:9 judge [5] - 15:20, 17:3, 19:20, 46:19, 51:3 Judge [18] - 9:7, 10:5, 19:2, 19:28, 24:3, 51:15, 60:13, 130:22, 135:10, 136:11, 136:12, 136:17, 137:2, 138:5, 162:23, 163:17, 166:25, 167:10 judgment [2] - 128:8, 128:10 July [8] - 119:10, 119:13, 119:24, 120:27, 134:9, 135:1, 151:9, 151:22</p>
J					
<p>jail [1] - 16:4 JAMES [1] - 3:5 January [11] - 23:25, 37:1, 71:21, 86:19, 89:11, 110:19, 121:28, 122:2, 122:12, 122:27, 142:1 job [24] - 53:22, 73:15, 75:19, 76:18, 106:17, 112:24, 122:20, 122:21, 151:2, 151:4, 151:11, 151:24, 157:12, 157:13, 157:24, 157:25, 157:26, 168:20, 168:22, 168:24, 168:26,</p>					

<p>jumped [2] - 19:1, 136:14</p> <p>junction [2] - 101:28, 111:7</p> <p>June [5] - 135:16, 135:20, 135:22, 137:1, 151:9</p> <p>jurisdiction [5] - 9:29, 15:27, 17:7, 40:1, 179:11</p> <p>JUSTICE [1] - 4:8</p> <p>Justice [4] - 109:1, 128:8, 128:9, 129:7</p>	<p>67:16, 82:17, 163:28</p> <p>kitchen [2] - 107:29, 108:1</p> <p>knock [1] - 59:8</p> <p>knowing [3] - 29:13, 48:1, 82:13</p> <p>knowledge [27] - 12:25, 22:9, 22:15, 23:26, 29:18, 31:29, 39:6, 39:24, 41:1, 47:26, 48:16, 48:17, 49:12, 58:26, 59:6, 67:28, 68:1, 89:22, 90:10, 100:27, 101:15, 103:1, 107:26, 124:21, 141:14, 141:16, 149:23</p> <p>known [9] - 27:29, 54:19, 79:27, 82:3, 100:28, 101:4, 116:22, 129:5, 180:23</p> <p>knows [1] - 180:10</p>	<p>64:21, 65:6</p> <p>lawyers [3] - 15:16, 51:9, 64:21</p> <p>laying [1] - 77:9</p> <p>layman's [1] - 76:19</p> <p>lead [8] - 26:15, 42:12, 65:10, 101:19, 101:23, 118:18, 142:27, 171:7</p> <p>leading [1] - 50:16</p> <p>leak [2] - 36:15, 76:22</p> <p>leaked [1] - 76:28</p> <p>leaks [1] - 76:23</p> <p>lean [2] - 71:24, 81:14</p> <p>learn [3] - 73:24, 111:20, 111:21</p> <p>learned [3] - 75:3, 78:25, 84:13</p> <p>learnt [1] - 175:6</p> <p>least [6] - 13:7, 48:25, 49:11, 55:25, 143:25, 163:20</p> <p>leave [9] - 29:9, 39:21, 40:1, 58:14, 156:9, 164:19, 175:1, 180:12, 180:28</p> <p>Lebanon [2] - 10:1, 10:2</p> <p>led [6] - 20:28, 46:27, 53:21, 63:22, 65:13, 159:9</p> <p>left [10] - 50:24, 63:24, 107:29, 133:28, 134:1, 145:17, 145:19, 146:12, 153:13, 157:27</p> <p>legal [10] - 15:15, 15:16, 16:7, 27:3, 32:4, 76:17, 113:25, 152:5, 153:19, 169:17</p> <p>legislation [1] - 12:7</p> <p>legitimate [9] - 8:24, 48:25, 49:26, 60:8, 128:19, 128:23,</p>	<p>163:20, 179:4</p> <p>lengthy [1] - 108:7</p> <p>lens [1] - 49:24</p> <p>less [1] - 13:9</p> <p>letter [20] - 13:23, 20:9, 20:10, 51:3, 72:1, 89:8, 89:10, 89:13, 90:7, 92:5, 92:10, 92:18, 134:6, 134:7, 135:10, 135:14, 135:21</p> <p>letters [1] - 56:4</p> <p>level [4] - 41:1, 48:27, 49:12, 49:23</p> <p>Liam [22] - 14:9, 52:28, 77:11, 100:23, 100:29, 101:2, 105:13, 106:6, 106:15, 106:28, 108:12, 110:11, 110:17, 111:10, 111:25, 112:16, 114:24, 119:14, 127:12, 127:17, 144:6, 176:7</p> <p>liberating [1] - 20:19</p> <p>liberty [1] - 4:18</p> <p>life [25] - 18:8, 22:16, 27:28, 41:2, 42:4, 48:20, 54:29, 55:2, 55:5, 55:8, 63:27, 64:7, 64:23, 65:10, 111:10, 120:5, 120:11, 120:20, 121:9, 134:20, 142:5, 142:27, 144:3, 161:13, 161:23</p> <p>lifted [2] - 9:7, 17:10</p> <p>light [4] - 27:9, 28:7, 30:18, 117:22</p> <p>likely [1] - 82:17</p> <p>limit [1] - 23:18</p> <p>limitation [1] - 11:3</p> <p>limited [6] - 13:9, 15:26, 21:2, 23:13, 40:13, 60:7</p> <p>limits [1] - 163:12</p>	<p>line [24] - 56:9, 57:25, 58:5, 75:8, 75:10, 75:11, 75:12, 75:15, 90:24, 91:22, 92:22, 93:23, 94:2, 94:3, 94:11, 94:12, 94:14, 136:2, 147:13, 148:3, 161:1, 163:15, 163:16, 175:26</p> <p>lines [3] - 44:13, 90:29, 139:19</p> <p>link [2] - 36:21, 114:12</p> <p>linked [2] - 36:25, 64:27</p> <p>linking [1] - 58:18</p> <p>list [1] - 180:18</p> <p>listen [7] - 32:14, 32:21, 41:24, 106:6, 106:27, 113:24, 119:19</p> <p>listened [2] - 84:26, 91:26</p> <p>live [1] - 37:10</p> <p>lived [1] - 21:5</p> <p>lives [2] - 34:1, 63:6</p> <p>living [1] - 10:16</p> <p>LLP [1] - 3:12</p> <p>locating [1] - 38:24</p> <p>locker [1] - 148:18</p> <p>lodged [1] - 13:17</p> <p>log [1] - 174:23</p> <p>logical [3] - 9:15, 179:24, 179:29</p> <p>look [48] - 24:29, 29:10, 36:11, 43:6, 45:4, 49:27, 59:23, 60:6, 62:8, 63:1, 65:5, 68:15, 69:19, 70:9, 72:2, 73:29, 82:19, 95:13, 95:20, 105:13, 106:4, 106:15, 106:19, 107:2, 107:7, 107:8, 110:20, 113:3, 113:24, 115:3, 116:6, 118:1, 119:19, 119:26, 122:2,</p>	<p>122:5, 122:12, 143:13, 143:16, 145:6, 153:17, 163:18, 163:20, 164:14, 174:14, 176:14, 180:5</p> <p>looked [14] - 10:17, 12:7, 17:2, 25:1, 26:24, 46:18, 51:4, 67:14, 72:19, 103:12, 143:17, 143:18, 143:22, 165:5</p> <p>looking [13] - 14:15, 26:13, 29:1, 31:3, 77:26, 80:6, 124:12, 127:15, 134:10, 138:9, 161:22, 166:20, 170:1</p> <p>looks [1] - 115:21</p> <p>lost [1] - 25:1</p> <p>lower [1] - 134:11</p> <p>luck [1] - 76:8</p> <p>lunch [3] - 97:18, 107:18</p> <p>LUNCH [1] - 97:21</p> <p>Lynn [3] - 37:18, 93:5, 180:21</p> <p>LYNN [4] - 5:12, 93:3, 93:5, 97:4</p> <p>Lynn's [1] - 167:4</p>	
K						
<p>KANE [1] - 3:5</p> <p>Kavanagh [5] - 89:12, 90:23, 92:8, 92:21, 134:12</p> <p>Keating [1] - 175:29</p> <p>keep [2] - 34:7, 162:14</p> <p>keeping [3] - 85:14, 88:17, 174:23</p> <p>KELLY [8] - 3:11, 5:7, 38:7, 65:20, 65:23, 65:25, 70:23, 97:9</p> <p>Kelly [11] - 37:28, 38:1, 38:2, 38:3, 38:6, 65:17, 65:18, 76:10, 97:6, 97:7</p> <p>kept [4] - 24:26, 111:24, 151:16, 175:14</p> <p>Kevin [1] - 88:11</p> <p>key [1] - 94:9</p> <p>kids [3] - 9:19, 21:2, 57:12</p> <p>KIERAN [1] - 3:11</p> <p>Kilkenny [1] - 124:17</p> <p>kill [3] - 56:24, 111:16, 141:27</p> <p>killed [1] - 32:27</p> <p>killer [1] - 77:21</p> <p>kind [8] - 18:15, 19:3, 33:29, 48:15, 65:8,</p>						
	L					
	<p>lack [2] - 32:12, 57:26</p> <p>last [23] - 15:23, 15:25, 24:29, 27:28, 30:20, 31:16, 34:29, 35:18, 44:12, 65:6, 87:1, 89:15, 89:18, 98:9, 98:13, 105:29, 116:9, 118:12, 124:5, 154:19, 154:26, 157:7, 178:9</p> <p>late [7] - 7:19, 18:28, 66:23, 67:10, 150:15, 164:20, 175:16</p> <p>Latvian [1] - 80:11</p> <p>law [8] - 8:5, 15:17, 15:25, 17:9, 19:24, 44:5, 65:6, 130:7</p> <p>Law [1] - 80:22</p> <p>laws [1] - 60:1</p> <p>lawyer [2] -</p>					
					M	
					<p>Maeve [4] - 69:2, 73:16, 73:28, 91:3</p> <p>Maeve's [2] - 74:15, 75:3</p> <p>main [2] - 75:7, 102:14</p> <p>maintained [2] - 16:3, 17:24</p> <p>Malahide [1] - 98:27</p> <p>man [10] - 23:5, 23:6, 27:16, 29:17, 33:24, 49:4, 56:27, 62:28, 63:5, 158:20</p> <p>man's [1] - 23:14</p> <p>management [2]</p>	

<p>- 38:20, 106:13 manager [3] - 147:13, 148:3, 175:28 Mangan [9] - 114:27, 115:4, 115:10, 116:24, 117:11, 117:16, 149:14, 162:27, 163:6 Mangan's [1] - 116:11 manslaughter [4] - 51:5, 52:1, 52:29, 55:9 March [2] - 45:26, 71:22 Marie [1] - 176:1 mark [1] - 176:8 MARRINAN [2] - 6:4, 6:6 Marrinan [1] - 137:20 material [2] - 129:29, 130:1 matter [34] - 4:18, 8:10, 8:19, 11:1, 16:17, 16:20, 34:25, 44:5, 48:8, 51:17, 52:20, 72:9, 76:9, 101:25, 108:20, 115:12, 130:18, 137:6, 137:19, 138:2, 146:23, 147:2, 147:12, 152:6, 152:15, 153:28, 154:11, 154:27, 158:11, 162:6, 167:11, 177:23, 178:1 matter.. [1] - 137:5 matters [16] - 39:14, 39:19, 40:4, 50:4, 89:26, 96:5, 102:3, 115:19, 115:24, 117:16, 149:28, 155:21, 155:22, 174:14, 178:4, 178:18 Mayo [1] - 88:14 MC [3] - 75:25, 174:13, 180:13 McCabe [1] - 87:11 McEneaney [1] - 115:18 McGuinness</p>	<p>[67] - 5:4, 5:15, 6:6, 6:9, 6:10, 6:13, 7:2, 7:6, 7:11, 7:15, 7:29, 8:5, 8:25, 8:27, 10:20, 10:21, 11:20, 15:26, 16:10, 17:6, 18:3, 20:24, 23:18, 24:1, 35:20, 35:25, 36:1, 36:6, 36:7, 37:27, 71:1, 71:10, 71:18, 73:9, 76:12, 77:1, 77:8, 78:23, 83:1, 89:9, 90:15, 90:21, 91:16, 92:22, 97:23, 98:2, 98:5, 127:23, 135:13, 135:20, 135:23, 136:21, 136:23, 137:19, 156:17, 160:29, 161:7, 161:26, 166:11, 174:10, 178:21, 178:23, 178:27, 179:10, 179:12, 179:17, 180:5 MCGUINNESS [3] - 5:10, 5:18, 71:6 McGuinness's [1] - 164:1 McHugh [2] - 98:21, 176:21 McNally [1] - 21:15 mean [101] - 8:26, 15:8, 22:18, 22:29, 24:18, 26:23, 27:23, 30:16, 30:17, 33:27, 41:23, 41:26, 42:23, 49:15, 50:26, 52:13, 52:17, 53:11, 53:14, 53:22, 55:8, 56:16, 56:21, 56:27, 58:3, 59:4, 59:8, 60:3, 60:27, 61:29, 62:8, 62:19, 63:1, 63:8, 68:9, 77:10, 78:8, 78:18, 79:16, 80:21, 82:15, 84:21, 95:10, 95:12, 107:4, 126:10, 126:17,</p>	<p>127:14, 130:27, 131:2, 132:17, 133:4, 134:5, 137:6, 137:25, 138:1, 139:3, 139:17, 140:19, 141:5, 141:23, 142:12, 143:25, 145:1, 145:16, 145:18, 145:28, 146:22, 147:1, 147:11, 148:24, 148:26, 151:24, 151:27, 152:24, 153:28, 153:29, 154:4, 155:11, 155:26, 156:2, 156:6, 156:8, 156:12, 156:19, 156:21, 156:26, 159:26, 159:29, 160:21, 160:26, 164:1, 165:18, 170:29, 173:26, 178:27, 179:25 meaning [2] - 51:10, 51:13 means [7] - 47:24, 47:26, 47:29, 60:2, 164:12, 178:16 meant [1] - 145:18 measures [2] - 55:1, 55:6 media [14] - 21:10, 26:28, 29:10, 53:21, 53:22, 68:20, 74:28, 86:26, 164:24, 164:29, 165:4, 165:10 medical [1] - 65:8 meet [13] - 21:5, 72:8, 72:11, 100:6, 100:16, 102:5, 103:18, 131:7, 131:9, 131:10, 133:3, 148:10, 179:20 meeting [20] - 24:29, 50:25, 50:28, 80:25, 89:25, 99:29, 108:2, 108:3, 109:22, 120:29, 121:1, 130:26, 131:4, 131:15, 131:21, 131:23,</p>	<p>132:7, 133:10, 143:7, 151:14 meetings [4] - 54:17, 100:2, 151:12 Melvin [1] - 99:9 member [5] - 31:10, 70:5, 73:4, 86:13, 101:20 member's [2] - 89:22, 90:10 members [6] - 58:27, 110:28, 110:29, 112:3, 112:10, 178:24 memory [6] - 18:11, 25:23, 45:26, 85:28, 92:18, 133:29 mens [1] - 76:18 mental [1] - 23:6 mentally [2] - 45:14, 47:3 mention [18] - 36:23, 61:16, 61:18, 62:5, 84:15, 84:21, 84:22, 94:13, 104:17, 104:21, 106:19, 109:29, 114:23, 133:19, 137:29, 144:3, 146:13, 170:16 mentioned [17] - 60:26, 61:21, 62:20, 63:26, 84:24, 100:24, 108:10, 108:13, 114:24, 126:10, 126:12, 130:14, 138:12, 147:6, 148:29, 153:1, 158:23 mentioning [1] - 38:10 mentions [3] - 118:11, 129:17, 135:11 merely [2] - 44:4, 86:4 met [11] - 22:14, 31:13, 33:18, 110:13, 110:16, 131:10, 131:27, 132:13, 144:17, 175:24, 177:4 MICAHEL [1] - 3:11 MICHAEL [2] - 5:9, 71:5</p>	<p>Michael [16] - 25:25, 26:11, 26:17, 28:12, 29:1, 29:29, 34:28, 36:9, 36:17, 71:2, 93:5, 108:11, 108:13, 147:10, 147:11, 175:29 Mick [2] - 60:19, 77:12 microphone [2] - 7:24, 71:25 mid [1] - 114:3 mid-October [1] - 114:3 midday [1] - 107:18 middle [6] - 24:2, 66:11, 104:5, 110:4, 120:29, 121:6 Middle [1] - 10:15 might [38] - 8:22, 41:8, 43:3, 44:23, 55:1, 55:7, 58:10, 58:13, 65:4, 78:2, 78:11, 78:14, 114:15, 126:16, 126:29, 127:9, 127:27, 128:3, 129:6, 130:5, 130:13, 139:20, 141:25, 142:26, 142:27, 148:12, 148:19, 158:2, 165:8, 167:14, 171:13, 175:15, 177:11, 178:9, 178:14, 178:16, 180:11 mightn't [2] - 11:14, 162:6 mind [14] - 20:16, 22:20, 43:7, 43:9, 44:20, 45:11, 57:9, 58:1, 63:4, 70:13, 71:25, 106:24, 139:4, 167:27 mindful [2] - 48:19, 178:17 minds [1] - 16:8 mis [1] - 46:26 mis- paraphrasing [1] - 46:26 misheard [1] - 107:7</p>	<p>mismatch [1] - 28:6 missed [1] - 144:13 mistake [4] - 56:13, 56:15, 88:3, 138:6 mistaken [1] - 120:23 mister [1] - 125:27 misunderstood [1] - 107:5 mitigate [1] - 180:23 moment [7] - 6:6, 128:3, 136:21, 136:22, 162:18, 166:22, 180:16 moments [1] - 89:9 Monday [1] - 175:23 MONDAY [1] - 6:1 month [3] - 77:20, 151:21 months [16] - 9:24, 12:16, 12:20, 21:7, 45:26, 73:20, 74:6, 98:9, 98:24, 98:25, 150:17, 151:26, 151:27, 157:2, 157:5, 168:11 Morgue [1] - 176:2 morning [20] - 6:4, 6:5, 7:16, 38:1, 38:21, 99:18, 99:19, 99:21, 102:6, 107:16, 110:16, 130:26, 132:1, 132:6, 132:13, 140:25, 143:7, 146:16, 165:17, 177:5 most [5] - 30:10, 44:29, 58:23, 69:8, 151:22 mother [4] - 57:12, 105:28, 106:8, 165:1 motive [4] - 113:23, 171:16, 171:17, 171:18 move [8] -</p>
--	---	--	--	---	--

41:29, 43:11, 43:15, 60:15, 90:28, 130:24, 155:26, 163:4 moved [1] - 65:25 moving [4] - 20:24, 40:4, 50:4, 149:10 MR [136] - 3:5, 3:11, 4:8, 5:3, 5:4, 5:5, 5:6, 5:7, 5:9, 5:10, 5:12, 5:15, 5:16, 5:18, 6:4, 6:6, 6:9, 6:13, 7:1, 7:2, 7:6, 7:11, 7:15, 8:5, 8:27, 10:21, 11:20, 15:26, 16:10, 17:6, 18:3, 20:24, 23:18, 24:1, 36:7, 37:24, 37:27, 38:7, 38:13, 38:18, 41:21, 41:28, 42:6, 42:12, 43:3, 43:11, 43:13, 44:27, 45:7, 46:20, 47:22, 48:2, 49:22, 50:23, 51:27, 52:8, 52:10, 58:15, 59:7, 60:14, 64:25, 65:20, 65:23, 65:25, 70:23, 71:1, 71:5, 71:6, 71:10, 71:18, 73:9, 75:25, 77:1, 77:8, 78:23, 83:1, 93:3, 93:5, 97:4, 97:9, 97:23, 98:2, 98:5, 125:12, 125:18, 125:23, 126:5, 126:9, 127:23, 130:22, 131:20, 131:23, 135:10, 135:13, 135:20, 135:23, 136:11, 136:17, 136:23, 137:2, 137:9, 137:19, 138:3, 138:22, 138:27, 144:24, 153:28, 154:17, 155:11, 157:5, 160:29, 161:4, 161:7, 161:10, 162:16, 162:19, 162:23, 163:17, 164:4, 164:8,	164:11, 164:23, 166:25, 167:1, 167:10, 167:19, 174:10, 174:13, 177:23, 177:26, 177:29, 178:20, 178:23, 179:20, 180:13 MS [15] - 3:6, 3:6, 5:11, 5:17, 88:29, 89:2, 89:4, 92:5, 167:24, 168:1, 168:2, 169:7, 172:4, 172:11, 173:1 murder [69] - 20:17, 22:15, 23:3, 24:20, 25:4, 25:6, 26:5, 27:11, 30:22, 40:19, 49:15, 49:16, 55:15, 57:5, 62:21, 63:21, 67:6, 73:19, 74:4, 75:12, 99:5, 99:15, 103:19, 105:15, 107:10, 108:6, 109:11, 111:15, 111:28, 112:21, 113:23, 119:27, 120:3, 122:22, 123:21, 130:24, 130:25, 132:2, 132:20, 134:17, 138:10, 140:15, 140:16, 144:7, 145:11, 146:11, 147:18, 149:10, 149:29, 150:12, 150:17, 151:27, 154:12, 154:22, 158:3, 158:16, 159:9, 164:15, 164:18, 164:25, 166:12, 168:10, 170:24, 171:14, 173:18, 175:24, 176:8, 177:7, 178:12 murder.. [1] - 49:18 murdered [2] - 49:27, 161:14 murders [1] - 98:24 Murphy [1] - 80:26 MURPHY [1] - 3:7 must [9] - 16:2,	27:18, 89:25, 112:7, 148:29, 158:26, 170:25, 175:6, 175:9 myriad [1] - 86:5 Micheál [1] - 38:19 N Naas [2] - 19:11, 19:18 name [13] - 4:12, 28:16, 38:19, 52:11, 52:26, 52:27, 63:14, 64:6, 68:11, 74:1, 89:5, 91:12, 93:5 named [1] - 10:28 naming [4] - 8:24, 9:2, 10:23, 108:27 narrative [1] - 74:29 narrow [3] - 11:13, 11:15, 49:25 narrowly [1] - 49:20 national [2] - 73:4, 98:14 nature [2] - 81:16, 85:2 near [1] - 153:26 neatly [1] - 60:4 necessarily [7] - 13:7, 14:21, 14:22, 76:25, 82:2, 82:3, 85:2 necessary [1] - 38:3 need [16] - 12:5, 25:20, 33:2, 36:20, 53:10, 88:6, 91:11, 91:17, 91:20, 105:2, 123:8, 134:6, 141:19, 141:27, 179:15, 180:7 needed [5] - 14:8, 19:17, 32:1, 32:4, 140:20 needn't [1] - 53:19 needs [1] - 61:13 negligence [4] -	51:16, 55:10, 56:1, 65:8 never [30] - 9:8, 9:24, 12:19, 14:13, 21:16, 21:17, 21:29, 24:6, 24:10, 26:24, 32:19, 44:20, 45:10, 46:21, 56:3, 56:14, 58:23, 63:1, 63:5, 72:19, 77:17, 84:10, 147:21, 152:14, 152:15, 152:16, 174:1, 174:4 new [11] - 7:19, 37:19, 37:20, 62:2, 73:14, 74:12, 75:5, 76:3, 161:7, 161:9, 161:11 news [8] - 60:24, 68:22, 73:13, 86:24, 93:16, 93:24, 94:9 newspaper [10] - 26:10, 68:28, 69:8, 72:16, 72:18, 73:2, 77:15, 92:13, 111:14, 164:26 Newspaper [1] - 72:20 newspapers [6] - 63:2, 63:4, 73:11, 73:12, 75:19, 78:19 newsworthy [1] - 75:27 next [15] - 24:15, 37:17, 37:22, 44:2, 71:1, 74:19, 74:24, 82:18, 94:19, 97:23, 108:17, 111:23, 117:10, 122:9 night [3] - 34:29, 60:22, 163:23 nine [3] - 9:24, 132:1, 151:26 nobody [14] - 40:20, 51:24, 61:13, 77:8, 77:10, 77:11, 91:25, 97:7, 132:8, 140:22, 166:1 non [5] - 12:8, 30:19, 42:3,	62:10, 147:11 non-action [1] - 62:10 non-actions [1] - 30:19 non- attendance [1] - 147:11 non- awareness [1] - 42:3 non-fatal [1] - 12:8 none [9] - 21:26, 22:17, 46:29, 48:10, 54:2, 112:4, 117:25, 129:27, 149:20 nonetheless [10] - 54:24, 55:27, 131:26, 138:7, 140:24, 145:17, 152:26, 155:19, 165:9, 165:18 nonsense [4] - 26:9, 27:6, 27:11, 41:25 norm [1] - 48:12 normal [4] - 112:27, 112:28, 150:19, 150:24 normally [6] - 108:5, 147:18, 151:20, 171:4, 175:16, 175:19 north [1] - 163:23 note [7] - 40:3, 43:9, 60:5, 117:23, 166:27 notes [4] - 99:28, 122:14, 174:16, 176:16 nothing [19] - 10:11, 42:25, 48:7, 57:8, 65:10, 67:27, 74:12, 91:28, 92:2, 96:27, 97:9, 105:2, 148:2, 149:20, 149:23, 149:24, 149:25, 173:26 NOTICE [1] - 4:7 notice [7] - 4:19, 8:11, 8:16, 30:26, 37:21, 102:19, 116:1 notions [1] -	129:14 November [23] - 33:12, 47:15, 48:21, 66:20, 71:27, 72:21, 73:23, 75:5, 114:6, 120:4, 120:19, 122:16, 153:4, 154:7, 154:12, 157:1, 157:2, 157:4, 157:6, 163:23, 170:9, 174:16 now.. [1] - 93:1 Nuala [1] - 175:29 nuisance [1] - 43:4 number [24] - 14:3, 37:10, 37:11, 55:12, 96:16, 112:24, 115:16, 121:27, 122:3, 122:28, 128:6, 129:13, 138:18, 141:24, 151:4, 151:11, 153:24, 157:12, 168:21, 169:5, 175:17, 175:21 numbers [3] - 168:22, 169:7, 169:8 numerical [2] - 168:24, 169:9 numerous [1] - 43:23 nuts [1] - 35:16 nutshell [2] - 11:8, 11:18 NYHAN [1] - 3:5 Nyhan [15] - 43:25, 54:13, 101:22, 104:22, 110:20, 111:11, 111:24, 112:15, 115:17, 126:13, 128:6, 129:19, 169:12, 169:15, 169:19 Nyhan's [6] - 116:2, 127:21, 128:13, 128:19, 141:9, 159:18 Ní [1] - 3:6
O					
O'Boyle [2] - 121:23, 124:24					

<p>o'clock [1] - 130:28</p> <p>O'Donoghue [3] - 27:20, 27:21, 27:22</p> <p>O'DRISCOLL [1] - 3:12</p> <p>O'DWYER [39] - 5:6, 5:16, 52:8, 52:10, 58:15, 60:14, 64:25, 125:18, 125:23, 126:5, 126:9, 130:22, 131:23, 135:10, 136:11, 136:17, 137:2, 137:9, 138:3, 138:22, 138:27, 144:24, 153:28, 154:17, 155:11, 157:5, 161:4, 161:10, 162:16, 162:19, 162:23, 163:17, 164:4, 164:8, 164:11, 164:23, 166:25, 167:1, 167:10</p> <p>O'Dwyer [24] - 37:18, 52:5, 52:11, 58:7, 59:22, 125:3, 125:4, 125:16, 125:21, 126:6, 129:20, 131:20, 135:24, 136:24, 137:11, 154:29, 155:6, 161:25, 163:14, 164:5, 166:20, 166:27, 179:16, 180:22</p> <p>O'Gara [3] - 121:24, 121:25, 124:24</p> <p>O'HIGGINS [27] - 5:5, 37:24, 38:13, 38:18, 41:21, 41:28, 42:6, 42:12, 43:3, 43:11, 43:13, 44:27, 45:7, 46:20, 47:22, 48:2, 49:22, 50:23, 51:27, 59:7, 125:12, 167:19, 177:23, 177:26, 177:29, 178:20, 179:20</p> <p>O'Higgins [22] - 37:17, 37:26, 38:11, 38:16,</p>	<p>38:19, 38:21, 41:15, 42:18, 46:14, 47:19, 52:13, 52:17, 59:27, 88:27, 125:4, 125:8, 167:18, 167:22, 178:22, 179:16, 180:22</p> <p>O'Higgins's [1] - 59:29</p> <p>O'Sullivan [24] - 97:24, 124:2, 126:2, 126:10, 130:18, 134:18, 136:9, 137:28, 138:24, 163:2, 163:10, 164:14, 168:2, 172:4, 174:7, 174:20, 176:23, 176:28, 177:15, 177:17, 177:25, 179:1, 179:6, 179:27</p> <p>O'SULLIVAN [2] - 5:14, 98:1</p> <p>O'TOOLE [3] - 3:11, 5:9, 71:5</p> <p>O'Toole [45] - 25:25, 26:11, 26:18, 28:12, 29:1, 29:29, 33:11, 33:20, 35:7, 35:21, 36:9, 36:14, 36:17, 37:28, 60:20, 60:21, 62:4, 62:13, 66:2, 66:22, 67:3, 68:1, 68:13, 69:15, 70:3, 70:19, 71:2, 71:7, 71:8, 71:11, 71:18, 73:8, 76:2, 77:12, 88:25, 89:5, 89:14, 91:14, 92:29, 95:8, 97:4, 97:11, 97:13</p> <p>O'Toole's [6] - 34:28, 35:10, 67:18, 68:5, 69:11, 70:14</p> <p>object [2] - 91:27, 92:3</p> <p>objecting [1] - 39:16</p> <p>objection [1] - 169:17</p> <p>obtained [2] - 12:26, 118:23</p>	<p>obvious [8] - 29:11, 58:13, 77:13, 125:11, 155:12, 158:26, 171:13, 179:23</p> <p>obviously [34] - 8:5, 8:21, 11:3, 15:2, 16:14, 18:9, 25:3, 29:13, 36:29, 37:21, 41:16, 41:17, 42:23, 63:13, 63:14, 65:11, 76:6, 78:23, 79:5, 81:2, 89:17, 102:1, 102:29, 110:23, 159:19, 160:21, 160:26, 161:15, 161:21, 163:6, 168:25, 171:7, 178:23</p> <p>occasion [12] - 88:10, 114:11, 114:25, 122:15, 135:5, 154:19, 154:22, 154:26, 169:26, 169:28, 169:29</p> <p>occasions [1] - 43:23</p> <p>occupying [1] - 99:2</p> <p>October [17] - 63:27, 104:5, 104:6, 113:27, 114:3, 118:3, 133:21, 138:17, 139:15, 152:10, 152:20, 152:26, 157:1, 157:8, 169:26, 170:23</p> <p>odd [1] - 56:26</p> <p>OF [3] - 4:7, 4:8</p> <p>offence [3] - 12:23, 16:15, 111:3</p> <p>offences [1] - 106:9</p> <p>Offences [1] - 12:8</p> <p>offer [1] - 59:19</p> <p>offered [3] - 42:1, 42:8, 47:7</p> <p>offering [2] - 59:16, 59:18</p> <p>offhand [1] - 157:22</p> <p>office [31] - 7:20, 7:21, 8:1, 18:13, 18:14, 39:9,</p>	<p>39:10, 64:19, 85:24, 85:26, 86:14, 99:25, 100:25, 101:6, 102:7, 102:9, 103:7, 103:8, 111:8, 114:23, 119:15, 131:15, 131:16, 131:27, 133:29, 134:2, 145:17, 146:12, 156:21, 176:28</p> <p>Office [9] - 69:28, 81:12, 86:10, 92:24, 96:1, 96:3, 96:12, 96:15, 97:3</p> <p>officer [10] - 19:12, 19:16, 64:18, 96:10, 99:8, 99:15, 101:11, 101:21, 124:16, 157:16</p> <p>officers [4] - 84:16, 102:21, 120:2, 171:8</p> <p>official [1] - 119:20</p> <p>officially [1] - 71:21</p> <p>often [15] - 13:13, 18:13, 21:7, 22:17, 24:8, 45:13, 46:1, 46:2, 53:21, 61:14, 76:22, 78:13, 78:15, 82:9</p> <p>Oireachtas [2] - 162:11, 162:12</p> <p>old [2] - 73:13, 169:10</p> <p>ON [1] - 6:1</p> <p>once [3] - 21:6, 73:15, 80:17</p> <p>one [52] - 6:6, 8:20, 11:15, 20:13, 22:20, 30:6, 30:7, 46:9, 52:11, 53:4, 55:12, 57:19, 59:8, 61:16, 61:23, 63:19, 63:24, 64:28, 65:5, 68:11, 74:9, 86:16, 87:1, 88:19, 88:20, 89:6, 90:6, 92:19, 99:29, 108:5, 108:7, 122:6, 122:16, 122:26,</p>	<p>127:9, 132:12, 133:3, 135:19, 137:19, 140:17, 146:13, 153:19, 153:21, 162:6, 162:9, 162:21, 163:19, 164:5, 177:23, 180:13, 180:26</p> <p>one's [1] - 58:11</p> <p>ones [4] - 35:26, 86:14, 122:11, 147:22</p> <p>ongoing [1] - 67:20</p> <p>onwards [2] - 71:16, 97:26</p> <p>open [2] - 134:6, 148:19</p> <p>opened [6] - 52:13, 89:9, 90:22, 134:6, 135:13, 156:18</p> <p>operating [1] - 159:3</p> <p>operation [1] - 32:24</p> <p>operational [1] - 178:3</p> <p>operationally [1] - 178:18</p> <p>operator [1] - 169:4</p> <p>opinion [7] - 45:14, 59:13, 59:19, 101:10, 129:18, 134:15, 145:9</p> <p>opposed [1] - 109:1</p> <p>opposite [1] - 56:3</p> <p>or.. [4] - 22:19, 40:7, 41:26, 81:26</p> <p>ORDER [1] - 4:7</p> <p>order [27] - 10:26, 12:1, 13:2, 15:9, 15:12, 15:22, 16:5, 16:6, 16:24, 17:16, 17:26, 17:29, 27:17, 28:22, 45:25, 89:24, 146:17, 160:12, 162:24, 162:25, 163:13, 168:24, 169:10, 175:19, 178:26, 179:8, 179:15</p>	<p>ordered [1] - 140:29</p> <p>ORDERED [2] - 4:12, 4:17</p> <p>orders [4] - 162:9, 162:21, 163:19, 164:5, 13:11</p> <p>ordinary [1] - 76:19</p> <p>organisation [1] - 96:20</p> <p>organise [1] - 178:12</p> <p>organised [1] - 168:23</p> <p>original [4] - 35:1, 74:22, 137:26, 174:22</p> <p>otherwise [6] - 27:5, 30:13, 101:12, 123:22, 129:2, 132:10</p> <p>ought [6] - 31:20, 34:15, 49:6, 50:2, 54:18, 86:2</p> <p>outcome [3] - 20:12, 40:22, 173:14</p> <p>outset [1] - 44:4</p> <p>outside [6] - 9:28, 9:29, 18:13, 20:15, 20:25, 131:8</p> <p>outstanding [1] - 151:1</p> <p>own [27] - 14:22, 17:6, 18:3, 22:10, 40:5, 40:28, 42:3, 47:14, 48:20, 48:26, 49:14, 54:4, 55:25, 58:11, 63:27, 76:5, 76:23, 88:8, 107:27, 126:14, 127:22, 133:14, 133:16, 138:8, 151:27, 153:13, 175:15</p>
P					
<p>p.m [2] - 174:19, 176:27</p> <p>page [85] - 7:9, 23:23, 24:1, 24:15, 24:23, 25:18, 42:16, 43:14, 44:11,</p>					

<p>44:12, 52:22, 52:25, 58:17, 58:21, 60:19, 69:25, 69:26, 70:15, 71:15, 72:2, 73:29, 74:19, 74:24, 85:15, 85:16, 85:18, 85:21, 86:20, 89:10, 90:23, 90:28, 91:10, 91:21, 91:22, 92:7, 92:20, 97:26, 105:24, 110:3, 110:4, 110:21, 111:4, 113:3, 115:3, 115:15, 115:23, 116:8, 116:9, 117:10, 117:14, 118:1, 118:2, 119:26, 119:28, 120:27, 122:2, 122:5, 122:9, 122:12, 122:26, 123:8, 123:15, 123:26, 124:4, 134:9, 135:13, 135:23, 136:11, 136:18, 136:20, 136:25, 138:18, 138:19, 138:21, 138:22, 141:24, 141:29, 156:17, 156:18, 174:14, 174:17, 175:11, 175:14, 176:14, 176:15</p> <p>PAGE [1] - 5:2</p> <p>pages [5] - 22:5, 34:7, 35:16, 35:18, 122:28</p> <p>painted [1] - 45:12</p> <p>panel [1] - 88:4</p> <p>panic [2] - 26:6, 27:6</p> <p>paper [5] - 26:14, 69:5, 82:18, 88:21, 94:19</p> <p>papers [11] - 7:13, 28:5, 33:29, 36:27, 41:11, 62:20, 63:3, 69:3, 71:13, 96:18, 164:27</p> <p>paragraph [24] - 30:20, 31:16, 60:4, 72:6, 89:15,</p>	<p>89:18, 94:10, 94:11, 111:2, 111:4, 111:23, 112:1, 112:9, 113:6, 113:10, 115:9, 115:18, 118:9, 118:12, 120:29, 121:6, 123:16, 137:3, 137:22</p> <p>paragraphs [2] - 115:8, 119:27</p> <p>parameters [1] - 76:12</p> <p>paranoid [1] - 43:25</p> <p>paraphrasing [2] - 46:26, 158:29</p> <p>pardon [9] - 28:25, 85:17, 90:2, 114:29, 132:25, 158:5, 169:3, 169:28, 176:17</p> <p>parking [1] - 49:24</p> <p>parlance [1] - 76:19</p> <p>part [30] - 40:8, 46:28, 52:14, 60:15, 73:2, 74:29, 76:27, 90:8, 91:2, 91:20, 104:27, 105:7, 105:9, 111:28, 128:11, 132:5, 134:11, 139:11, 143:14, 150:21, 151:23, 160:5, 160:7, 160:10, 160:14, 163:6, 165:7, 174:27, 179:19, 179:22</p> <p>participated [2] - 114:26, 114:27</p> <p>particular [26] - 17:16, 21:14, 22:1, 22:24, 32:16, 47:2, 57:8, 59:15, 59:20, 81:4, 87:24, 89:17, 99:23, 101:20, 101:21, 105:6, 105:9, 113:22, 117:12, 122:21, 128:24, 153:9, 179:6, 179:7, 179:8, 179:17</p> <p>particularly [5] -</p>	<p>62:7, 62:24, 73:15, 106:3, 146:23</p> <p>parties [5] - 7:7, 10:16, 71:11, 97:25, 128:20</p> <p>parties' [1] - 178:3</p> <p>partner [11] - 7:22, 8:25, 8:28, 9:10, 9:16, 10:3, 17:20, 35:16, 142:29, 164:20, 178:12</p> <p>party [2] - 4:17, 127:18</p> <p>pass [3] - 18:14, 64:19, 148:13</p> <p>passed [1] - 83:11</p> <p>passing [3] - 18:12, 64:14, 64:19</p> <p>passports [4] - 10:3, 10:7, 10:8, 10:9</p> <p>past [2] - 43:24, 43:25</p> <p>pathetic [2] - 45:12, 47:1</p> <p>pattern [2] - 46:10, 46:15</p> <p>pause [2] - 44:8, 103:26</p> <p>payment [3] - 126:22, 126:23, 127:1</p> <p>people [28] - 19:13, 37:15, 45:1, 46:1, 47:13, 48:6, 65:3, 76:24, 82:20, 84:10, 84:14, 85:8, 88:3, 88:26, 93:25, 112:29, 132:7, 142:15, 142:17, 142:18, 143:2, 143:3, 150:26, 153:6, 160:1, 163:25</p> <p>people's [3] - 34:1, 46:19, 63:6</p> <p>peppered [1] - 32:11</p> <p>per [1] - 73:27</p> <p>perceive [1] - 52:28</p> <p>percent [1] - 64:29</p> <p>perception [5] -</p>	<p>15:22, 23:20, 33:25, 34:2, 63:21</p> <p>perfectly [1] - 137:12</p> <p>performed [1] - 56:7</p> <p>perhaps [33] - 19:20, 28:22, 39:18, 39:23, 48:11, 51:3, 52:15, 60:27, 71:24, 73:14, 73:29, 76:4, 98:24, 110:20, 112:19, 116:6, 117:8, 119:26, 128:2, 130:13, 137:6, 141:25, 144:1, 146:1, 155:18, 160:3, 163:29, 177:5, 178:6, 178:7, 178:8, 178:14, 178:16</p> <p>peril [1] - 141:1</p> <p>period [5] - 12:13, 16:13, 18:12, 22:13, 38:24</p> <p>peripheral [1] - 15:5</p> <p>permanent [2] - 12:27, 64:15</p> <p>permitted [1] - 129:24</p> <p>person [21] - 8:12, 8:15, 9:3, 10:23, 12:8, 22:27, 37:17, 37:22, 46:11, 48:22, 75:13, 78:11, 96:21, 101:26, 102:13, 108:26, 113:8, 160:18, 178:11, 179:7</p> <p>person's [2] - 172:19, 172:24</p> <p>personal [5] - 12:4, 18:3, 64:16, 65:7, 154:23</p> <p>personally [1] - 58:27</p> <p>personnel [2] - 99:1, 100:8</p> <p>persons [3] - 59:11, 104:17, 180:9</p> <p>persuade [1] -</p>	<p>33:22</p> <p>petrol [1] - 18:5</p> <p>Phillips [2] - 99:6, 176:22</p> <p>phone [9] - 25:12, 25:24, 33:10, 36:25, 114:11, 119:6, 119:8, 136:28, 152:21</p> <p>phoned [4] - 28:22, 36:14, 67:3, 81:4</p> <p>phrase [6] - 34:18, 55:26, 61:3, 61:4, 61:5, 87:2</p> <p>phrased [1] - 28:10</p> <p>physical [1] - 24:11</p> <p>pick [2] - 47:4, 64:9</p> <p>picked [6] - 8:4, 45:20, 48:17, 62:13, 64:6, 139:21</p> <p>picture [2] - 78:18, 78:21</p> <p>piece [1] - 79:10</p> <p>pieces [1] - 49:10</p> <p>pitted [1] - 45:13</p> <p>place [12] - 64:9, 100:3, 102:15, 103:6, 108:4, 130:28, 131:5, 132:7, 132:11, 132:22, 171:20, 173:10</p> <p>plan [1] - 100:4</p> <p>plane [1] - 103:11</p> <p>planned [1] - 180:18</p> <p>plate [1] - 76:26</p> <p>played [1] - 9:27</p> <p>playing [1] - 63:6</p> <p>plea [1] - 21:21</p> <p>pleaded [3] - 18:29, 101:26, 108:26</p> <p>plough [1] - 76:3</p> <p>plural [1] - 30:6</p> <p>plus [1] - 17:5</p> <p>point [39] - 31:15, 40:24, 43:20, 46:20, 46:22, 59:8,</p>	<p>60:18, 69:11, 87:9, 103:26, 105:8, 109:20, 112:11, 118:12, 131:9, 137:23, 138:1, 139:7, 140:19, 142:12, 144:17, 144:24, 145:2, 145:4, 145:29, 146:9, 148:16, 151:25, 154:8, 157:23, 158:26, 161:7, 165:23, 167:2, 167:8, 167:9, 167:16, 178:22</p> <p>pointed [2] - 93:28, 127:27</p> <p>pointing [1] - 88:16</p> <p>points [1] - 136:3</p> <p>police [3] - 80:11, 101:11, 165:6</p> <p>policing [6] - 100:24, 101:3, 102:9, 131:16, 155:22, 171:4</p> <p>political [1] - 76:21</p> <p>pool [1] - 88:2</p> <p>poorly [1] - 103:12</p> <p>pop [1] - 78:16</p> <p>portion [3] - 23:23, 176:12, 179:18</p> <p>position [42] - 11:26, 12:2, 15:24, 17:24, 19:7, 19:18, 19:23, 20:1, 23:8, 30:12, 30:13, 32:28, 34:12, 40:27, 41:3, 42:7, 42:8, 46:26, 48:5, 49:23, 51:22, 57:3, 57:10, 59:25, 65:12, 65:25, 70:14, 81:10, 87:23, 87:27, 92:27, 98:13, 98:19, 99:2, 110:19, 111:3, 126:27, 130:13, 152:13, 178:23, 178:28</p> <p>possession [12] - 10:6, 26:8, 37:3,</p>
--	---	---	---	---	--

<p>54:16, 54:18, 77:14, 115:11, 115:12, 120:18, 121:4, 134:16, 159:10</p> <p>possibility [1] - 167:15</p> <p>possible [14] - 37:29, 107:7, 107:8, 112:5, 129:4, 129:5, 132:17, 137:12, 139:17, 139:19, 150:26, 163:14, 180:16</p> <p>possibly [4] - 51:25, 56:24, 70:8, 180:27</p> <p>post [2] - 11:7, 32:9</p> <p>postmortem [1] - 176:2</p> <p>potential [1] - 90:9</p> <p>potentially [1] - 90:11</p> <p>power [2] - 142:17, 143:2</p> <p>powerful [1] - 163:24</p> <p>practice [6] - 7:21, 96:14, 96:18, 96:19, 97:1, 175:15</p> <p>practising [2] - 7:16, 65:13</p> <p>practitioner [2] - 27:3, 48:13</p> <p>praise [1] - 14:23</p> <p>pre [4] - 33:19, 34:15, 63:12, 92:25</p> <p>pre- investigation [1] - 33:19</p> <p>pre-publication [1] - 92:25</p> <p>pre-warn [1] - 34:15</p> <p>pre-warned [1] - 63:12</p> <p>preceding [1] - 137:3</p> <p>precise [3] - 64:2, 66:13, 179:13</p> <p>precisely [1] - 102:5</p> <p>prefer [1] - 12:15</p>	<p>prejudice [2] - 8:22, 180:10</p> <p>preliminary [2] - 177:12, 177:14</p> <p>preparation [3] - 21:18, 21:22, 110:9</p> <p>prepare [5] - 27:18, 27:19, 102:19, 110:13, 110:22</p> <p>prepared [7] - 29:14, 90:17, 110:18, 114:21, 150:29, 160:25</p> <p>preparing [1] - 27:17</p> <p>preponderance [1] - 140:22</p> <p>presence [1] - 117:19</p> <p>present [11] - 34:2, 39:8, 39:9, 39:10, 43:9, 114:28, 115:1, 156:5, 158:7, 176:28, 178:9</p> <p>presented [8] - 15:16, 15:24, 16:7, 19:8, 50:28, 103:19, 156:21, 157:16</p> <p>preserve [1] - 180:9</p> <p>presided [1] - 107:13</p> <p>presiding [1] - 102:14</p> <p>Press [9] - 69:27, 81:12, 86:9, 92:24, 96:1, 96:3, 96:12, 96:15, 97:3</p> <p>press [8] - 73:2, 80:28, 85:24, 85:26, 86:14, 96:10, 178:24, 180:7</p> <p>pressure [2] - 14:12</p> <p>presumably [9] - 18:25, 34:9, 47:11, 54:5, 54:21, 117:23, 146:15, 147:24, 176:11</p> <p>presume [3] - 48:22, 106:13, 143:27</p> <p>presumption [1]</p>	<p>- 179:5</p> <p>prevention [1] - 160:4</p> <p>previous [5] - 37:12, 62:20, 87:10, 112:7, 128:26</p> <p>previously [2] - 66:6, 68:26</p> <p>primarily [4] - 68:6, 78:22, 110:28, 111:24</p> <p>primary [4] - 57:12, 67:22, 68:7, 69:17</p> <p>prime [1] - 125:7</p> <p>PrimeTime [1] - 80:16</p> <p>principle [3] - 48:27, 49:23, 169:16</p> <p>print [5] - 26:21, 33:27, 63:2, 79:29, 85:10</p> <p>printed [4] - 29:16, 63:1, 63:6, 82:1</p> <p>printing [1] - 73:12</p> <p>prison [6] - 19:28, 142:3, 159:2, 159:4, 159:6, 160:12</p> <p>private [1] - 125:28</p> <p>privately [1] - 24:10</p> <p>privilege [3] - 79:5, 79:6, 87:23</p> <p>proactively [2] - 76:28, 77:2</p> <p>proactivity [1] - 76:16</p> <p>problem [15] - 6:8, 6:10, 6:12, 8:6, 9:17, 9:19, 44:25, 46:4, 46:7, 76:8, 95:24, 109:25, 124:14, 136:22, 154:2</p> <p>problems [3] - 58:23, 140:26, 165:21</p> <p>procedure [1] - 81:11</p> <p>proceed [1] - 164:10</p> <p>proceedings [15] - 11:22, 12:26, 18:24,</p>	<p>19:24, 50:13, 92:13, 92:15, 93:17, 126:12, 126:15, 126:21, 127:26, 128:7, 129:3, 180:11</p> <p>process [15] - 23:15, 36:22, 36:26, 53:15, 61:18, 62:4, 75:24, 78:20, 83:23, 86:22, 94:16, 94:17, 97:3, 123:28, 174:23</p> <p>processed [1] - 101:25</p> <p>processor [1] - 101:6</p> <p>produce [1] - 8:11</p> <p>produced [3] - 102:27, 107:20, 156:16</p> <p>production [2] - 13:16, 94:16</p> <p>professional [5] - 53:4, 67:16, 93:24, 106:4, 118:18</p> <p>professionally [1] - 50:7</p> <p>progress [1] - 89:24</p> <p>prohibited [1] - 4:15</p> <p>promote [1] - 95:3</p> <p>prone [1] - 56:4</p> <p>proper [1] - 123:28</p> <p>propose [1] - 179:8</p> <p>proposed [1] - 84:6</p> <p>proposing [1] - 81:21</p> <p>proposition [2] - 49:8, 162:27</p> <p>prosecution [2] - 13:20, 15:11</p> <p>Prosecutions [1] - 124:11</p> <p>protect [4] - 9:5, 73:1, 73:3, 73:6</p> <p>protected [9] - 11:11, 36:23, 83:2, 83:3, 83:7, 83:16, 124:20, 162:13, 162:26</p>	<p>protecting [2] - 93:10, 166:5</p> <p>protection [23] - 12:28, 64:8, 64:16, 80:28, 103:28, 104:1, 109:26, 109:29, 119:18, 133:14, 133:17, 139:23, 140:3, 140:7, 140:9, 140:10, 140:14, 140:19, 154:7, 154:23, 160:3, 169:21, 170:17</p> <p>protest [1] - 76:11</p> <p>provide [5] - 117:26, 118:7, 122:1, 122:20, 160:3</p> <p>provided [8] - 7:7, 7:11, 42:2, 55:21, 55:22, 119:18, 140:11, 140:12</p> <p>providing [2] - 52:27, 124:14</p> <p>proving [1] - 113:23</p> <p>Public [1] - 124:11</p> <p>public [10] - 33:26, 34:2, 53:25, 63:21, 68:18, 68:25, 69:12, 85:21, 91:2, 93:26</p> <p>publication [2] - 92:11, 92:25</p> <p>publicised [1] - 178:15</p> <p>published [7] - 66:8, 69:24, 71:27, 111:14, 178:15, 179:11, 179:19</p> <p>purely [3] - 13:16, 75:20, 88:9</p> <p>purge [2] - 15:5, 15:14</p> <p>purportedly [1] - 51:23</p> <p>purporting [1] - 59:18</p> <p>purpose [4] - 20:19, 27:27, 42:10, 112:20</p> <p>PURSUANT [1] -</p>	<p>4:7</p> <p>put [40] - 11:8, 16:4, 19:28, 21:27, 22:29, 23:12, 26:13, 40:28, 41:4, 44:13, 46:18, 51:27, 61:6, 70:9, 75:26, 79:14, 82:3, 82:7, 86:9, 93:20, 95:3, 102:18, 105:10, 105:11, 106:24, 114:16, 117:9, 122:8, 131:2, 132:4, 136:25, 137:11, 140:17, 141:25, 143:20, 153:10, 155:11, 166:3, 166:10</p> <p>puts [3] - 68:22, 82:7, 126:26</p> <p>putting [7] - 68:13, 77:28, 79:9, 139:2, 146:28, 166:25, 167:11</p> <p>puzzling [1] - 41:26</p>
Q					
<p>quasi [1] - 52:29</p> <p>quasi- manslaughter [1] - 52:29</p> <p>QUAY [1] - 3:7</p> <p>queries [1] - 123:2</p> <p>query [1] - 135:8</p> <p>questionnaire [1] - 114:22</p> <p>questionnaires [1] - 171:6</p> <p>questions [25] - 27:12, 37:23, 38:4, 52:6, 64:24, 65:19, 65:21, 76:8, 88:25, 89:2, 89:7, 90:25, 122:8, 122:10, 122:28, 122:29, 123:3, 124:28, 125:13, 167:22, 167:25, 167:28, 168:3, 174:13, 178:10</p> <p>quicker [1] - 151:29</p> <p>quickly [3] -</p>					

41:29, 43:11, 57:4 quite ^[15] - 57:27, 57:29, 59:4, 76:3, 76:23, 79:27, 88:18, 107:8, 107:23, 108:6, 131:5, 131:13, 132:5, 133:11, 139:11 quotation ^[2] - 121:5, 124:4 quote ^[3] - 61:14, 70:12, 142:2 quoted ^[3] - 22:5, 28:4, 121:5	174:26 rational ^[4] - 46:12, 46:17, 179:2, 180:3 RE ^[2] - 5:18, 174:10 re ^[1] - 175:29 RE-EXAMINED ^[2] - 5:18, 174:10 rea ^[1] - 76:18 reaching ^[1] - 159:2 reacted ^[1] - 53:23 reaction ^[2] - 156:9, 179:24 reactions ^[1] - 14:14 read ^[49] - 21:13, 21:16, 28:5, 31:19, 34:28, 35:15, 35:17, 37:8, 41:14, 48:9, 50:29, 54:12, 69:3, 69:8, 69:10, 70:1, 72:24, 74:9, 74:15, 74:17, 74:20, 75:2, 75:18, 78:19, 79:21, 81:25, 81:26, 82:1, 84:6, 84:10, 84:14, 91:7, 104:28, 105:4, 106:1, 136:4, 143:14, 143:22, 144:4, 144:12, 144:14, 144:15, 144:18, 144:22, 144:25, 168:29, 175:26 reading ^[8] - 19:2, 36:8, 41:11, 73:11, 96:18, 104:27, 138:3, 144:11 ready ^[2] - 14:9, 57:23 real ^[6] - 24:16, 46:4, 46:6, 46:27, 54:28 realisation ^[3] - 160:5, 160:14, 178:11 realise ^[1] - 146:1 realist ^[1] - 63:2 realistic ^[1] - 9:4 reality ^[2] - 8:26, 23:10 really ^[28] - 19:3,	23:4, 24:16, 27:27, 30:23, 34:3, 35:25, 40:8, 42:9, 62:3, 63:24, 63:25, 64:23, 73:17, 74:15, 80:8, 95:17, 116:26, 127:20, 131:25, 141:24, 146:22, 147:16, 148:2, 154:16, 171:16, 175:21, 180:3 realms ^[1] - 180:2 reason ^[20] - 40:1, 43:20, 52:26, 53:20, 65:1, 67:22, 68:7, 69:17, 72:27, 73:10, 75:21, 80:13, 81:17, 99:13, 101:12, 174:1, 179:23, 180:25, 180:26 reasonable ^[9] - 42:1, 48:24, 48:27, 49:9, 49:11, 49:19, 49:26, 156:4, 178:21 reasonably ^[1] - 50:24 reasoning ^[1] - 33:5 reassure ^[1] - 145:4 receipt ^[3] - 111:8, 120:2, 120:9 receive ^[2] - 92:5, 149:21 received ^[10] - 25:11, 26:27, 54:22, 57:23, 72:1, 92:9, 104:5, 109:10, 121:27, 160:20 receives ^[1] - 127:1 receptive ^[1] - 146:19 recipient ^[5] - 33:13, 52:15, 83:8, 114:22, 121:21 recite ^[1] - 98:23 recites ^[2] - 115:9, 120:28 recognised ^[2] -	159:23, 159:25 recollect ^[10] - 28:16, 67:23, 81:20, 104:13, 105:20, 107:17, 111:13, 148:28, 172:21 recollection ^[27] - 25:24, 25:28, 47:6, 66:9, 69:20, 70:9, 77:23, 80:3, 92:12, 92:16, 94:23, 94:29, 104:26, 131:4, 132:16, 132:27, 132:28, 132:29, 133:2, 133:9, 138:17, 138:27, 146:5, 146:7, 149:2, 173:16, 177:3 recollection.. ^[1] - 138:24 reconcile ^[2] - 56:20, 56:27 reconsider ^[1] - 19:15 record ^[8] - 34:6, 111:25, 119:1, 123:17, 134:23, 134:24, 141:29, 157:25 recorded ^[5] - 29:27, 47:13, 47:17, 72:13, 101:9 recording ^[1] - 133:20 records ^[1] - 113:10 recounted ^[1] - 123:15 red ^[1] - 26:13 refer ^[14] - 8:25, 23:21, 28:6, 77:16, 91:3, 94:5, 110:3, 112:24, 125:24, 128:6, 128:7, 128:20, 142:13, 153:5 reference ^[21] - 10:22, 11:3, 11:4, 24:3, 62:21, 74:26, 83:2, 83:13, 89:20, 110:18, 119:13, 123:25, 127:20, 135:15, 144:11, 144:27, 153:8, 155:17, 155:24,	159:17, 178:7 references ^[2] - 45:1, 116:5 referred ^[18] - 32:14, 33:18, 35:8, 43:22, 57:9, 60:28, 64:14, 68:20, 70:6, 72:22, 73:28, 78:23, 92:6, 126:11, 135:21, 135:25, 152:3, 155:20 referring ^[12] - 13:10, 30:6, 35:10, 35:27, 50:9, 50:12, 54:21, 74:10, 91:13, 106:11, 138:25, 158:18 refers ^[8] - 30:5, 110:26, 113:6, 115:18, 115:21, 115:23, 121:11, 176:11 reflect ^[3] - 53:14, 133:16, 175:19 reflected ^[1] - 117:16 reflecting ^[1] - 134:8 reflection ^[3] - 24:22, 51:11, 130:6 refuse ^[1] - 88:21 refused ^[7] - 17:15, 18:1, 29:12, 29:24, 109:27, 154:23, 169:22 regard ^[17] - 12:10, 13:18, 39:18, 43:29, 71:15, 74:10, 106:17, 112:2, 113:23, 124:1, 140:6, 145:24, 171:5, 171:9, 171:15, 171:27, 179:15 regarding ^[3] - 90:26, 137:4, 172:24 regardless ^[3] - 11:29, 63:3, 106:18 regards ^[6] - 168:20, 171:19,	172:19, 172:23, 173:9, 173:28 regular ^[1] - 49:5 regularly ^[1] - 18:14 regulations ^[2] - 33:14, 83:10 reiterate ^[1] - 92:23 rejected ^[5] - 162:26, 162:28, 162:29, 163:1, 163:3 relate ^[2] - 110:27, 112:9 related ^[10] - 29:14, 67:8, 68:11, 77:27, 113:7, 120:10, 121:2, 122:3, 123:26, 126:20 relates ^[1] - 60:16 relating ^[8] - 8:6, 14:27, 78:26, 103:27, 104:6, 120:19, 122:29, 174:16 relation ^[76] - 10:26, 11:23, 12:6, 13:16, 13:20, 13:26, 14:1, 18:3, 19:6, 19:23, 19:25, 25:11, 25:26, 27:7, 31:7, 31:9, 31:13, 40:15, 47:3, 47:7, 48:8, 48:15, 61:23, 63:12, 64:6, 64:9, 64:13, 66:25, 67:12, 68:16, 69:21, 69:22, 70:3, 76:17, 86:13, 87:11, 87:19, 89:21, 90:9, 97:1, 101:16, 102:16, 102:17, 102:22, 104:8, 104:15, 107:11, 110:12, 110:14, 110:19, 110:24, 111:3, 112:17, 113:1, 113:20, 114:10, 115:11, 116:14, 116:15, 116:20, 117:1, 117:2, 118:5, 119:16, 121:20, 123:9,
R					
raise ^[8] - 114:14, 114:18, 123:18, 123:20, 138:7, 155:15, 177:23, 180:13 raised ^[8] - 32:16, 32:18, 112:5, 112:7, 122:29, 123:29, 154:20, 168:8 raises ^[1] - 121:2 rang ^[18] - 34:11, 60:21, 62:6, 63:9, 67:19, 68:5, 80:1, 80:6, 80:13, 81:12, 82:23, 110:11, 131:6, 131:25, 152:10, 153:1, 174:19 rank ^[8] - 30:3, 30:4, 87:7, 87:28, 88:24, 91:19, 118:10, 125:25 rank' ^[1] - 87:6 ranking ^[4] - 29:29, 61:2, 62:12, 70:5 ranking" ^[2] - 34:19, 70:10 ranking' ^[1] - 87:5 ranks ^[6] - 26:7, 27:7, 30:11, 32:26, 40:11, 40:21 rarely ^[2] - 76:22, 84:12 rather ^[1] -					

141:5, 147:29, 156:11, 157:12, 159:10, 166:11, 175:25, 178:2, 180:14 relationship [8] - 22:23, 22:27, 45:29, 49:29, 50:1, 81:16, 85:3, 94:25 relay [1] - 51:28 relayed [1] - 141:7 release [1] - 15:19 released [4] - 15:21, 16:10, 17:22, 109:11 relevance [2] - 129:27, 154:4 relevant [9] - 11:22, 38:4, 45:8, 81:3, 128:11, 128:28, 129:19, 149:29, 163:6 relief [1] - 55:25 reluctant [5] - 41:16, 41:18, 58:4, 127:23, 161:29 relying [1] - 28:20 remain [1] - 178:18 remained [2] - 10:16, 17:24 remanded [1] - 101:27 remark [2] - 85:14, 107:1 remember [21] - 14:7, 15:13, 15:15, 24:29, 25:2, 25:15, 35:26, 40:9, 40:11, 41:11, 80:8, 80:16, 80:17, 104:10, 104:23, 108:1, 111:22, 121:24, 169:24, 173:7 remembers [2] - 66:17, 133:27 reminds [1] - 137:20 remove [2] - 116:25, 177:13 repeat [1] - 124:3 repeated [1] -	9:26 repeatedly [3] - 32:11, 32:28, 33:18 repercussions [1] - 106:24 replying [1] - 124:23 Report [5] - 67:13, 174:21, 174:27, 175:2, 175:7 report [37] - 34:22, 42:8, 42:13, 43:16, 94:9, 96:23, 109:24, 110:18, 113:1, 113:4, 114:6, 114:8, 115:4, 115:16, 115:24, 117:16, 117:28, 118:5, 119:20, 119:22, 119:28, 120:26, 121:11, 123:4, 124:10, 136:2, 136:3, 147:25, 150:28, 156:16, 156:23, 157:11, 162:27, 163:6, 163:8, 174:26 reported [8] - 48:7, 67:4, 103:21, 105:15, 112:12, 112:14, 120:16, 144:8 reporting [5] - 22:7, 80:28, 115:5, 115:25, 119:3 reports [6] - 27:4, 74:28, 117:9, 133:9, 151:11, 164:26 represent [1] - 8:14 representation [2] - 18:16, 31:25 representation s [1] - 65:13 representing [2] - 37:28, 93:5 reputations [1] - 63:7 request [14] - 7:8, 11:26, 89:25, 98:20, 113:11, 136:27, 140:3, 140:6, 140:9, 167:5, 170:22,	174:19, 178:13, 178:17 requested [10] - 72:8, 133:15, 133:17, 146:27, 146:29, 169:11, 169:22, 170:22, 174:20 requests [4] - 121:27, 166:23, 167:6, 170:16 required [1] - 122:20 resolved [1] - 16:22 resonance [1] - 45:16 respect [23] - 28:13, 29:2, 36:10, 41:23, 42:24, 54:1, 87:27, 89:15, 89:17, 89:28, 95:14, 114:13, 126:12, 132:5, 133:18, 138:9, 146:13, 150:9, 150:12, 165:11, 165:21, 169:24, 172:14 respected [1] - 62:28 respectfully [1] - 166:3 respond [1] - 124:6 responded [2] - 110:24, 139:7 response [7] - 84:29, 124:7, 135:7, 166:4, 169:14, 178:10, 179:2 responsibility [3] - 67:17, 101:3, 157:13 responsible [4] - 29:11, 56:22, 56:23, 56:29 restrained [1] - 58:12 result [11] - 8:11, 11:10, 49:28, 54:17, 61:26, 78:2, 136:7, 136:28, 137:15, 157:27, 163:9 resulted [1] - 19:19	RESUMED [2] - 6:1, 97:21 retention [3] - 29:2, 67:21, 68:17 Retired [1] - 180:17 retired [9] - 58:25, 98:7, 98:8, 98:9, 99:9, 99:12, 125:24, 125:25, 125:29 retrospect [1] - 161:15 return [1] - 58:15 returned [7] - 13:22, 17:7, 18:1, 21:3, 56:11, 105:27, 106:8 reveal [2] - 72:28, 90:17 revisit [2] - 37:21, 125:8 ridiculous [7] - 9:27, 28:8, 30:13, 53:18, 53:26, 56:19, 57:1 Riga [1] - 80:10 rightly [3] - 51:2, 53:22, 179:28 rights [5] - 19:25, 23:12, 57:14, 178:3, 180:9 rigidly [1] - 162:10 ring [7] - 76:13, 77:12, 81:16, 81:18, 172:26, 173:5, 173:8 ringing [11] - 19:7, 81:4, 81:7, 81:9, 81:11, 81:17, 82:12, 84:12, 85:4, 132:24, 132:26 rise [1] - 166:4 risk [6] - 54:28, 55:2, 55:4, 55:7, 142:27, 161:17 role [1] - 68:4 room [15] - 100:7, 107:3, 107:12, 107:28, 111:8, 131:11, 133:6, 146:6, 148:29, 157:18, 157:20, 168:16, 168:26, 169:4,	169:9 Room [1] - 175:2 roughly [4] - 150:18, 157:5, 172:17 round [1] - 127:15 route [2] - 86:12, 87:21 rudimentary [1] - 20:8 rule [5] - 9:7, 17:10, 17:16, 18:2, 76:9 rules [1] - 59:10 running [2] - 100:9, 131:3 rush [1] - 148:17 RYAN [1] - 4:8	113:19, 117:1, 119:17, 120:3, 120:11, 120:20, 130:25, 133:18, 138:13, 139:28, 140:5, 140:7, 140:16, 140:23, 140:24, 140:27, 140:28, 150:3, 155:23, 161:13, 169:24, 171:11, 173:2, 175:24, 176:8 Saultie's [14] - 8:25, 18:19, 20:25, 32:10, 37:13, 42:4, 67:15, 80:14, 85:5, 117:12, 121:9, 134:17, 134:20, 172:28 save [2] - 41:21, 136:22 saw [9] - 21:29, 32:7, 52:23, 82:18, 85:19, 94:18, 132:9, 143:22, 146:26 scenario [2] - 9:25, 14:5 scene [1] - 175:28 schedule [1] - 180:15 scheduled [3] - 8:11, 99:22, 99:24 scoping [1] - 149:14 screen [3] - 42:16, 124:5, 141:26 scroll [9] - 24:1, 24:23, 44:23, 72:6, 74:2, 115:22, 122:9, 134:12, 156:19 se [1] - 73:27 Sean [2] - 50:15, 92:17 seated [2] - 103:10, 103:12 second [21] - 8:20, 55:13, 60:15, 74:18, 111:2, 113:6, 122:10, 122:20, 126:9, 135:19, 136:25, 137:14, 137:22, 141:29,
S					
<p>safe [2] - 20:9, 145:25 safely [1] - 105:27 safety [9] - 22:10, 47:14, 48:27, 49:14, 141:7, 172:19, 172:24, 172:28, 173:2 sake [1] - 166:9 sat [1] - 103:14 satisfying [1] - 162:7 Saulite [73] - 7:20, 8:1, 8:13, 12:26, 14:11, 14:19, 15:1, 15:29, 17:11, 17:25, 18:17, 21:2, 21:10, 24:8, 26:29, 27:14, 28:14, 29:19, 39:21, 41:3, 41:7, 43:26, 45:12, 45:20, 47:14, 48:20, 48:26, 54:18, 54:29, 55:15, 56:2, 56:8, 56:14, 57:11, 64:1, 64:27, 65:14, 66:23, 67:5, 67:10, 73:19, 79:18, 80:9, 101:16, 102:26, 103:17, 105:14, 109:29,</p>					

<p>153:21, 154:27, 160:10, 164:5, 172:8, 177:1, 177:5</p> <p>secondly [2] - 67:4, 67:26</p> <p>section [1] - 179:13</p> <p>see [40] - 7:23, 21:7, 22:3, 24:11, 25:20, 28:2, 40:27, 50:11, 50:14, 52:24, 52:25, 54:4, 60:18, 67:2, 67:18, 68:17, 74:2, 74:22, 79:22, 81:12, 87:3, 94:26, 103:1, 105:23, 106:1, 108:2, 108:16, 118:12, 122:10, 126:26, 127:9, 128:1, 137:2, 137:9, 138:24, 138:28, 143:25, 148:11, 156:27, 156:29</p> <p>seeing [5] - 80:8, 80:17, 108:1, 123:12, 123:13</p> <p>seek [8] - 31:25, 130:16, 150:19, 150:25, 152:5, 168:8, 169:17, 180:23</p> <p>seeking [2] - 77:4, 124:9</p> <p>seem [11] - 27:26, 52:19, 56:17, 58:13, 59:23, 59:24, 140:25, 146:19, 158:1, 162:1, 165:8</p> <p>selected [1] - 93:14</p> <p>selective [2] - 93:11, 93:13</p> <p>sell [1] - 63:2</p> <p>selling [1] - 69:5</p> <p>sells [1] - 33:29</p> <p>semantics [3] - 68:9, 68:12, 70:5</p> <p>send [2] - 119:20, 135:8</p> <p>sends [1] - 63:21</p> <p>senior [16] -</p>	<p>32:21, 51:4, 58:27, 70:6, 70:14, 70:17, 70:20, 94:21, 94:24, 94:27, 95:4, 95:20, 95:28, 99:14, 101:21, 160:2</p> <p>sensational [1] - 33:28</p> <p>sense [2] - 79:11, 123:27</p> <p>sensible [1] - 38:5</p> <p>sensitivity [1] - 161:2</p> <p>sent [1] - 102:24</p> <p>sentence [5] - 19:20, 44:12, 101:27, 105:29, 124:5</p> <p>sentences [1] - 27:29</p> <p>sentencing [6] - 19:17, 27:17, 27:18, 158:13, 173:9, 173:18</p> <p>separate [2] - 20:28, 150:5</p> <p>separately [1] - 175:8</p> <p>September [11] - 83:10, 113:13, 150:15, 150:16, 151:7, 151:18, 151:23, 152:2, 157:1, 168:9</p> <p>sequence [2] - 136:26, 149:12</p> <p>sergeant [9] - 39:25, 42:8, 42:13, 101:2, 101:19, 111:10, 124:7, 145:22, 175:29</p> <p>Sergeant [222] - 9:11, 11:10, 11:13, 11:20, 12:4, 12:5, 13:19, 13:27, 14:9, 14:17, 14:20, 20:29, 26:16, 27:9, 27:13, 27:15, 28:26, 29:14, 29:19, 30:19, 30:25, 31:11, 31:18, 32:10, 33:12, 34:12, 36:13, 37:4, 37:9, 38:5,</p>	<p>39:2, 39:15, 40:7, 40:12, 40:15, 40:24, 40:28, 41:14, 41:20, 42:27, 43:16, 46:20, 47:9, 47:12, 47:16, 47:25, 47:26, 48:4, 49:22, 50:6, 51:11, 52:12, 52:21, 52:28, 53:17, 54:1, 54:12, 54:16, 54:29, 55:21, 56:7, 56:14, 58:25, 60:11, 61:17, 62:7, 63:8, 63:22, 66:10, 67:14, 67:16, 69:21, 69:25, 72:4, 73:25, 74:16, 79:19, 79:23, 79:27, 83:1, 83:7, 84:21, 84:22, 84:24, 84:25, 84:27, 84:28, 86:1, 86:2, 86:3, 87:11, 92:6, 92:10, 93:6, 96:11, 96:13, 96:28, 96:29, 100:16, 100:19, 100:23, 100:28, 100:29, 101:2, 102:5, 102:17, 105:25, 106:3, 107:20, 108:12, 108:16, 109:3, 109:23, 110:6, 110:11, 110:17, 110:20, 111:2, 111:24, 111:25, 112:16, 112:19, 113:11, 114:24, 115:15, 115:17, 118:11, 118:24, 118:26, 118:28, 119:14, 119:15, 120:15, 120:22, 120:28, 121:3, 121:12, 121:15, 122:13, 123:7, 123:13, 124:7, 124:9, 124:11, 124:13, 124:19, 124:25, 125:21, 126:14, 127:12, 127:17, 127:21, 127:25, 128:11, 128:12, 128:17, 128:20, 129:22,</p>	<p>130:26, 131:4, 131:18, 131:24, 133:9, 133:20, 133:25, 134:26, 135:27, 136:5, 136:29, 137:4, 137:20, 143:8, 143:29, 144:6, 144:16, 146:14, 150:3, 150:14, 152:3, 152:13, 152:23, 152:27, 153:10, 154:20, 154:21, 155:13, 158:22, 162:4, 162:13, 165:7, 165:18, 166:14, 167:3, 168:9, 169:11, 169:15, 169:25, 170:8, 170:13, 170:16, 170:25, 171:20, 171:27, 172:5, 172:9, 172:15, 172:22, 173:1, 173:13, 173:23, 173:26, 174:1, 174:15, 174:24, 175:1, 175:6, 175:28, 176:7, 176:15, 177:4, 178:29</p> <p>Sergeants [1] - 121:23</p> <p>serious [10] - 36:12, 63:29, 88:11, 135:28, 143:1, 146:23, 146:25, 147:2, 147:12, 158:24</p> <p>seriousness [1] - 55:24</p> <p>served [5] - 8:12, 8:16, 30:25, 36:27, 50:9</p> <p>service [1] - 98:17</p> <p>servicing [4] - 86:13, 98:5, 98:11, 99:10</p> <p>set [11] - 20:3, 20:11, 22:10, 33:5, 40:18, 48:29, 49:1, 76:11, 98:17, 99:1, 99:21</p> <p>settle [6] - 105:13, 106:6, 106:28, 127:17, 129:26, 145:6</p>	<p>settled [7] - 126:21, 126:27, 126:29, 127:10, 127:12, 128:17, 129:28</p> <p>settlement [2] - 129:25, 129:26</p> <p>settling [1] - 106:26</p> <p>seven [4] - 15:23, 15:25, 16:4, 151:26</p> <p>sever [1] - 46:2</p> <p>several [2] - 60:28, 135:11</p> <p>sexy [1] - 33:29</p> <p>shake [1] - 76:19</p> <p>shaking [1] - 78:22</p> <p>shall [7] - 26:6, 63:29, 79:2, 140:29, 153:5, 155:16, 159:2</p> <p>sharing [1] - 112:2</p> <p>shed [1] - 117:22</p> <p>Sheehan [3] - 69:2, 73:16, 91:3</p> <p>Sheehan's [1] - 73:28</p> <p>Shelly [1] - 89:5</p> <p>shine [3] - 27:9, 28:7, 30:18</p> <p>shocked [2] - 25:4, 61:14</p> <p>shook [1] - 31:1</p> <p>shopping [1] - 66:14</p> <p>short [4] - 24:20, 102:12, 133:11, 156:16</p> <p>shorthand [1] - 126:17</p> <p>shortly [3] - 22:15, 38:29, 73:19</p> <p>shot [1] - 22:18</p> <p>showed [4] - 31:2, 50:29, 54:5, 143:9</p> <p>shown [3] - 25:20, 68:3, 72:18</p> <p>shows [3] - 128:18, 135:14, 148:11</p> <p>shut [1] - 43:5</p> <p>side [2] - 13:7, 128:17</p>	<p>sidelined [1] - 171:21</p> <p>signals [1] - 45:20</p> <p>signed [2] - 17:29, 113:4</p> <p>significance [4] - 43:21, 146:10, 148:1, 149:4</p> <p>significant [2] - 126:23, 146:1</p> <p>similar [6] - 39:25, 55:23, 55:28, 91:21, 139:20, 141:1</p> <p>similarly [1] - 13:29</p> <p>simply [11] - 28:6, 40:23, 72:14, 75:21, 134:23, 157:15, 157:27, 161:5, 166:25, 167:10, 179:19</p> <p>Sindo [1] - 79:25</p> <p>single [1] - 58:23</p> <p>singled [1] - 174:5</p> <p>sinister [1] - 57:17</p> <p>sit [3] - 7:4, 18:13, 71:8</p> <p>situation [11] - 8:29, 23:8, 57:29, 58:8, 58:12, 65:5, 76:4, 128:18, 130:15, 164:21, 179:20</p> <p>situations [1] - 53:21</p> <p>six [4] - 98:24, 98:25</p> <p>slight [1] - 128:2</p> <p>slightly [14] - 15:5, 52:25, 71:24, 77:29, 85:1, 85:6, 91:28, 92:3, 96:22, 100:1, 112:19, 126:26, 134:22, 155:26</p> <p>small [2] - 52:14, 131:13</p> <p>smaller [1] - 94:1</p> <p>Smyth [1] - 24:3</p> <p>so.. [8] - 9:8, 82:22, 86:26, 131:13, 150:24,</p>
---	---	---	---	---	---

<p>151:23, 156:5, 173:27</p> <p>Society [1] - 80:22</p> <p>softly [1] - 7:28</p> <p>sole [5] - 17:11, 17:20, 17:26, 19:9, 19:27</p> <p>solely [1] - 13:10</p> <p>SOLICITOR [1] - 3:11</p> <p>solicitor [37] - 7:16, 13:15, 31:28, 32:3, 50:7, 50:14, 50:15, 50:19, 50:22, 54:4, 66:23, 80:15, 85:6, 103:23, 103:24, 104:15, 113:28, 114:4, 114:15, 144:10, 144:29, 152:11, 152:14, 152:16, 152:28, 153:16, 153:17, 153:18, 153:22, 153:25, 153:29, 154:11, 156:3, 156:25, 157:10, 158:9, 173:3</p> <p>solicitor's [2] - 49:1, 92:9</p> <p>solicitors [2] - 72:4, 92:6</p> <p>Solicitors [1] - 92:17</p> <p>SOLICITORS [1] - 3:7</p> <p>someone [9] - 29:11, 32:2, 39:10, 40:2, 43:25, 49:27, 53:25, 88:14, 94:15</p> <p>sometime [6] - 64:4, 66:11, 79:28, 100:12, 107:17, 107:28</p> <p>sometimes [4] - 45:1, 45:5, 128:7, 147:26</p> <p>somewhat [5] - 11:14, 45:19, 46:14, 50:25, 115:4</p> <p>somewhere [2] - 8:17, 58:5</p> <p>soon [4] - 57:4, 67:9, 111:14, 150:26</p>	<p>sorry [85] - 7:23, 7:25, 9:7, 10:11, 10:19, 17:18, 19:1, 21:11, 23:19, 31:14, 35:6, 35:13, 35:24, 37:20, 38:3, 40:16, 40:18, 41:17, 42:18, 43:4, 44:23, 44:25, 44:28, 53:2, 57:19, 61:5, 65:6, 65:18, 65:25, 66:27, 67:4, 74:11, 81:14, 82:6, 83:6, 89:3, 92:1, 92:9, 95:7, 95:8, 97:12, 98:10, 125:5, 125:23, 127:14, 130:21, 134:8, 134:11, 136:11, 137:2, 137:8, 137:23, 138:3, 138:5, 138:18, 139:10, 141:28, 143:18, 144:13, 144:21, 144:24, 146:12, 147:25, 149:11, 150:22, 151:8, 154:13, 154:21, 155:5, 156:28, 157:6, 158:11, 158:28, 160:29, 162:17, 162:20, 164:9, 164:10, 164:11, 166:14, 167:20, 167:21, 167:26, 172:22, 177:26</p> <p>sort [5] - 58:10, 87:4, 151:6, 159:5, 165:9</p> <p>sorts [1] - 65:4</p> <p>sought [6] - 39:15, 72:21, 108:27, 109:26, 150:14, 154:23</p> <p>sounds [3] - 35:29, 36:3, 36:5</p> <p>source [16] - 29:13, 29:25, 30:7, 70:4, 75:26, 79:4, 83:4, 83:14, 86:29, 87:28, 88:24, 91:18, 93:21, 95:4, 95:20</p> <p>sources [21] -</p>	<p>18:10, 30:5, 35:2, 60:28, 61:15, 72:22, 72:29, 73:1, 73:3, 73:6, 76:1, 84:2, 87:1, 87:11, 88:5, 90:17, 93:7, 93:10, 93:14, 95:2, 120:10</p> <p>sources' [1] - 89:20</p> <p>Spain [1] - 77:22</p> <p>spate [1] - 98:23</p> <p>speaking [9] - 41:3, 41:5, 48:23, 56:17, 81:28, 100:19, 114:15, 157:5, 177:7</p> <p>spec [1] - 151:24</p> <p>special [1] - 77:15</p> <p>specific [21] - 22:16, 22:21, 24:6, 30:4, 31:4, 40:14, 41:6, 42:4, 47:5, 60:23, 64:5, 64:15, 70:12, 111:9, 117:2, 120:10, 120:19, 136:3, 140:21, 140:23, 159:27</p> <p>specifically [7] - 27:2, 33:17, 45:21, 62:5, 66:17, 104:21, 114:18</p> <p>spelled [2] - 84:26, 84:27</p> <p>spirit [1] - 10:14</p> <p>spoken [5] - 20:13, 65:29, 66:5, 66:6, 115:25</p> <p>spouse [1] - 142:29</p> <p>staff [1] - 111:26</p> <p>stage [23] - 11:2, 12:25, 13:1, 13:6, 13:23, 21:1, 33:11, 53:13, 65:27, 68:17, 84:25, 102:24, 102:26, 108:21, 110:1, 111:21, 121:17, 132:12, 162:12, 168:12, 168:13, 170:19, 170:21</p> <p>stages [1] - 80:26</p>	<p>stand [1] - 79:6</p> <p>standard [1] - 97:1</p> <p>stands [1] - 60:24</p> <p>Star [4] - 60:16, 72:16, 72:20, 92:9</p> <p>star [3] - 60:18, 71:19, 78:16</p> <p>start [4] - 66:26, 130:24, 132:3, 152:27</p> <p>started [3] - 18:5, 131:29, 132:7</p> <p>starting [2] - 168:7, 168:24</p> <p>starts [1] - 118:2</p> <p>State [8] - 12:17, 27:18, 32:29, 41:6, 57:21, 127:12, 127:17, 129:6</p> <p>state [2] - 100:27, 104:16</p> <p>statement [122] - 7:7, 7:12, 10:22, 21:29, 22:6, 22:11, 23:22, 23:23, 25:17, 28:10, 28:21, 28:28, 30:8, 30:20, 33:5, 34:6, 34:18, 35:13, 35:19, 35:21, 36:11, 36:12, 36:29, 37:2, 41:20, 42:2, 42:28, 44:8, 46:25, 51:28, 52:14, 52:27, 58:16, 59:4, 59:5, 61:6, 67:19, 70:9, 70:15, 71:11, 72:13, 72:24, 74:8, 74:18, 80:24, 90:14, 97:25, 98:10, 98:18, 99:1, 101:9, 105:19, 105:24, 107:1, 107:27, 110:4, 112:20, 112:24, 113:18, 113:22, 113:27, 114:7, 114:12, 114:16, 117:27, 118:7, 123:7, 123:10, 123:13, 123:16,</p>	<p>123:21, 124:10, 124:15, 127:8, 128:22, 128:26, 128:29, 133:16, 133:17, 134:29, 138:8, 138:9, 138:15, 138:16, 138:20, 141:24, 141:26, 141:29, 142:12, 144:2, 150:13, 150:14, 150:19, 152:15, 152:16, 152:17, 152:29, 153:4, 154:1, 156:6, 156:20, 157:15, 157:28, 158:4, 158:6, 158:7, 160:7, 164:16, 166:12, 166:13, 166:20, 166:24, 168:7, 168:9, 168:27, 169:11, 169:18, 170:1, 170:11, 170:22, 172:12, 173:29</p> <p>Statement [52] - 14:26, 21:23, 25:27, 26:7, 26:29, 27:8, 27:19, 29:3, 31:17, 31:20, 48:21, 49:21, 51:24, 51:26, 54:22, 54:24, 54:25, 61:24, 62:10, 67:21, 67:25, 68:10, 68:16, 68:18, 69:23, 73:18, 73:27, 74:9, 74:17, 75:1, 75:16, 75:17, 78:27, 79:18, 81:24, 91:1, 91:7, 102:27, 103:17, 103:21, 104:24, 106:29, 108:21, 124:13, 133:13, 143:10, 145:7, 148:9, 148:10, 148:12, 148:27, 149:1</p> <p>statements [15] - 21:13, 21:18, 24:10, 74:10, 80:27, 122:7, 122:17, 126:11, 127:3, 141:10, 141:13, 141:17, 141:18, 150:25</p>	<p>states [1] - 120:8</p> <p>Station [6] - 99:17, 99:20, 99:25, 99:26, 99:27, 101:13</p> <p>station [10] - 88:21, 100:10, 103:18, 105:14, 108:17, 131:7, 131:8, 131:13, 149:26</p> <p>status [1] - 113:27</p> <p>statute [1] - 73:2</p> <p>stay [1] - 45:21</p> <p>stenographer [1] - 179:18</p> <p>step [2] - 126:9, 143:3</p> <p>stick [1] - 70:13</p> <p>still [12] - 16:3, 31:4, 51:21, 53:7, 53:14, 92:27, 98:5, 98:11, 114:3, 134:3, 139:3, 147:6</p> <p>stood [1] - 103:14</p> <p>stop [2] - 8:20, 164:5</p> <p>Store [1] - 116:26</p> <p>stories [6] - 63:2, 75:3, 77:13, 78:17, 84:10, 84:14</p> <p>story [68] - 25:12, 25:26, 26:18, 26:20, 30:15, 33:21, 33:27, 34:1, 60:16, 63:5, 68:8, 68:22, 69:12, 69:13, 69:15, 73:14, 73:15, 73:18, 73:26, 74:13, 74:15, 74:22, 74:23, 74:24, 75:4, 75:15, 75:21, 75:23, 75:26, 75:28, 76:6, 76:9, 76:13, 76:25, 76:26, 77:19, 77:20, 77:26, 78:15, 79:11, 80:18, 81:19, 81:22, 81:24, 82:5, 82:11,</p>
---	--	---	---	--	---

82:12, 82:19, 82:28, 82:29, 84:18, 85:19, 86:24, 86:25, 87:1, 87:12, 91:6, 91:23, 91:26, 91:27, 94:15, 94:16, 94:18, 94:19, 96:23, 131:26 straight [2] - 133:4, 164:25 straightaway [1] - 164:24 strange [4] - 10:12, 10:14, 11:27, 156:9 strap [2] - 94:2, 94:3 straying [2] - 161:1, 162:3 Street [3] - 88:11, 101:1, 116:26 street [1] - 30:9 strength [1] - 55:12 stress [2] - 121:2, 126:20 strict [1] - 59:10 strictly [1] - 60:1 strongly [1] - 32:22 struck [5] - 51:11, 56:16, 56:26, 127:15, 140:18 stuck [2] - 106:21, 162:10 study [1] - 57:14 stumbled [2] - 75:28, 77:26 sub [4] - 82:7, 93:29, 98:27, 122:29 sub-districts [1] - 98:27 sub-editor [1] - 82:7 sub-headline [1] - 93:29 sub-questions [1] - 122:29 subject [3] - 108:20, 130:8, 130:15 subjective [2] - 95:9, 95:17 submission [2] - 60:10, 130:9	submissions [1] - 41:14 submit [2] - 127:28, 170:2 submitted [1] - 12:12 subsequent [8] - 49:15, 49:16, 134:17, 135:6, 152:21, 164:15, 171:19, 171:22 subsequently [5] - 34:22, 53:13, 92:14, 117:26, 135:17 successful [1] - 105:26 suddenly [1] - 136:14 suffering [1] - 126:20 sufficient [1] - 162:2 suggest [10] - 36:15, 36:20, 49:6, 102:11, 109:24, 111:5, 146:8, 153:29, 178:26 suggested [2] - 104:29, 129:9 suggesting [4] - 31:20, 68:21, 85:9, 111:15 suggestion [9] - 26:1, 26:3, 27:5, 30:13, 59:29, 112:10, 123:7, 162:28, 169:21 suggests [2] - 111:9, 120:15 sum [2] - 104:19 summarise [1] - 84:7 summarised [1] - 60:4 summer [1] - 151:7 Sunday [5] - 68:28, 69:2, 69:5, 73:17, 163:22 superintendent [13] - 13:26, 56:5, 98:4, 98:14, 99:6, 99:9, 125:23, 126:1, 134:19, 136:27, 137:14, 137:22, 137:27 SUPERINTEND ENT [2] - 5:14,	98:1 Superintenden t [35] - 7:12, 22:8, 23:24, 34:23, 71:12, 87:19, 97:24, 104:8, 108:11, 110:27, 115:10, 117:11, 117:19, 117:27, 118:3, 119:3, 119:7, 120:26, 121:25, 122:19, 123:1, 135:2, 135:7, 135:8, 135:16, 136:1, 136:2, 136:4, 136:7, 136:8, 136:9, 136:29, 137:16, 137:29, 147:10 superintendent 's [1] - 121:22 Superintenden ts [1] - 176:22 supplied [1] - 123:1 support [1] - 14:18 suppose [41] - 11:1, 13:6, 20:20, 31:27, 31:29, 32:1, 33:28, 42:19, 48:10, 52:13, 53:13, 55:9, 56:16, 58:15, 58:18, 60:15, 82:16, 90:23, 102:18, 107:8, 107:10, 127:7, 128:16, 132:4, 133:4, 139:2, 139:18, 140:17, 143:24, 145:2, 150:28, 155:11, 158:26, 159:27, 164:4, 164:23, 165:23, 171:15, 171:16, 171:25, 173:20 suppressed [1] - 123:29 surprise [1] - 73:8 surprised [3] - 88:18, 96:2, 96:3 surprisingly [1] - 39:18 surrounding [1] - 67:11 survived [1] -	75:13 suspect [4] - 4:13, 56:29, 158:16, 158:19 suspected [1] - 18:19 suspects [1] - 10:26 suspended [2] - 86:4, 86:7 suspensions [1] - 96:4 suspicion [1] - 178:11 Swords [9] - 13:26, 21:6, 21:7, 37:11, 98:28, 99:17, 99:19, 99:27, 101:13 SWORN [3] - 7:1, 71:5, 98:2 sympathy [4] - 57:27, 162:4, 162:5, 178:28 Syrian [1] - 14:6 system [1] - 125:11 systems [17] - 32:12, 45:6, 114:18, 114:20, 114:23, 123:11, 123:19, 135:28, 153:5, 153:8, 155:15, 155:17, 155:18, 155:21, 155:24, 165:26 Síochána [24] - 4:15, 27:26, 30:11, 31:10, 32:24, 32:26, 37:6, 40:21, 41:1, 41:2, 48:4, 48:8, 48:14, 48:24, 49:9, 89:6, 98:6, 120:9, 120:17, 120:18, 125:14, 134:15, 178:4, 178:13	37:4, 58:25, 124:2, 162:14 targeting [9] - 27:8, 62:27, 123:9, 127:4, 166:13, 166:21, 166:24, 167:6, 167:14 task [3] - 99:21, 150:29, 171:5 tasked [1] - 151:1 tasks [1] - 107:23 Taylor [1] - 87:19 team [6] - 38:5, 88:20, 118:23, 120:7, 121:23, 173:18 tears [1] - 103:13 technical [1] - 23:28 technically [3] - 16:16, 16:21, 156:20 telephone [10] - 121:1, 139:1, 139:13, 139:14, 139:15, 167:6, 169:26, 169:29, 173:16, 173:22 telephoned [8] - 25:25, 66:3, 66:7, 66:15, 69:18, 113:16, 113:26, 114:2 telephoning [3] - 26:11, 67:9, 67:12 TEMPLE [1] - 3:8 temporary [1] - 13:8 ten [8] - 9:24, 12:16, 12:20, 64:22, 131:1, 132:1, 150:17, 156:25 tend [1] - 109:24 term [2] - 76:17, 169:10 terminus [1] - 20:15 terms [10] - 11:3, 11:4, 33:20, 50:24, 53:15, 74:8, 109:6, 121:5, 164:23,	172:15 terrible [2] - 24:20, 53:25 terribly [1] - 29:21 terrorist [2] - 109:17, 158:23 THAT [2] - 4:12, 4:17 THE [16] - 4:7, 4:8, 6:1, 38:13, 52:8, 65:23, 70:29, 88:29, 93:3, 97:16, 97:21, 125:18, 168:1, 174:10, 177:21, 181:3 theme [1] - 165:18 THEN [3] - 70:29, 97:16, 177:21 then.. [1] - 70:14 theoretically [2] - 129:4, 129:5 thereafter [2] - 10:17, 68:4 therefore [3] - 49:8, 128:18, 163:4 thinking [6] - 22:26, 34:3, 43:5, 47:29, 64:3, 106:15 thinks [3] - 41:19, 60:7, 136:24 third [8] - 113:10, 139:1, 154:19, 154:27, 169:26, 169:29, 170:1, 175:26 thorough [1] - 101:11 thoughts [1] - 23:15 threat [38] - 18:8, 22:16, 22:21, 41:2, 41:7, 42:4, 47:5, 63:26, 64:5, 64:6, 64:25, 80:15, 80:19, 104:6, 104:12, 104:21, 109:25, 111:9, 117:1, 119:17, 120:4, 120:10, 120:19, 121:8, 134:20, 140:21, 140:23, 142:4, 142:11,
T					
TAKE [1] - 4:7 tampered [2] - 20:15, 20:18 tantamount [1] - 52:1 target [1] - 123:17 targeted [4] -					

148:18, 159:27, 159:28, 161:12, 161:14, 161:15, 161:16, 161:21, 161:22 threaten [1] - 39:21 threats [7] - 24:5, 43:28, 110:28, 110:29, 113:7, 134:16, 141:7 three [12] - 13:2, 22:19, 63:20, 105:12, 115:8, 122:11, 147:19, 152:25, 153:24, 156:11, 166:23, 167:6 three-year [1] - 13:2 throughout [1] - 45:22 thrown [3] - 20:8, 20:10, 179:28 thrust [3] - 75:23, 81:22, 81:24 Thursday [1] - 72:21 ticks [2] - 169:2, 169:4 tidy [1] - 174:14 tie [1] - 60:27 timely [1] - 164:2 tiny [1] - 156:19 title [3] - 71:21, 110:29, 125:25 titles [1] - 147:25 TO [1] - 4:7 today [8] - 6:13, 33:3, 51:21, 53:12, 89:13, 91:4, 132:2, 178:20 together [5] - 10:16, 10:17, 79:9, 79:15, 80:17 tomorrow [3] - 176:16, 180:17, 180:19 tomorrow's [1] - 180:14 took [17] - 12:20, 36:8, 40:2, 80:22, 87:21, 90:15,	98:19, 103:15, 104:29, 105:9, 105:10, 130:28, 132:22, 134:2, 143:19, 143:21, 173:10 tools [1] - 27:4 top [11] - 26:14, 75:8, 75:10, 75:11, 75:12, 75:15, 93:23, 94:11, 94:12, 94:14, 176:15 totally [1] - 41:25 touch [1] - 21:12 touched [1] - 121:12 towards [6] - 7:21, 22:22, 41:7, 43:27, 44:11, 45:20 traffic [1] - 101:2 tragic [1] - 72:19 transaction [1] - 129:3 transcript [2] - 178:7, 178:16 transferred [1] - 124:16 travel [1] - 99:17 travelled [2] - 99:19, 99:26 treat [1] - 174:1 treated [1] - 60:12 trees [2] - 76:20, 78:22 trial [5] - 18:25, 18:26, 128:21, 128:22, 128:27 TRIBUNAL [1] - 4:9 Tribunal [43] - 7:8, 10:22, 10:25, 11:5, 15:21, 23:21, 24:18, 33:6, 33:7, 35:18, 35:21, 35:22, 37:2, 58:17, 58:24, 59:14, 59:18, 69:4, 70:16, 71:13, 71:14, 78:6, 87:10, 87:16, 87:18, 87:24, 90:21, 123:14, 126:29, 127:2, 127:26, 129:8, 134:5, 138:15,	138:16, 162:9, 162:24, 162:25, 163:7, 168:4, 178:1, 178:5, 180:16 tribunal [1] - 4:19 tried [2] - 23:7, 145:3 tries [1] - 53:4 trouble [2] - 82:10, 144:2 troubled [2] - 59:28, 118:17 true [6] - 19:10, 19:18, 19:22, 51:22, 62:19, 156:20 trumped [1] - 52:29 truth [2] - 95:24, 129:28 try [9] - 28:7, 28:23, 33:22, 48:25, 57:14, 75:14, 142:17, 149:11, 150:25 trying [9] - 22:23, 22:29, 56:23, 57:10, 78:5, 78:6, 88:15, 106:24, 142:10 TUESDAY [1] - 181:3 turn [3] - 92:7, 92:20, 147:21 turns [1] - 131:25 twelve [2] - 22:4, 64:22 two [40] - 22:19, 26:12, 26:13, 29:7, 30:21, 31:16, 35:23, 37:16, 43:26, 47:13, 47:18, 49:4, 55:14, 61:23, 61:25, 63:20, 68:19, 68:25, 75:13, 79:9, 79:15, 86:26, 105:12, 119:27, 135:15, 147:19, 148:8, 148:13, 149:7, 150:5, 152:24, 152:25, 157:2, 157:5, 165:1, 166:22, 166:23 type [2] - 55:23,	150:25 typed [1] - 174:15 U ultimately [8] - 9:10, 10:1, 13:21, 16:21, 16:25, 17:14, 17:29, 128:13 ultra [1] - 8:23 umbrella [1] - 155:16 UN [2] - 99:11, 99:12 unauthorised [4] - 89:21, 90:9, 96:9 unavoidable [1] - 180:26 unaware [2] - 141:6, 141:11 unbelievable [1] - 55:11 unbelievably [1] - 12:16 uncomfortable [2] - 76:14, 77:29 uncontroversia l [1] - 115:9 under [17] - 12:7, 14:12, 18:2, 22:7, 24:2, 33:13, 47:4, 74:1, 80:15, 83:10, 86:4, 86:11, 97:2, 126:7, 179:11 undermined [2] - 137:26, 137:28 understandabl e [5] - 16:2, 128:2, 128:16, 163:25, 179:24 understandabl y [1] - 27:25 understood [1] - 41:10 undertaken [3] - 4:14, 105:25, 113:20 undesirable [1] - 23:2 unfair [12] - 29:17, 29:21, 30:22, 51:12, 51:22, 55:18, 62:24, 62:26, 96:23, 96:28,	136:13 unfavourable [1] - 174:5 unfavourably [1] - 174:2 unfortunate [1] - 46:10 unfortunately [3] - 44:5, 46:3, 165:16 uniform [1] - 103:11 unimaginable [2] - 142:8, 142:9 union [1] - 73:4 unit [3] - 88:20, 100:7, 100:22 unknown [1] - 8:17 unless [3] - 25:20, 129:17, 129:29 unlifted [1] - 9:8 unnecessary [1] - 130:6 unrealistic [2] - 9:2, 9:4 unrelated [1] - 77:26 unsigned [3] - 103:20, 145:9, 145:12 unsuitable [1] - 27:24 UNTIL [1] - 181:3 untrue [2] - 20:1, 34:26 untypical [1] - 43:22 unusual [5] - 45:28, 61:13, 148:2, 173:24, 173:26 up [56] - 8:4, 12:7, 17:29, 18:25, 20:20, 24:26, 34:16, 42:15, 43:5, 44:10, 45:21, 47:4, 48:17, 50:16, 52:29, 56:9, 62:6, 62:13, 64:6, 68:8, 76:13, 79:2, 80:22, 93:19, 98:19, 100:8, 103:14, 106:20, 107:19, 108:20, 123:28, 136:2, 137:16,	138:20, 138:23, 138:29, 139:1, 139:21, 141:9, 147:21, 148:10, 151:6, 151:12, 151:14, 151:15, 154:14, 155:1, 155:29, 157:11, 158:12, 162:15, 169:25, 170:21, 174:14 update [1] - 112:28 upset [19] - 26:4, 31:1, 33:24, 34:14, 50:26, 50:27, 50:28, 51:6, 53:25, 62:7, 63:12, 63:13, 85:1, 85:7, 85:8, 94:26, 103:13, 106:3 upsetting [2] - 53:7, 53:8 upstairs [1] - 20:11 urgent [3] - 32:4, 148:24, 149:7 useful [1] - 156:8 utterances [1] - 57:22 utterly [1] - 96:8 V value [1] - 145:8 valued [1] - 170:29 various [1] - 86:10 venue [2] - 131:21, 131:23 vernacular [1] - 77:8 versed [1] - 168:17 version [1] - 174:15 Victim [55] - 21:22, 25:27, 26:7, 26:28, 27:7, 27:19, 29:2, 31:17, 31:19, 48:21, 49:21, 51:23, 51:25, 54:22, 54:23, 54:25, 61:23, 62:10, 67:13, 67:21, 67:25,
---	---	---	--	---	--

68:10, 68:16, 68:18, 69:22, 73:18, 73:26, 74:9, 74:17, 75:1, 75:16, 75:17, 78:27, 79:18, 81:23, 91:1, 91:6, 102:27, 103:16, 103:21, 104:24, 106:29, 108:21, 133:13, 143:10, 145:7, 148:9, 148:11, 148:27, 149:1, 174:20, 174:27, 175:2, 175:7 victim [8] - 27:3, 48:11, 67:5, 67:12, 81:11, 86:25, 109:24, 133:12 victimised [3] - 11:10, 11:17, 163:8 view [32] - 19:22, 22:9, 32:11, 32:22, 32:23, 32:27, 33:6, 42:1, 42:2, 45:17, 47:2, 49:9, 50:26, 51:8, 51:14, 51:17, 53:15, 56:18, 56:28, 56:29, 57:7, 58:18, 65:1, 65:26, 69:11, 86:9, 118:17, 130:14, 142:9, 145:9, 159:21, 161:27 viewed [1] - 62:23 views [12] - 31:12, 47:7, 51:29, 52:17, 52:19, 56:27, 58:9, 58:11, 59:24, 60:8, 60:11, 86:8 violence [4] - 13:10, 142:14, 143:1 violent [1] - 23:3 virtually [1] - 178:25 visit [2] - 24:28, 117:12 voluntary [2] - 158:4, 158:6 voraciously [1] -	75:19 W wait [1] - 6:6 waiting [1] - 114:7 walked [1] - 40:17 Walsh [1] - 115:21 Walter [3] - 97:24, 124:1, 134:18 WALTER [2] - 5:14, 98:1 wants [3] - 76:7, 130:8, 141:27 warn [1] - 34:15 warned [1] - 63:12 warning [1] - 72:20 warnings [1] - 165:22 warranted [1] - 53:29 WAS [11] - 7:1, 38:13, 52:8, 65:23, 71:5, 88:29, 93:3, 98:2, 125:18, 168:1, 174:10 Waters [8] - 40:9, 99:8, 115:19, 147:15, 147:27, 162:29, 176:23, 180:17 wavelength [1] - 155:6 Wayne [2] - 27:21, 27:22 ways [1] - 46:5 week [8] - 35:18, 72:12, 74:3, 90:14, 108:29, 113:29, 152:12, 153:22 weekend [1] - 35:15 weeks [5] - 20:3, 36:27, 75:13, 78:15, 147:20 weight [1] - 25:1 welcome [1] - 118:26 WELLINGTON [1] - 3:7 whatsoever [7] -	7:26, 21:26, 54:2, 112:4, 112:17, 149:27, 166:6 whistleblower [7] - 11:16, 11:17, 44:9, 52:15, 83:16, 83:28, 83:29 whistleblowing [1] - 83:25 White [2] - 109:1, 176:21 whole [2] - 137:23, 161:7 wide [4] - 49:25, 88:4, 88:17 widely [1] - 69:8 wife [1] - 142:29 William [9] - 28:26, 58:25, 118:28, 120:15, 120:22, 124:8, 124:9, 124:12, 124:13 willing [4] - 14:9, 57:24, 72:27, 72:28 wise [2] - 129:26 wisely [2] - 16:22, 17:3 wish [5] - 43:5, 51:9, 72:23, 90:16, 128:21 WITHDREW [3] - 70:29, 97:16, 177:21 WITNESS [12] - 5:2, 38:13, 52:8, 65:23, 70:29, 88:29, 93:3, 97:16, 125:18, 168:1, 174:10, 177:21 witness [23] - 6:7, 6:13, 14:17, 15:1, 18:24, 59:16, 59:18, 65:21, 66:24, 66:27, 66:29, 71:1, 97:23, 113:18, 126:7, 128:24, 128:29, 155:5, 161:9, 164:13, 177:27, 178:9, 180:27 witnesses [6] - 59:12, 109:12, 128:6, 159:3, 168:28, 180:19 woman [4] -	22:18, 32:27, 33:4, 165:1 women [2] - 13:13, 23:12 won [1] - 15:16 wonder [2] - 59:7, 59:13 wondering [5] - 28:22, 32:6, 35:20, 42:24, 114:5 word [7] - 22:24, 22:25, 53:24, 62:25, 101:6, 153:16, 162:17 wording [2] - 55:11, 55:12 words [17] - 22:29, 51:13, 70:7, 70:12, 76:5, 81:18, 119:19, 121:18, 131:29, 133:15, 139:8, 139:12, 139:21, 155:18, 159:4, 170:6 works [2] - 82:5, 96:21 world [1] - 44:29 worn [1] - 25:1 worry [3] - 73:7, 75:11, 88:2 worth [1] - 137:17 worthy [1] - 148:3 write [9] - 79:12, 81:21, 81:27, 82:5, 86:7, 94:8, 157:11, 163:8, 175:16 writer [3] - 24:11, 44:16, 45:10 writer's [2] - 44:20, 45:11 writing [13] - 4:19, 14:22, 14:23, 25:13, 25:26, 28:13, 43:2, 56:4, 73:10, 75:23, 89:16, 90:8, 114:6 written [9] - 48:12, 69:2, 74:1, 77:18, 80:22, 81:28, 86:28, 143:26, 150:3 wrongly [3] - 51:2, 53:22,	179:29 wrote [9] - 13:23, 53:12, 60:20, 75:4, 89:29, 94:16, 94:20, 114:8, 119:22 Y yeah.. [1] - 70:22 year [4] - 13:2, 55:14, 86:19, 112:18 years [24] - 10:17, 14:13, 22:17, 24:19, 24:20, 26:12, 26:13, 28:20, 29:7, 30:21, 32:29, 37:10, 37:12, 41:12, 43:26, 48:17, 68:19, 68:25, 71:20, 73:12, 86:26, 129:13, 166:18 yes.. [4] - 49:3, 114:1, 148:21, 159:12 yesterday [1] - 19:3 yesterday's [1] - 73:13 young [2] - 165:1 yourself [12] - 26:27, 30:7, 30:24, 34:6, 44:18, 56:18, 74:28, 106:6, 106:14, 107:19, 155:6, 160:1 Z zealous [1] - 95:2 zero [1] - 23:14 zeroed [1] - 55:13 zeroing [2] - 62:8, 62:9 zeros [1] - 63:19 zone [1] - 60:7	€ €100 [1] - 17:5 ' 'A' [1] - 4:13 - -[1] - 4:7 É ÉABHALL [1] - 3:6
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