

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

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

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

HEARING HELD IN DUBLIN CASTLE
ON FRIDAY, 18TH FEBRUARY 2022 - DAY 169

169

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

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

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

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1 THE HEARING RESUMED, AS FOLLOWS, ON FRIDAY,
2 18TH FEBRUARY 2022:

3
4 CHAIRMAN: Now. Thanks very much, good morning,
5 Mr. Lynn, and good morning, Assistant Commissioner. 10:49

6
7 RETIRED CHIEF SUPERINTENDENT MICHAEL FEEHAN CONTINUED
8 TO BE CROSS-EXAMINED BY MR. LYNN AS FOLLOWS:

9
10 1 Q. MR. LYNN: Good morning, Assistant Commissioner. I 10:49
11 want to move on to the confidential recipient report.
12 Did you not see a conflict in you being the chief
13 investigator for the purpose of that report?

14 A. I don't believe there was a conflict. Firstly, I was
15 appointed by the Commissioner. It was not made 10:50
16 plain who -- or it was not made known who the
17 confidential reporter was and I don't think any of the
18 eight allegations actually referred to me or pointed
19 towards me, I would say. You could possibly make an
20 argument about, there was a complaint about instigation 10:50
21 of discipline, but I did not instigate the discipline,
22 so I don't believe there was a conflict.

23 2 Q. We'll look at allegation 3 in a moment, but wasn't it
24 unavoidable that you would know who the complainant
25 was? That is not in any way a criticism. But, I mean, 10:51
26 I think you said yesterday that you --

27 A. It was never divulged. I was never told for a fact who
28 the confidential reporter was, but, of course, you
29 could surmise.

1 3 Q. Yes. And did you form the view that, well, this could
2 only be Sergeant Hughes? And it's not a criticism,
3 it's just that --

4 A. Yeah, yeah. No, I mean, it was plain it was probably
5 Sergeant Hughes or Garda Nyhan. 10:51

6 4 Q. Yes, yes. Well, if we look at allegation 3, which is
7 at page 2827, in fact this is the part of the executive
8 summary. And you'll see that the allegation is:

9
10 "Individual investigating officers have been harassed 10:51
11 and improper disciplinary proceedings have been
12 instigated against them because they raised these
13 issues. No attempt has been made to interview the
14 officers who are subject to these proceedings."

15 10:51

16 And then if we go down to the -- if we go down the page
17 a little. I think you made the point in that first
18 paragraph, but you'd made that point yesterday,
19 Assistant Commissioner, that, in fact, 74 members had
20 knowledge of Ms. Saulite and Mr. Hennessy. And then 10:52

21 the next paragraph it actually refers to Sergeant
22 Hughes and Declan Nyhan and the fact that they had been
23 the subject of investigation. And where they were
24 alleging harassment and improper disciplinary
25 proceedings, did it not jump out at you that you had 10:53
26 carried out the fact-find and you then were the
27 investigating officer in the disciplinary
28 investigation, that it was inappropriate for you to
29 review this complaint?

1 A. So, the complaint was about instigation of discipline,
2 as I recall. It was -- I did not instigate the
3 discipline; Assistant Commissioner MCHugh did. So,
4 yes, you're right, I was involved in the fact-finding
5 and in the discipline investigation. I most certainly 10:53
6 did not harass anybody. But that is a different
7 matter. So I did not form the opinion that I was
8 conflicted in taking on this work. And as I said, I
9 was appointed by the Commissioner do it.

10 5 Q. You were involved in the -- you said yesterday that 10:54
11 you, in effect, recommended to Assistant Commissioner
12 MCHugh that there be disciplinary proceedings. Did it
13 not jump out at you that you, on this issue, were going
14 to be judging your own actions?

15 A. That did not come to my -- I didn't think that. I did 10:54
16 not form that view at the time.

17 6 Q. And did you not think that Sergeant Hughes would regard
18 you as the senior member investigating this complaint,
19 the confidential recipient complaint, that he would
20 regard that as unfair and improper? 10:54

21 A. So, sergeant -- I did not know at the time that
22 Sergeant Hughes was the confidential reporter when I
23 was appointed to do this work, and, if he had -- if he
24 did have an objection to me doing the -- taking on this
25 task, it was open to him, of course, to go back to the 10:55
26 confidential report -- or the confidential recipient
27 and to make an objection there.

28 7 Q. But I am just asking you your own position. It didn't
29 occur to you that you would be in a situation here

1 where you would be judging your own actions?

2 A. I did not form that view, no.

3 8 Q. Now, in the course of the confidential recipient
4 investigation, the complainant, we know it's Sergeant
5 Hughes, he received no feedback during that process, or 10:55
6 do you -- firstly, do you agree with me that he didn't?

7 A. I certainly did not give him feedback because it was
8 not made known to me that he was the complainant or the
9 confidential reporter, so, in that case, I wouldn't
10 have. But just in relation to that, I know that 10:56
11 Superintendent O'Gara interviewed Mr. Hughes a number
12 of times, I know he asked, and it was in the papers
13 which I received from the Tribunal, he did ask Sergeant
14 Hughes, in one of those interviews, was he happy the
15 way that the investigation was proceeding, and Sergeant 10:56
16 Hughes told Superintendent O'Gara, yes, he was happy
17 with the way the investigation was being carried out.

18 9 Q. Yes, but when it came to, let's say, provisional
19 findings, they weren't, as I understand it, but correct
20 me if I am wrong, they weren't reported to the 10:56
21 confidential recipient for the purpose of feedback to
22 the confidential complainant, is that correct?

23 A. I had no contact -- I had no direct contact with the
24 confidential recipient at all. I was -- the
25 confidential recipient wrote to the Garda Commissioner, 10:56
26 the Garda Commissioner appointed me to do the work in
27 relation to the complaints, to investigate them, so I
28 had no contact with the confidential recipient, other
29 than, if memory serves me right, that I did write -- I

1 think it was probably through the Garda Commissioner, I
2 did write, coming to the end of the investigation, to
3 ask the confidential recipient if there were any other
4 matters that he had possession of or had sight of that
5 we needed to look at, but I believe that went through 10:57
6 the Garda Commissioner. But that was the only, if you
7 like, attempt I made or I saw a need to communicate
8 with the confidential recipient.

9 10 Q. Right. well, we move on to the -- you were asked to
10 carry out the inquiry, if that's the right word, into 10:58
11 The Star, the newspaper, The Star --

12 A. Yes.

13 11 Q. -- news report complaint. And again, did you not see a
14 conflict in that?

15 A. So, again, I was directed to carry out that 10:58
16 investigation. There was a complaint made, I know, to
17 the Garda Commissioner about me taking on or being
18 involved or supervising that investigation from
19 Mr. Costello, the solicitor for Mr. Hughes. That
20 complaint, my understanding of that complaint is, it 10:58
21 was considered and Assistant Commissioner McHugh
22 corresponded with Mr. Costello to the effect that, if
23 there was a particular complaint about the way the
24 investigation was being conducted by me, that he should
25 forward that, but in the absence of that, he said that 10:59
26 I was continuing -- I would continue with this
27 investigation.

28 12 Q. well, I am asking you, did you not see a conflict? You
29 were involved in the disciplinary investigation. Did

1 you not see a conflict in you investigating how
2 information found its way to a journalist at The Star
3 newspaper?

4 A. No, I didn't. And, as I said, I was directed to carry
5 out the investigation. The officer who directed me to 10:59
6 do that had knowledge of what had gone before. So if
7 that issue -- if that was an issue, well, then, it
8 could be dealt with. There was, as I said,
9 correspondence from Mr. Costello objecting to that.

10 13 Q. But you didn't see any conflict? I am not, for one 10:59
11 moment, suggesting that you leaked the information, I
12 am not suggesting that for one moment.

13 A. I understand that.

14 14 Q. But potentially, you were a person who could have done,
15 in that you had the information that found its way to 11:00
16 the paper. Now, is there not a clear conflict then
17 that you would investigate how this information came to
18 find its way to -- into The Star newspaper?

19 A. So I didn't form that view at the time, I did not form
20 that view. I think I said yesterday, An Garda Síochána 11:00
21 is obviously a disciplined organisation. I was
22 directed to carry out this investigation. I did not
23 form the view at the time, or I did not object when I
24 was appointed. The matter was considered as a result
25 of a complaint from Mr. Costello on behalf of Sergeant 11:00
26 Hughes, so I continued with the investigation.

27 15 Q. Well, same theme, but a slightly different perspective:
28 Could you not see that Sergeant Hughes would see it as
29 improper and unfair that you would be the man looking

1 into this?

2 A. I did see that, obviously, when the complaint arrived
3 in to the Commissioner about me carrying out the
4 investigation.

5 16 Q. So you understood that? 11:01

6 A. I say I was aware that there was a complaint made on
7 behalf of Sergeant Hughes to me carrying out The Star
8 investigation.

9 17 Q. And he maintains the view, Assistant Commissioner, that
10 it was improper for you to be the man who would oversee 11:01
11 this?

12 A. That's the complaint -- or that was the tenor of what
13 went from Costello solicitors to the Commissioner, I
14 believe, yes.

15 18 Q. That remains his position? And what -- 11:01

16 A. Sorry?

17 19 Q. I am asking you what you say to that. That remains his
18 position, that it was unfair and improper. And you may
19 well already have answered it, but, to be fair, that's
20 his position; what do you have to say to that? 11:02

21 A. So, what I would say is, I carried out or supervised
22 the conducting of a fair and impartial investigation.
23 The investigation was taken as far as it could be
24 taken. And so that is my position.

25 20 Q. Now, if we could please bring up page 2637. Assistant 11:02
26 Commissioner Feehan, this is a letter, an internal
27 letter that you wrote on the 27th January of 2011. I
28 should ask, do you want to see the article itself or
29 are you so familiar with it we don't need to --

1 A. No, I don't need to see the article.

2 21 Q. Okay. Now, in this, and this is actually just before
3 the final outcome and letters going to Séan Costello
4 and Sergeant Hughes, but you say at the first paragraph
5 there that -- you record that Superintendent Dwyer 11:03
6 interviewed Mr. Hennessy and Mr. O'Toole, and, in fact,
7 we're all familiar with what happened there. And if we
8 could just go down a bit. Well, we can leave it --
9 just about a third of the way up from the bottom,
10 there's a paragraph "As previous stated..." 11:03
11 Are you with me?

12 A. Yes.

13 22 Q. "As previous stated in a report dated 17th May 2010,
14 from examination of the article, Mr. O'Toole's article
15 in The Star newspaper on 20th November '08 entitled 11:03
16 'Cop never looked at tragic Bai ba's warning', contains
17 nothing that appears not to have already been in the
18 public domain."
19

20 Now, is that your position on this? 11:04

21 A. Sorry, I'm not sure what -- when -- I see the date of
22 the report, but I know that I wrote at the time that
23 the only issue that was not in the public arena was the
24 fact that there was a discipline inquiry being
25 conducted. 11:04

26 23 Q. Okay. Well, this letter is the 27th January 2011.

27 A. Yes.

28 24 Q. And the outcome letter is about, just over -- well,
29 about two weeks later, 7th February. But, look,

1 Assistant Commissioner, if that's not your position and
2 that was an error in the letter, so be it. I mean, I
3 am not making an issue of that.
4
5 So you did recognise that it was the existence of the 11:05
6 disciplinary investigation that was the leak?
7 A. That was the only information that we could see that
8 had not been out in the public arena before the article
9 was written.
10 25 Q. And would you agree with me that it was a leak of some 11:05
11 sort?
12 A. I don't know -- I don't know where it came from.
13 26 Q. No. The journalist himself, the report itself said it,
14 referred to Garda sources.
15 A. That's right, it did. 11:05
16 27 Q. And the evidence that you had at the time was that
17 Mr. Hennessy said that the journalist said it came from
18 a high-ranking garda?
19 A. That's correct, that was in Mr. Hennessy's statement.
20 But the point I was making was that the outcome of the 11:05
21 investigation was that we were not able to identify
22 where the leak came from - was it a member of An Garda
23 Síochána or was it not? So, hence, I don't know where
24 the leak came from - like, if there was a leak - to
25 this day. 11:06
26 28 Q. Well, you knew about the disciplinary -- you were the
27 investigating officer of the disciplinary process?
28 A. Yes.
29 29 Q. Did you speak to any of the officers who were involved

1 in that or would have known about the disciplinary
2 process?

3 A. No, I did not.

4 30 Q. You didn't enquire of any of them as to whether they
5 may have leaked, whether it be deliberately, 11:06
6 inadvertently, or whatever, you didn't speak to any
7 colleagues?

8 A. No, I did not. And I would say the reason I did not
9 was because you could be into several hundred people
10 who had knowledge of this, of the discipline 11:06
11 investigation.

12 31 Q. Well, the outcome letter then is, just to conclude
13 this, is at page 2640. This went to Mr. Costello and I
14 think an identical letter actually went to Sergeant
15 Hughes directly. And the final sentence of the middle 11:07
16 paragraph:

17
18 "I wish to inform you that I can find no evidence to
19 substantiate your client's assertion that the
20 information contained in the said article was provided 11:07
21 by a member of An Garda Síochána."
22

23 I mean, Mr. Hennessy had given evidence --

24 A. Sorry?

25 32 Q. Mr. Hennessy had given evidence -- what weight one 11:08
26 would give to it is not the issue, but he had given
27 evidence that the journalist himself had said that it
28 came from a high-ranking Garda source?

29 A. That's correct.

1 33 Q. So there was some evidence?
2 A. No, sorry, I could find no evidence to substantiate --
3 there was a comment made to Mr. Hennessy by the
4 journalist, that's true, that was in his statement, but
5 I couldn't substantiate that. I couldn't -- I had no 11:08
6 evidence to substantiate that, that that was the case.
7 34 Q. Right. Well, Sergeant Hughes's position is that it was
8 improperly conducted, this particular inquiry. You
9 didn't, it transpires, speak to any colleagues about
10 whether they may have leaked information. You yourself 11:08
11 had the information in your knowledge and there was a
12 conflict in you being the inquiring officer. That's
13 his position, and I am putting it to you, should you
14 wish to reply to that position?
15 A. No, I accept that that is his position. 11:09
16 35 Q. At some point you became aware that Sergeant Hughes was
17 raising issues of systems failure, coordination
18 failure?
19 A. Yes.
20 36 Q. Yeah. Can you recall when you became aware of that? 11:09
21 A. I am not sure was it in the 25-page report that he gave
22 in the discipline investigation, but I certainly was
23 aware of it when I was conducting the confidential
24 recipient investigation.
25 37 Q. He had mentioned coordination failure or shortcomings - 11:09
26 sorry, I am not exact with the language - to Inspector
27 Cryan way back in November 2006. Sergeant Hughes says
28 he told Inspector Curran of his view of a systems
29 failure in April 2007, although that remains in issue,

1 so he was raising these issues at this point in time --
2 at that time; would they have found their way to you?
3 A. They found their way to me in the -- certainly in the
4 confidential recipient investigation.
5 38 Q. Well, I am asking, Assistant Commissioner Feehan, 11:10
6 whether you became aware of them earlier than that.
7 You have mentioned the 25-page report.
8 A. Yeah. And I honestly cannot recall was it in that
9 25-page report, I can't recall that. If it was, it was
10 sent to the appointing officer, because the 25-page 11:10
11 report was sent to the appointing officer, Assistant
12 Commissioner McHugh, and it was one -- if it was in the
13 report - I can't recall if it was in that 25-page
14 report - but if it was in that 25-page report, my
15 position would have been that this is something that is 11:11
16 outside or does not come within the ambit of the
17 discipline investigation.
18 39 Q. And might you have heard about it before that 25-page
19 report?
20 A. No, I don't believe I did, I don't believe I did. 11:11
21 MR. LYNN: Thank you, Assistant Commissioner Feehan.
22 THE WITNESS: Thank you.
23 MR. LYNN: I should say you were very obliging when I
24 wanted to finish at four o'clock yesterday and I am
25 grateful to you for that. 11:12
26 THE WITNESS: No, thank you for your courtesy, thank
27 you.
28 CHAIRMAN: well, on that happy note, thank you very
29 much. Now, Mr. O'Higgins.

1 MS. HORAN: Thank you, Chair, I am going to take
2 questions.

3 CHAIRMAN: Yes, Ms. Horan, yes. Good morning,
4 Ms. Horan.

5

6 THE WITNESS WAS CROSS-EXAMINED BY MS. HORAN AS FOLLOWS:

7

8 40 Q. MS. HORAN: Assistant Commissioner Feehan, just a few
9 questions on behalf of An Garda Síochána.

10 CHAIRMAN: Just introduce yourself, Ms. Horan, to the
11 witness. I know who you are.

12 41 Q. MS. HORAN: My name is Shelley Horan and I am acting
13 for An Garda Síochána. Thank you, Assistant
14 Commissioner Feehan. If I might just start with the
15 fact-finding investigation. Could I ask Mr. Kavanagh 11:12
16 to pull up page 856, please. This is a report to you
17 from Detective Inspector Mangan from the 7th October
18 2011. I don't propose to read it out, but if you could
19 just scroll down a bit, please, Mr. Kavanagh. It sets
20 out the sequence of events or the steps taken by 11:13
21 Detective Inspector Mangan as part of this fact-finding
22 or scoping exercise, and he sets out, for example, that
23 Detective Superintendent Michael Byrne was contacted
24 for information. If you scroll down, please,
25 Mr. Kavanagh, to the next page, 857. He then refers to 11:13
26 the request from Sergeant Hughes, who submitted a
27 report, this is the 25-page report, because he spoke to
28 Garda Nyhan and asked him to --

29 A. Sorry, can I just correct that. It was a 16-page

1 report.

2 42 Q. Apologies, a 16-page report. Thank you for that
3 clarification. He spoke to Garda Nyhan. He requested
4 Detective Sergeant Ciaran McEneaney to submit a report
5 for the fact-finding investigation. And then down in 11:13
6 paragraph 7, I don't propose to read it out but just to
7 summarise, there was an interview of Garda Adrian
8 Walsh. He says that all files were examined. He says
9 at paragraphs 8, 9, 10 and 11, he discusses the draft
10 victim impact statement and how he reviewed it, looked 11:14
11 at precedents and some authority, as in case law. At
12 paragraph 11, he refers to communicating with Garda
13 Alan Campbell -- sorry, that's at paragraph 14. At
14 paragraph 12, he refers to a review of the Garda Pulse
15 information, and, at paragraph 13, a review or 11:14
16 examination of the statements made by Ms. Baiba Saulite
17 to Garda Conor McNally.

18

19 There's been criticism about the extent of the work
20 done as part of this fact-finding investigation, and 11:14
21 can I just ask you whether you thought the level of
22 inquiry made was sufficient or otherwise for the
23 purpose of the remit of that fact-finding or scoping
24 exercise?

25 A. I am certain it was, it was sufficient, and certainly 11:14
26 did the job that we were asked to do.

27 43 Q. Thank you. And can I just you, Mr. Kavanagh, please,
28 to turn to page 1963. This is your report to Assistant
29 Commissioner Al McHugh of the 26th March 2007 on the

1 fact-finding investigation and the outcome of that. If
2 we can just turn, please, Mr. Kavanagh, to page 1976.
3 So, as part of the same document, you set out here, at
4 section 5, what could be described as a précis or
5 summary of Sergeant Hughes's report to Detective 11:15
6 Inspector Mangan. If you just scroll down a little
7 bit, please, Mr. Kavanagh. You reference there that
8 the sergeant reported that he subsequently learned of
9 an arson attack on Baiba Saulite's car at her home and,
10 again, that Sergeant Hughes was not directly involved 11:15
11 in that investigation. And if you could just scroll
12 forward, please, Mr. Kavanagh, to page 1977. Those
13 last -- if you go down a little bit further,
14 Mr. Kavanagh. Those last three lines before you move
15 on to Garda Nyhan, you say: 11:15

16
17 "Sergeant Hughes goes on to assert that, in the absence
18 of any Garda intelligence to the contrary, he had no
19 reason to believe that her fears --"

20
21 As in Baiba Saulite's fears. 11:16

22
23 " -- about [blank] were of much significance. "

24
25 And what I wanted to ask you about this report that you 11:16
26 conducted in respect of the fact-finding investigation
27 for Assistant Commissioner McHugh, is, when you were
28 recommending that a full investigation be carried out,
29 which you did at page 1981, did it form part of your

1 consideration that Sergeant Hughes's own account needed
2 to be stress-tested or interrogated or not, as part of
3 the full investigation you were recommending?

4 A. Not as part of a -- no, not as part of a fact-finding,
5 I don't believe it did. 11:16

6 44 Q. But as part of the full investigation that you
7 subsequently recommended?

8 A. No, I felt it would -- what I was recommending, I feel
9 I knew I was recommending that this should go to a
10 discipline. I think I said yesterday I thought there 11:16
11 was a compelling case to go to -- to bring this to a
12 disciplinary inquiry or a -- yes, a disciplinary
13 inquiry, so that's, basically, you know, what I did.

14 45 Q. Okay. And if we could just move forward, please, to 11:17
15 the confidential recipient investigation, please, and
16 if I could just ask Mr. Kavanagh to pull up page 7931.
17 This is a letter from the solicitors acting for
18 Sergeant William Hughes and they deal with each of the
19 issues that the Tribunal is considering. If I could
20 just ask Mr. Kavanagh to scroll down. It's a letter of 11:17
21 the 3rd December 2021. Under Issue 3, the second
22 paragraph underneath that heading, it is stated there:

23
24 "It is Sergeant Hughes's submission that there was a
25 failure to properly investigate the systems failures 11:17
26 alleged in the above reports as the investigation (i.e.
27 the confidential recipient investigation) failed to
28 uncover what he believed to be irrefutable
29 wrongdoings."

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And then he sets out a list. And I just wanted to ask you, what is your position in respect of the allegation that the confidential recipient investigation was inadequate or wasn't properly investigated?

11:17

A. I would say it was as comprehensive and its scope was -- it was a huge investigation. Every one of the complaints to the confidential recipient were investigated fully and the report which I did at the end of that investigation states the facts, they were the facts that we found. So, I would defend, you know, the scope and the depth of that confidential recipient investigation completely; you know, it was carried out by professional, really well experienced investigators, and the task that -- I told them the task was to try and find if there was -- if any of the allegations, if there was truth in them or if they stood up, basically, and we did that.

11:18

11:18

46 Q. Thank you. I have just two more questions for you. Just regarding the allegation that's made by Sergeant Hughes that he was targeted because of a disclosure that he says he made to Superintendent Mark Curran and that the allegation of targeting includes targeting by you, what do you say to that? I mean, first of all, were you aware of any disclosure to Superintendent Mark Curran during the course of your work?

11:18

11:19

A. No, I was not.

47 Q. And in the respect of the allegation that you targeted Sergeant Hughes, what's your position in respect of

1 that?

2 A. I absolutely refute that. I mean, certainly when I
3 read through Sergeant Hughes's complaint to the
4 Tribunal, so one of the places where I was alleged to
5 have targeted him was when I wrote to him, having 11:19
6 received - this was in the disciplinary inquiry - when
7 I received the advice from the Chief Medical Officer,
8 through Assistant Commissioner HRM, and I wrote to
9 Sergeant Hughes to tell him we had got this advice and
10 I wanted to progress the investigation - in other 11:19
11 words, to have him interviewed - and he said that that
12 letter, in his view, that was targeting of him. So I
13 fail to see how that could have been seen as targeting
14 in any sort, and I know I absolutely did not target
15 anybody. I investigated these matters to the best of 11:20
16 my ability, I had expert people assisting in that, and
17 I would stand over all the actions that I took and that
18 my team took in dealing with these matters.

19 48 Q. Thank you. Just my final question, if I could just ask
20 Mr. Kavanagh, please, to pull up page 49. This is 11:20
21 Sergeant William Hughes's statement to the Tribunal.
22 And when we come to it, you will see this is where he
23 deals with the Irish Daily Star investigation. And if
24 I can just ask Mr. Kavanagh to please scroll down to
25 line 755 and just to show the rest of the page from 11:20
26 there on, please. And what Sergeant Hughes says is
27 that he believes he was "targeted in this regard due to
28 a failure to interview me promptly and the fact that a
29 proper investigation was not conducted. I believe this

1 was an abuse of process at my expense and a cover-up.
2 I ultimately received correspondence from Assistant
3 Commissioner Michael Feehan on the 7th February 2011 to
4 advise that the investigation was completed and that no
5 prosecution was arising. " 11:21

6
7 And then he refers to a copy of that correspondence.
8 He goes on to say at line 760:

9
10 "I believe the Garda Commissioner targeted me in this 11:21
11 instance as the report that I sent to the confidential
12 recipient was directly to the Garda Commissioner's
13 office, and then, in turn, was forwarded to Assistant
14 Commissioner Michael Feehan, despite the fact that I
15 had reported concerns to the CR in respect of 11:21
16 A/C Feehan's disciplinary. "

17
18 And if you could just go to the top of the next page,
19 there is just two more lines that I want to read out:

20 11:21
21 "The confidential recipient investigation, I would also
22 include Assistant Commissioner Michael Feehan as a
23 person who targeted me in this instance. "

24
25 And I just wanted to finally ask you, Assistant 11:21
26 Commissioner Feehan, what your response is to that
27 allegation?

28 A. I absolutely refute that.

29 MS. HORAN: Thank you.

1 THE WITNESS: Thank you.

2 MS. HORAN: Thank you, Chairman.

3 CHAIRMAN: Thanks very much. Now, Mr. McGuinness, have
4 you any questions?

5 MR. MCGUINNESS: I have just one issue to deal with, to 11:21
6 tease something out.

7 CHAIRMAN: Thanks very much.

8 MR. MCGUINNESS: It may take five minutes or so.

9

10 THE WITNESS WAS THEN RE-EXAMINED BY MR. MCGUINNESS 11:22
11 AS FOLLOWS:

12

13 49 Q. MR. MCGUINNESS: Assistant Commissioner Feehan, you
14 were being asked yesterday about elements that were
15 included in your fact-finding report, issues that you 11:22
16 considered to be important, and at question 282, the
17 answer you gave commenced as follows, it's page 92 of
18 the transcript for yesterday, you were asked to
19 identify these important areas:

20

21 "So there was -- and I'm just conscious about moving
22 into a sensitive area, which I won't do, but
23 Ms. Saulite did give Sergeant Hughes information which
24 was relevant to the investigation of, we recall, the
25 burning of her car. To me, that should have been acted
26 upon. So that was certainly relevant. The statement
27 that she had made in relation to the abduction case was
28 also relevant. The fact that Sergeant Hughes had
29 acknowledged that he had access and had sight of the

1 intelligence which was available in relation to Mr. A
2 was relevant. And he had -- he knew of the various
3 incidents that had happened around Mr. Hennessy. You
4 know, so he knew of all these things, so I think all of
5 those things were relevant in the fact-finding."

6
7 The discussion then with you, when you were being
8 cross-examined, went on to ask you where in the
9 fact-finding report that you referred to Sergeant
10 Hughes having knowledge of the imminent attacks on 11:23
11 Mr. Hennessy, and you said that was in his report,
12 isn't that correct?

13 A. That's correct, yes.

14 50 Q. And that was his report given to Inspector Mangan.

15 A. Yes. 11:23

16 51 Q. The 16- or 17-page report. And that report I think you
17 referred to in a later answer, because it also dealt
18 with the information that Ms. Saulite gave to Sergeant
19 Hughes and Garda Nyhan on the day of the 14th
20 November -- 11:24

21 A. Yes.

22 52 Q. -- when she came to the station?

23 A. Yes.

24 53 Q. And I'm not referring to the victim impact report, and
25 you weren't referring to the victim impact report? 11:24

26 A. No.

27 54 Q. You were referring to information which is related to
28 the burning of her car and, as described in the middle
29 paragraph of page 873, that I am not asking to be put

1 up, for sensitive reasons, but it related to
2 information which you said had only come to them on
3 that day and was not previously known?

4 A. That's my position, yes.

5 55 Q. And it related to an individual, and we're obviously 11:24
6 not identifying the individual, but Ms. Saulite
7 conveyed information for the first time on that day, on
8 the 14th, in her conversation with Garda Nyhan and
9 Sergeant Hughes?

10 A. I believe that is the case. I had no -- nothing 11:25
11 suggested that she had given this information
12 previously to anybody.

13 56 Q. Yes. It appeared to be the suggestion then that your
14 focusing on these matters wasn't, as it were, reported
15 upon in your fact-finding report, and, as I understand 11:25
16 your position, you were, I think, attempting to convey
17 to the Tribunal that these were included in Sergeant
18 Hughes's own report?

19 A. Yes, that is my recall of it, yes.

20 57 Q. And repeated by him in his report that he prepared and 11:25
21 gave to Sergeant Dwyer --

22 A. Yes.

23 58 Q. -- in October? And insofar as it related to
24 Mr. Hennessy, the information related to Mr. Hennessy,
25 as retold by Sergeant Hughes, is at the bottom of page 11:26
26 521, which we don't need to look at that. And the
27 information in relation to Ms. Saulite and what she
28 conveyed on the 14th November is referred to at the
29 bottom of page 523 going on to 524, relating to the

1 knowledge of the burning of the car?

2 A. Yes.

3 59 Q. And that appeared to link, just to put this in the most
4 general way, that appeared to link the suspect
5 definitively with the burning of the car?

11:26

6 A. Yes, it gave information about who was present when the
7 car was burnt, yes.

8 60 Q. Yes. And the transcript is there, and Mr. Lynn was
9 asking you, for example, at question 356, about these
10 other issues and suggested to you that:

11:27

11

12 "Now, with respect, and tell me I am wrong if you think
13 I am, they are not clearly articulated in the
14 fact-finding report?"

15

16 And your answer was:

17

18 "So the fact-finding report was based on -- So the
19 statement from Sergeant Hughes was included in that, so
20 I would, I would suggest that the information that was
21 in that report was of relevance to the -- a decision to
22 be taken as to whether or not this would proceed to a
23 sworn inquiry, or how it would proceed. So that
24 information was presented to the appointing officer,
25 Assistant Commissioner McHugh. "

26

27 Now, ultimately it led to the Chairman asking a
28 question about the issue, and at the top of page 123 of
29 the transcript, he says:

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"And what Mr. Lynn is really saying is: these other issues that appear to have, that appear to have formed part, at least of your thinking, whether or not of Assistant Commissioner McHugh's thinking, but these unspoken matters that appear to have formed part of your thinking seem to have disappeared. That's his question really. I mean, maybe if he doesn't object to my translating it..."

And your answer was:

"So, Sergeant Hughes presented a 25-page report. My understanding of what happened was the 25-page report was read out loud by Inspector Dwyer..."

And I think you go on to refer to the signing of that and that being available in the disciplinary inquiry.

A. Yes.

61 Q. And my question is this: Apart from how you articulated your own position or analysis, is it my understanding that you have not omitted relevant information relating to Sergeant Hughes's possession of knowledge in either report?

11:28

A. That's my position. So if that information was in his report, then it was presented to the appointing officer.

11:29

62 Q. Yes. And just to be clear, you're not saying that your analysis of the reason why you made a recommendation

1 was based on issues that you didn't report upon in the
2 sense of including the information?

3 A. That's correct, so it was based on all of that
4 information.

5 63 Q. And not on material that wasn't provided? 11:29

6 A. No.

7 MR. McGUI NNESS: Okay. Thank you.

8 I'm sorry it's somewhat cryptic, Chairman, but it's to
9 be understood by reference to the documents, which I
10 think everybody knows what they are about. 11:30

11 CHAIRMAN: No, I understand that, I understand that.

12 MR. LYNN: Chairman.

13 CHAIRMAN: Yes, Mr. Lynn.

14 MR. LYNN: Could I have literally two minutes, Chair --

15 CHAIRMAN: Sorry, just wait until I get my glasses on, 11:30
16 Mr. Lynn.

17 MR. LYNN: I wonder before Assistant Commissioner
18 Feehan stands down, could I have just one minute just
19 to -- something has arisen --

20 CHAIRMAN: Oh, certainly. I was going to say that 11:30

21 Mr. McGuinness has engaged in a process of
22 clarification, that may not have been apparent to you
23 or indeed to me, that may not have been apparent, so I
24 was going to give you an opportunity of consulting and
25 considering whether you might want to ask the Assistant 11:30
26 Commissioner some further questions, some limited -- I
27 mean, I am trusting you to keep it within reasonable
28 bounds, but I do think it is right to give you an
29 opportunity to sort of consider where we are now in

1 light of Mr. McGuinness's clarifications with -- sorry,
2 the Assistant Commissioner's clarifications in response
3 to Mr. McGuinness. So what would you like to do?
4 would you like me to rise for a few minutes or what do
5 you want to do, or can you chat to Mr. O'Dwyer? I 11:31
6 don't mind minding my own business here if you want to
7 do that.

8 MR. LYNN: well, maybe if you would -- would you mind
9 rising, Chair, just very brief, just to allow us --

10 CHAIRMAN: Okay. well, I'm sorry about this, but we 11:31
11 might as well -- this is an area that was of
12 considerable -- sorry, I don't want to be talking about
13 what is important and what is not important. Mr. Lynn
14 spent a significant time on this questioning, in
15 elucidating this question, so I think it is reasonable 11:31
16 to offer him an opportunity of returning to it,
17 following which Mr. McGuinness may wish to re-examine
18 and so on, but, okay. So what I will do is this: I
19 will sit again at 12 o'clock, all right?

20 MR. LYNN: Thank you, Chair. 11:32

21 CHAIRMAN: Thanks very much. I'm sorry now to be
22 keeping you here, but we may as well get these things
23 cleared up when we have the opportunity, because once
24 you have left, we won't have the opportunity without
25 calling you back. Thanks very much. 11:32
26

27 THE HEARING THEN ADJOURNED BRIEFLY AND RESUMED
28 AS FOLLOWS:
29

1 CHAIRMAN: Now, Mr. Lynn.
2 MR. LYNN: Very briefly, Chair.
3 CHAIRMAN: Thank you very much. Yes.

4
5 THE WITNESS WAS FURTHER CROSS-EXAMINED BY MR. LYNN 11:59
6 AS FOLLOWS:

7
8 64 Q. MR. LYNN: Assistant Commissioner Feehan, the
9 information that concerns us, that you have just given
10 evidence on, we're not going to bring it up on the 11:59
11 screen, but for reference it's page 2003. It concerns
12 information of what Ms. Saulite said; that's correct,
13 isn't it?

14 A. I did instance, yes, something that she had said.

15 65 Q. And she wouldn't make a formal complaint, according to 11:59
16 this account?

17 A. Yes, there were several times I understand -- I mean,
18 Sergeant Hughes outlined a number of times where she
19 had expressed concerns and she would not make a
20 statement of complaint about them. 12:00

21 66 Q. But she referred to it being dealt with by detectives
22 at Swords?

23 A. Sorry, the...? Sorry, what was? I am just not sure I
24 am understanding.

25 67 Q. I am sorry, I am speaking cryptically, because I am 12:00
26 trying to avoid going into -- going into sensitive
27 areas.

28 A. Yes, of course, yeah.

29 68 Q. So let me try again, and sorry if --

1 MR. MCGUINNESS: Chairman, if it assists, I can give
2 the witness a copy of the page without putting it on
3 screen.
4 CHAIRMAN: Certainly, as long as Mr. Lynn knows the
5 page you're talking about. 12:00
6 MR. MCGUINNESS: 2003.
7 MR. LYNN: Yes, please, I think that would help.
8 CHAIRMAN: That is helpful. Thank you very much.
9 [SAME HANDED]
10 69 Q. MR. LYNN: So, Assistant Commissioner Feehan, it's the 12:00
11 middle paragraph, and three lines down:
12
13 "She stated it's already been dealt with by the
14 detectives at Swords."
15 12:01
16 Yes.
17 A. Yes, I see that in the -- on the page.
18 70 Q. Been dealt with by other detectives?
19 A. She said it was -- she had talked about issues around
20 Mr. Hennessy, as I understand it, and she went on then 12:01
21 to talk about this information she had at this stage
22 about -- about the matter that's on the page. So,
23 yeah, she gave that information.
24 71 Q. And just to underline again, this information is not
25 referred to by you in your fact-finding report; it's 12:01
26 appended to it?
27 A. This was the report that Sergeant Hughes gave us, yes.
28 72 Q. This information, which we're all avoiding going into
29 in terms of its substance, but this information is not

1 referred to by you in your fact-finding report; it is
2 appended to it?

3 A. So, the -- this report -- so I didn't explicitly talk
4 about this in my report.

5 73 Q. That's all I am asking. 12:02

6 A. But the report went as part of the information, part of
7 the file that went to the Assistant Commissioner.

8 MR. LYNN: I have nothing further, Chair. Thank you.

9 CHAIRMAN: Thanks very much. And thank you very much,
10 Assistant Commissioner. I just thought it was fair to 12:02

11 give you an opportunity of returning to that, Mr. Lynn.

12 MR. LYNN: Thank you.

13 CHAIRMAN: Anything arising, Mr. McGuinness?

14 MR. MCGUINNESS: No, Chairman.

15 CHAIRMAN: Nobody for the Gardaí? 12:02

16 MS. HORAN: No further questions. Thank you, Chair.

17 CHAIRMAN: That's great. Thanks very much, Ms. Horan.

18 Thank you, Assistant Commissioner, thanks for coming
19 along and assisting us with our investigation. Thank

20 you very much. 12:03

21

22 THE WITNESS THEN WITHDREW

23

24 MR. MARRINAN: Chairman, the next witness is Retired
25 Assistant Commissioner Gerard Phillips, please. 12:03

26 CHAIRMAN: Thank you very much. Thanks very much,
27 Mr. Phillips, if you come around this way [indicating],
28 around the back here. Thanks very much.

29 RETIRED ASSISTANT COMMISSIONER GERARD PHILLIPS, HAVING

1 BEEN SWORN, WAS DIRECTLY EXAMINED BY MR. MARRINAN
2 AS FOLLOWS:

3
4 74 Q. MR. MARRINAN: Chief Superintendent Phillips' statement
5 to the Tribunal is to be found in volume 4 at page 843, 12:04
6 and then he answered a number of questions that were
7 posed by our investigators and they're to be found in
8 volume 28 at 7857 of the material.

9
10 Now, I think that you retired from An Garda Síochána on 12:04
11 the 25th September of 2013, isn't that right?

12 A. That's correct, yeah.

13 75 Q. I think that that was after a long and distinguished
14 career spanning 41 years?

15 A. That's correct, yeah. 12:05

16 76 Q. I think that you retired at assistant commissioner
17 level, and I think that you had, around about the
18 relevant period of time that we are considering, been
19 promoted to chief superintendent, and that was in
20 January 2005, is that right? 12:05

21 A. Yes, that's correct.

22 77 Q. I think that you served in Fermoy, in the Cork North
23 Division, and, in December 2005, you transferred here
24 to Dublin Castle, where you took charge of the Regional
25 Roads Policy Unit? 12:05

26 A. That's correct, yeah.

27 78 Q. Now, I think on the 12th October 2006 you were listed
28 to transfer to Santry Station and take over as the
29 divisional officer for the Dublin Metropolitan North

1 Division, replacing Chief Superintendent Maguire --

2 A. Yes, that's correct.

3 79 Q. -- who was retiring, is that right? Now, I think that
4 your recollection is that, around that time, you were
5 on annual leave and you actually didn't take up your 12:06
6 post until the 21st October --

7 A. Yes.

8 80 Q. -- of 2006, is that right? Now, perhaps you could just
9 tell the Chairman, give a flavour of policing in the
10 division at that time, the number of personnel that you 12:06
11 were responsible for and your general duties as chief
12 superintendent in the division?

13 A. At that time there were about 750 Garda staff in the
14 division and about 100 civilians. There were three
15 districts in the division at the time and, shortly 12:07
16 afterwards, the fourth district joined, which would
17 have brought up the numbers in -- within the division
18 to over -- about 800. At that time, there was a lot of
19 gangland crime within the division, especially at the
20 coolock district, such as gangland murders, tiger 12:07
21 kidnappings and other serious crime.

22 81 Q. And in terms of your division, how many local district
23 officers would be reporting to you?

24 A. There were three district officers at that time and a
25 detective superintendent. 12:07

26 82 Q. Yes. I think when you took over in October 2006, it
27 was Superintendent Noel McLoughlin, but he retired very
28 shortly thereafter?

29 A. He retired shortly afterwards.

1 83 Q. And I think that the acting superintendent then was
2 Detective Inspector Donal Waters, is that right?
3 A. Inspector Donal Waters.
4 84 Q. Inspector, I beg your pardon. And I think that he
5 remained in that role until Superintendent Mark Curran 12:08
6 assumed that role in March of 2007?
7 A. That's correct, yes.
8 85 Q. In terms of detective chief superintendent, was there
9 one in the division or more than one?
10 A. No, there was one detective superintendent. 12:08
11 86 Q. And who was that at the time?
12 A. Michael Byrne.
13 87 Q. Michael Byrne. Now, you might just be able to clear up
14 one issue for the Tribunal. This was a matter that was
15 raised with you, I think, in the question-and-answer 12:08
16 session. If we could have page 7885 up on the screen.
17 This is a report that is sent to the Assistant
18 Commissioner, who was Assistant Commissioner McHugh at
19 the time, and it is dated 25th October 2006. And it's
20 headed - if we just scroll down there, you will see the 12:09
21 heading is "re confidential information received
22 regarding threat to life", it should be "by", and then
23 the name has been redacted. And this is a report, and
24 if we just perhaps scroll down, Mr. Kavanagh, please,
25 to page 7887, you see it is signed by you there and 12:09
26 it's "Chief Superintendent Phillips".
27 A. Yes.
28 88 Q. Is that right?
29 A. Yes.

1 89 Q. Was that report compiled by you?
2 A. It was compiled with the assistance of Detective
3 Superintendent Byrne and Superintendent McLoughlin.
4 90 Q. And I think it sets out the history -- well, first of
5 all, the report concerns information that had been 12:10
6 received in relation to the threat to life to
7 Mr. Hennessy, solicitor, isn't that right?
8 A. That's correct, yes.
9 91 Q. And it was thought at the time that that threat
10 resulted from him being the solicitor to Baiba Saulite, 12:10
11 isn't that right?
12 A. That's correct, yes.
13 92 Q. And I think that this report was informing the
14 assistant commissioner of the background to the Baiba
15 Saulite case, isn't that right? 12:10
16 A. Yes, it was, to an extent. It was in relation to the
17 threat to Mr. Hennessy.
18 93 Q. And if we just look there at page 7885, if we go back
19 there, it goes through the history of the abduction
20 case. There's no need to open any of this, I believe. 12:11
21 And then we go to page 7886, we see there are a number
22 of bullet points there concerning the abduction case.
23 And then there's a reference in the third bullet point
24 down on that page:
25 12:11
26 "On the 27th January 2006, John Hennessy's (solicitor)
27 home was attacked at 1:00am."
28
29 Then we have a reference to the next bullet point, 1st

1 March 2006, when Mr. Hennessy gave evidence in relation
2 to a case that had been brought against Mr. A.

3
4 Now, I think the confusion arose, if we go down there
5 to the bottom of page 7886, the last bullet point, you 12:11
6 will see there:

7
8 "On the 11th October 2006, as a result of a warning
9 from the National Criminal Intelligence Unit,
10 accompanied by Detective Garda John Collins and Garda 12:12
11 MacEntee of Swords Garda Station, I met with John
12 Hennessy, solicitor, at his office at The Plaza in
13 Swords."

14
15 And then it goes on to dealings with Mr. Hennessy. But 12:12
16 I think that that refers to Detective Superintendent
17 Byrne, is that right?

18 A. That's a mistake. It was Detective Superintendent
19 Byrne.

20 94 Q. Yes. And any reference to you meeting with John 12:12
21 Hennessy --

22 A. No.

23 95 Q. -- in that report is incorrect?

24 A. Incorrect. I never met him.

25 96 Q. And we can perhaps understand how that might have 12:12
26 arisen in terms where you just arrived and you're
27 provided with a report and you were then forwarding it
28 to the assistant commissioner, is that right?

29 A. That's correct, yes.

1 97 Q. I take it that, at that time, you weren't familiar with
2 the abduction file in the same way that perhaps
3 Superintendent McLoughlin would have been and indeed
4 Detective Superintendent Byrne?
5 A. No, I didn't know anything about it at that stage. 12:13
6 98 Q. Now, if we then go to the night of the 19th November
7 2006. I think that you recall getting a phone call in
8 relation to the murder of Baiba Saulite?
9 A. That's correct, yes.
10 99 Q. Who did you get the call from? 12:13
11 A. Michael Cryan.
12 100 Q. And do you recall what he informed you at that time?
13 What was the information he gave you?
14 A. As far as I can -- well, that there was a shooting in
15 Swords and that a person was dead. 12:13
16 101 Q. And I think that you visited the scene, is that right?
17 A. Yes, I went out to the scene.
18 102 Q. And then you attended Swords Garda Station, where there
19 was a short meeting, is that right?
20 A. Yes, that's correct. 12:14
21 103 Q. And I think that at that time -- who did you meet with,
22 do you recall?
23 A. The investigating team would have been there, not too
24 many more. Detective Superintendent Byrne was there,
25 Walter O'Sullivan, Detective Sergeant McEaney and 12:14
26 Inspector Cryan, and some of the investigating team.
27 104 Q. Now, I think at that meeting the abduction case was
28 discussed, is that right?
29 A. Yes, it would have been discussed. I haven't a great

1 recollection of that. I think the John Hennessy case
2 was discussed and also Liam Hughes and Declan Nyhan was
3 discussed.

4 105 Q. And in what regard were they discussed, Sergeant Hughes
5 and Garda Nyhan, that is? 12:15

6 A. Yeah, that they needed to be informed and their local
7 districts needed to be informed to pay attention to
8 their addresses.

9 106 Q. Was it, at that early stage, perceived that there might
10 be a security risk as far as the members were 12:15
11 concerned?

12 A. It was just to be safe -- just to be on the safe side.

13 107 Q. Now, I think that a full conference was to take place
14 the following morning, on the 20th November, is that
15 correct? 12:15

16 A. That's correct, yeah.

17 108 Q. Will you just tell us what you recall of that
18 conference?

19 A. Well, I recall the conference. I attended the
20 conference and a lot of other people attended. Swords 12:15
21 is a very small station, so it was held upstairs in the
22 snooker room and the kitchen and it was packed with
23 people, and the usual way that conferences go.

24 109 Q. I think a number of job sheets were distributed at the
25 conference? 12:16

26 A. They would be distributed, yes.

27 110 Q. You point out in your statement that -- you say:

28

29 "At this stage, I was trying to get up to speed with

1 the whole case. "

2

3 As it was all relatively new to you?

4 A. That's correct, yes.

5 111 Q. Do you recall the fact that the deceased had provided a 12:16
6 victim impact report to Sergeant Hughes shortly before
7 her death? Was your attention drawn to that?

8 A. Not at that conference.

9 112 Q. Well, when was it -- when did you first hear of that?

10 A. I think I first heard of it on the morning of the 22nd. 12:17

11 113 Q. If we just perhaps have page 844 up on the screen.
12 This is your statement to the Tribunal. This might jog
13 your memory in relation to this aspect of it. If we
14 look at the -- if we look at the fourth line down
15 there, fifth line, this is after the first conference: 12:17

16

17 "Sometime later I became aware that Bai ba had provided
18 a 12-page document wherein she recorded that she was in
19 fear of her partner. This, and other aspects of the
20 case, such as progress being made, was reported through 12:17
21 Assistant Commissioner McHugh's office for the
22 information of the Commissioner. "

23

24 And then you go on to say:

25

12:17

26 "My recollection is that, a day or two later, Assistant
27 Commissioner McHugh wanted sight of this document. "

28

29 You see there?

1 A. Yes, I do, yeah.

2 114 Q. That would tend to suggest that you became aware of the
3 document on the 20th?

4 A. No, as far as my recollection goes, I only became aware
5 of it on the 22nd. 12:18

6 115 Q. All right. Okay. So if we then move on to the 22nd,
7 and will you give us your recollection of how you
8 became aware of the document on that day?

9 A. My recollection is that Detective Superintendent
10 Michael Byrne or Donald Waters brought it to my
11 attention that there was a document. 12:18

12 116 Q. Do you recall what time of the day that was?

13 A. Morning time.

14 117 Q. Yes. And then what happened?

15 A. I brought it to the attention of the assistant
16 commissioner and I also learned that the incident room
17 had contacted Inspector Cryan to get the document the
18 evening before. 12:19

19 118 Q. Yes, go on.

20 A. They had contacted Inspector Cryan to get the document
21 the evening before, so I told Inspector Waters to get
22 the document. 12:19

23 119 Q. If we just might look at Detective Inspector Cryan's
24 notes in relation to this. If we have page 741 up on
25 the screen, please. And if we just scroll down there. 12:20
26 We see there -- I'm sorry, at the top of the page,
27 these are the notes of Detective Inspector Michael
28 Cryan, who seems to have kept meticulous notes at the
29 time --

1 A. Yeah.

2 120 Q. -- in relation to his interactions not only with
3 Sergeant Hughes but also with everybody else. You will
4 see there that he says at the top:
5
6 "Wednesday 22nd: Asked by Inspector Waters to get a
7 copy of the victim impact report."
8
9 And he says:
10
11 "I had got a copy of the file and a copy of the
12 disclosure on the 21st November, but hadn't got the
13 victim impact report at that time."
14
15 And he says he rang Sergeant Hughes later. If we look
16 down there, you will see that at 12:45pm he said he:
17
18 "Received other call from the chief. Told him about
19 text."
20
21 This was a text that Sergeant Hughes said that he'd
22 ring at 2:00pm.
23
24 "Was told 2:00pm was too late. Said that Assistant
25 Commissioner McHugh had said report must be got now,
26 even if it means forcing open locker. Told me to get
27 key from the staff sergeant, open it in front of
28 witnesses. If no key, then force it open. Then
29 those --"

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I think it should read:

"Those were assistant commissioner instructions and that I was entitled to, as this was thrashed out in 1992 with human rights group in Finglas."

12:21

Do you recall that?

A. Yes, I do.

121 Q. And is that account accurate?

12:22

A. Yes, it would be accurate.

122 Q. Did you understand at the time the urgency of getting a copy of that report?

A. I understood at the time. I had contacted A/C McHugh and said that it was coming in later, it would be available later, and he said he needed it now, and that was the instruction.

12:22

123 Q. And do you have any recollection as to why it was thought that this victim impact report might be in any way relevant?

12:22

A. I have no recollection, other than I think I may have told him that Sergeant Hughes was in fear of the contents, that he could be in trouble over it, something like that.

124 Q. And who had conveyed that to you?

12:23

A. I am not too sure. I think it was either Michael Byrne or Donal Waters.

125 Q. So you have a recollection that, at that time, somebody had conveyed - this was before the victim impact report

1 had been obtained - that somebody had conveyed to you
2 that Sergeant Hughes was concerned about the
3 contents --

4 A. Yeah.

5 126 Q. -- of the victim impact report and that he might be in 12:23
6 trouble in relation to it?

7 A. He was concerned with the contents.

8 127 Q. Yes. And were you advised why he was concerned about
9 the content --

10 A. No. 12:23

11 128 Q. -- or what the content might possibly be?

12 A. No.

13 129 Q. No. All right. Now, I think that, subsequently, a
14 copy was faxed to you, is that right, of the victim
15 impact report? 12:24

16 A. No, it was brought in to me.

17 130 Q. And who brought it in to you?

18 A. Inspector Cryan.

19 131 Q. And what did Detective Cryan say to you?

20 A. He just brought in the victim impact and the 12:24
21 investigation file.

22 132 Q. And did you read the investigation file?

23 A. I did afterwards, a little bit afterwards, but I was
24 dealing with the victim impact statement first, and I
25 had a quick glance through it and then I rang Assistant 12:24
26 Commissioner McHugh and told him: this is being faxed
27 in to your office now.

28 133 Q. Would you like to expand on that in terms of material
29 that might be relevant to the Tribunal, in terms of

1 your recollection, particularly with regard to Sergeant
2 Hughes's concerns about how the victim impact report
3 might possibly reflect badly on him?
4 A. Well, my recollection isn't great. I just rang the
5 A/C. I had a quick look at the victim impact report 12:25
6 and I rang him to tell him that it was on the way in.
7 I haven't a great recollection. I don't think I
8 discussed it with him because I hadn't enough knowledge
9 about it at that stage, but, from my first glance at
10 it, I didn't think there was too much in it, and I may 12:26
11 have said that to him.
12 134 Q. If we just have page 7858 up on the screen, please.
13 These are questions that were posed to you by the
14 Tribunal investigators. If we scroll down to line 22
15 there, it says: 12:26
16
17 "I have been referred to the following extract from my
18 statement to the Tribunal dated 28th April 2020."
19
20 And then this quotes from the statement that you 12:26
21 provided to the Tribunal:
22
23 "My recollection is that, a day or two later, Assistant
24 Commissioner McHugh wanted sight of this document, so
25 Inspector Michael Cryan was instructed to procure it 12:27
26 from Sergeant Hughes. He later brought this document
27 and the abduction investigation file to my office,
28 where I went through them. I could see that the
29 abduction case was professionally investigated and I

1 felt that the document, which was a handwritten victim
2 impact statement for an upcoming court case, was not an
3 issue for the investigating members."

4
5 And then the question that was posed:

12:27

6
7 "In the interests of clarity and for the avoidance of
8 doubt, I have been asked to clarify what I mean when I
9 state 'I felt the document was a handwritten victim
10 impact statement for an upcoming court case, was not an
11 issue for the investigating members and to which
12 investigating members I am referring to'."

13
14 And the answer you provided was:

12:28

15
16 "I was referring to Sergeant Hughes and Garda Nyhan as
17 they had collected the documents from the victim."

18
19 In the statement that you gave to the Tribunal, you
20 indicated that you read the abduction file and you read
21 the victim impact report, and you formed a view that
22 the abduction file had been professionally
23 investigated. You also formed the view, having
24 considered the victim impact statement, that there was
25 nothing that Sergeant Hughes ought to worry about. Is
26 that a fair summary of the statement that you made to
27 the Tribunal?

12:28

28 A. That is a fair, yes.

29 135 Q. Is that still your position in relation to those

1 events?
2 A. When the victim impact statement was faxed in, it was
3 after that I had a -- I read the abduction file, which
4 was professionally compiled. I also had a -- went
5 through the victim impact statement, not in great 12:29
6 detail, because at that same time I was having a
7 discussion with Michael Cryan, and my first impression
8 was that it was just a victim impact statement,
9 written -- handwritten, and that I didn't, at that
10 stage, see that it was an issue for the investigating 12:29
11 members.
12 136 Q. If we go on then to page 742 of the material. This,
13 again, is the note that we have from Sergeant Cryan.
14 If we scroll down there. You see it says:
15
16 "I brought the victim impact report to the chief. He
17 faxed it to the A/C and rang him. I gave him a copy of
18 Garda Kelly's report on the criminal damage. The chief
19 asked that we meet Sergeant Hughes and tell him that he
20 was satisfied there was nothing untoward in the victim 12:30
21 impact report, that it was unfinished and needed
22 editing. And then we discussed bail application and
23 need to oppose it."
24
25 Is that an accurate account of your interactions with 12:30
26 Detective Inspector Cryan?
27 A. Yes, it is. whilst speaking with Inspector Cryan, I
28 became aware that Sergeant Hughes had major concerns
29 and was not in a good place at that time, and, in order

1 to comfort him, you could say, I -- and from my initial
2 look at that statement, I felt that it would not be an
3 issue.

4 137 Q. Yes. Now, I think that you took some other action in
5 relation to security concerns that had been raised by
6 Sergeant Hughes and Garda Nyhan, is that right? 12:31

7 A. That's correct, yes.

8 138 Q. Yes. I don't think that any issue arises in relation
9 to any of that, so we won't go through the orders and
10 the correspondence relating to that. 12:31

11
12 If we could just perhaps have page 7183 up on the
13 screen, please. This concerns an article that was
14 published in The Sun newspaper on the 23rd November
15 2006 and it's a letter from Sergeant Hughes to the
16 superintendent in Coolock and it's a complaint in
17 relation to that. Do you see that? 12:32

18 A. Yes.

19 139 Q. Were you responsible for ordering an inquiry into that?

20 A. I think I, if I can recollect, I appointed John
21 Denny, detective inspector, to look into that. 12:32

22 140 Q. Yes. And I think that subsequently he carried out an
23 investigation in relation to it, isn't that right?

24 A. That's correct, yes.

25 141 Q. And I think that we have his report, and again there's
26 no need to open it, but his report effectively says
27 that the article was substantially invented and there
28 was no real content to the article at all, based on any
29 sort of facts. The result of that investigation was 12:32

1 never communicated to Sergeant Hughes; you know that
2 that's one of the complaints that he was to make in the
3 following months --

4 A. Yes.

5 142 Q. -- and indeed years, that he wasn't advised of the 12:33
6 result of that investigation? Do you think that that
7 was an unfortunate oversight on your part or the part,
8 perhaps, of the acting superintendent at the time?

9 A. Well, I can't comment on that. I would be surprised if
10 it wasn't relayed to him. 12:33

11 143 Q. I will come to it in terms of some of the matters that
12 have been reported up to you by Superintendent Curran.

13 A. Yeah, I know, later on.

14 144 Q. But, I mean, he was the complainant --

15 A. Yes. 12:34

16 145 Q. -- and in the normal course of events where there is an
17 investigation and there is a complaint, the complainant
18 would be advised --

19 A. That's correct.

20 146 Q. -- of the outcome of the investigation. But you say 12:34
21 you would be surprised if he wasn't so advised?

22 A. Well, I went to the trouble of getting it investigated
23 and the members investigated it and got the result.
24 Now, if it wasn't relayed to him, I can't understand
25 that. 12:34

26 147 Q. Now, on the 6th December we know that Assistant
27 Commissioner McHugh directed Chief Superintendent
28 Feehan to carry out a fact-finding/scoping
29 investigation of the knowledge within An Garda Síochána

1 of threats to the life of Baiba Saulite. Were you
2 advised of that?

3 A. No.

4 148 Q. Chief Superintendent Feehan, obviously he was from a
5 different division, isn't that right? 12:35

6 A. That's correct, yes.

7 149 Q. And it was envisaged that this investigation would
8 substantially take place in your division, isn't that
9 right?

10 A. Yes, yes. 12:35

11 150 Q. Were you ever advised of that investigation or
12 consulted in relation to it?

13 A. I wasn't consulted, I don't think, from my
14 recollection, and I found out about it when it started.

15 151 Q. Right. Can you help us in terms of any knowledge that 12:35
16 you might have had at the time in relation to the scope
17 of that investigation, or were you advised as to what
18 it would entail?

19 A. No, I wasn't advised.

20 152 Q. Were you ever advised of the outcome of that 12:35
21 investigation?

22 A. I was advised of the outcome when I found out that
23 there was -- discipline was being started.

24 153 Q. Yes. And is that the only knowledge that you had of
25 it? 12:36

26 A. I knew that the investigation was ongoing, within the
27 division, by Detective Inspector Mangan.

28 154 Q. Yes.

29 A. And at a later stage when Sergeant Hughes spoke to

1 Superintendent Curran and he wanted to know what the
2 situation was in relation to it, I remember contacting
3 Michael Feehan, Chief Superintendent Feehan, in
4 relation to what stage was it at, and I was told that
5 it was with the A/C and that was it, the file was with
6 the A/C. 12:36

7 155 Q. Were you ever consulted by the Assistant Commissioner
8 or Chief Superintendent Feehan in relation to the
9 contents of the report and as to whether or not there
10 should be a disciplinary investigation? 12:37

11 A. No, I wasn't. That decision was made by Assistant
12 Commissioner MCHugh.

13 156 Q. Right.

14 A. And then I found out that there was going to be a
15 discipline investigation. 12:37

16 157 Q. If we have page 1278 up on the screen, please -- 1277,
17 I beg your pardon. If we look at the front of that.
18 This was a letter sent by Séan Costello & Company.
19 It's to the Assistant Commissioner, Human Resource
20 Management. And it is dated 13th March of 2007. You 12:38
21 told us earlier on that you became aware of the fact
22 that Sergeant Hughes was concerned about the contents
23 of the victim impact report and you also advised us
24 that you told Detective Inspector Cryan, to give him
25 assurances in that regard, as to your views as to the 12:38
26 victim impact report. You were also aware of the fact
27 that there was concerns that were raised and that were
28 subsequently investigated in relation to Sergeant
29 Hughes's safety, and advice had been given to him

1 locally in relation to surveys to his home, et cetera?
2 A. That's correct, yes.
3 158 Q. Were you also aware of the fact that Sergeant Hughes
4 had gone out on work-related stress and was absent from
5 work in January and February? 12:39
6 A. Yeah, I would have been aware when he went sick.
7 159 Q. And had you any concerns for him at that time or was
8 that a matter that you felt rested with more local
9 management?
10 A. I had concerns for him, but his sick would be handled 12:39
11 by local management.
12 160 Q. How did those concerns that you had for him translate
13 into conveying those concerns to Sergeant Hughes? I
14 mean, did you make any contact with him or cause
15 contact to be made with him by local management? 12:40
16 A. No, well, local management were keeping in contact with
17 him.
18 161 Q. Were you informed that that was the case?
19 A. At that stage, as far as I was aware, Inspector Cryan
20 was keeping in contact with him. 12:40
21 162 Q. And were you receiving reports back in relation to that
22 contact?
23 A. No, not unless there was something specific in relation
24 to it.
25 163 Q. So if we just come back to this letter, and I don't 12:40
26 intend to open the contents of it, we've already been
27 through this, but it sets out a number of significant
28 concerns that Sergeant Hughes had at the time. If we
29 just look at it, in the second paragraph of it, it

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says:

"These are matters of extreme concern."

It refers to the death of Baiba Saulite and her murder. 12:41
It points out that he had at all times familiarised himself with the reports concerning Mr. A. It then refers to the fact that:

"After the murder, he became aware for the first time 12:41
that his authorities had concerns relating to Mr. A and, in particular, that he was a dangerous criminal who had the capacity and resources to murder any person who got in his way and was also a person who had national --" 12:41

And it says:

" -- international terrorist connections." 12:42

It says:

"Sergeant Hughes was astounded to find this information within the intelligence of An Garda Síochána, in circumstances where other members had such intelligence 12:42 and given the history and in particular the threats made and carried out insofar as they concern Mr. Hennessy."

1 Then it refers to the newspaper reports. And it says
2 that Sergeant Hughes reported this to the
3 superintendent in Coolock. And it then refers to the
4 fact that, in terms of his safety concerns, he received
5 some assistance from gardaí in Balbriggan. Then it 12:42
6 says:

7
8 "Since then, however, our client has been left in the
9 dark as to what has been investigated and the outcome
10 of such investigation, but no further action has been 12:42
11 taken in relation to the entire matter and our client
12 is left utterly isolated. Having made enquiries from
13 his immediate authorities, he received no assurance or
14 information as to what was occurring and what has since
15 been caused -- has since been caused to place a fire 12:43
16 alarm and CCTV equipment inside the front door of his
17 own home. This matter has had an utterly profound
18 effect on both himself and his spouse. In respect of
19 Sergeant Hughes, this has only exasperated the
20 pre-existing problems arising from matters about which 12:43
21 we have already written.

22
23 Our client has asked us to write to complain about the
24 manner in which he has been treated by his authorities
25 as set out above and continues, in the absence of 12:43
26 information, to fear for his own life. In addition, no
27 assistance has been provided to our client, even in the
28 limited circumstances of the peer support system which
29 is available. Also, our client requires the payment of

1 allowances, having been on sick leave as a result of
2 injury on duty, and this requires the certification of
3 the divisional officer and we would be obliged if you
4 would provide for this.

5
6 We understand that an investigation was launched by the
7 Commissioner in relation to the circumstances of Bai ba
8 Saulite's murder and, in particular, the information
9 available to the Gardaí at the time of her murder and
10 the threats made on her life prior to this. You might
11 let us know the current position with regard to that
12 investigation."

13
14 I appreciate this isn't written to you, it's written to
15 the Assistant Commissioner HRM, but these are
16 substantial complaints that he has to make in relation
17 to the way that he had been treated locally. Was that
18 ever reported to you by HRM?

19 A. Yes, it was. But Inspector Cryan was keeping in
20 contact with Sergeant Hughes at that time. And also,
21 contact was made with Crime and Security in relation to
22 any threat to the members and it was -- I also wrote to
23 the chief superintendent of the Louth/Meath division,
24 outlining the circumstances of the incidents and the
25 members' involvement and asking them to do a threat
26 assessment on the members' homes.

27 164 Q. I think this letter touches on it and is a matter that
28 we will come to later on, to deal with the various
29 correspondence and the report sent to you by

1 Superintendent Curran in relation to the injury-on-duty
2 issue. Will you tell the Chairman what your
3 understanding is in relation to the Code 11
4 requirements where a member is off work sick for a
5 protracted period of time? 12:46

6 A. Well, my understanding is that contact has to be made
7 with the member.

8 165 Q. Yes.

9 A. And contact was made with the member.

10 166 Q. In this case? 12:46

11 A. Yes, it was.

12 167 Q. And you're happy that, in these initial stages, that
13 the contact that was made by Detective Garda Michael
14 Cryan satisfied the requirements under Code 11,
15 Article 11? 12:46

16 A. As far as I am aware, Inspector Waters also made
17 contact. But in relation to Code 11, I think there may
18 be an issue, or something there about visiting people
19 at home. He wasn't visited at home, but contact was
20 maintained with him. 12:47

21 168 Q. There's also then a requirement in relation to, on
22 return to work, that a member should be assessed, isn't
23 that right?

24 A. Yes, there is a back-to-work assessment, usually done
25 by his line manager. 12:47

26 169 Q. And I suppose, largely, these are matters for the local
27 district officer to deal with, is that right?

28 A. That's correct.

29 170 Q. And you'd have a supervisory role ultimately, but

1 substantially, these are matters that should be dealt
2 with locally?

3 A. Yes, that's correct, yeah.

4 171 Q. Yes. But in terms of the categorisation of an illness 12:47
5 as being an injury on duty, can you assist the Chairman
6 as to whose responsibility that is, or was, should I
7 say, at that time?

8 A. An injury on duty, as far as I can recollect, it's the
9 chief superintendent has to make a determination on it.
10 But in this case it was stress. And I think when the 12:48
11 Code was written, stress was not an issue, so it was,
12 as I understand it, mostly would be referring to
13 physical injury on duty.

14 172 Q. So the determination is for the chief superintendent if
15 it is a simply injury on duty? 12:48

16 A. Yes.

17 173 Q. A physical injury?

18 A. Yes.

19 174 Q. And that's whether it occurred during the course of the
20 member's duty, is that right? 12:49

21 A. Yes, that's correct.

22 175 Q. And that is really quite a simple factual issue to be
23 determined, is that right?

24 A. Yes, that's correct.

25 176 Q. And that might be determined as a result of a report 12:49
26 that would be sent by local management concerning the
27 circumstances in which the injury occurred, is that
28 right?

29 A. Yes, that's correct.

1 177 Q. Then if we deal with a psychological injury; the Code
2 doesn't make any provision for that, is that right?
3 A. No, it doesn't, or it didn't.

4 178 Q. We know that, in 2010, an obligation was imposed with
5 the introduction of a direction, I think it is 12:49
6 139/2010, that where somebody reports with work-related
7 stress, that there should be an investigation carried
8 out in relation to the causes of the stress, but that
9 wasn't in force at the time back in 2007, isn't that
10 right? 12:49
11 A. That's correct, yeah.

12 179 Q. So come back to the injury on duty. This has quite
13 substantial consequences for a member, is that right?
14 A. Yes, any injury would, yes.

15 180 Q. And it means that they avoid going on half-pay in the 12:50
16 first instance, after the prescribed period of time,
17 and then ultimately on pension rate of time after a
18 further period of time, I think it is 338 days or
19 thereabouts, isn't that right?
20 A. I think so. 12:50

21 181 Q. So who's obliged to make a determination whether a
22 psychological injury is occasioned when a member is on
23 duty, or not?
24 A. I think that's really a matter for the Chief Medical
25 Officer. 12:51

26 182 Q. And can you assist us with this because it is something
27 the Tribunal has encountered previously, and you won't
28 be familiar with it, but, I mean, was that well-settled
29 or was it still a matter that was open to debate at

1 this time?

2 A. I think there was some confusion about it, but the main
3 thing is that stress, when -- I'm not qualified to
4 determine if somebody is suffering from stress or what
5 caused it; it's really a matter for the CMO to make a 12:51
6 determination on.

7 183 Q. Okay. We may just explore that a little bit further,
8 because, as I say, it would be convenient to deal with
9 it now rather than leave it to later on, when you're
10 familiar with the papers and you're familiar with the 12:51
11 fact that the Chief Medical Officer, or the Assistant
12 Chief Medical Officer in this case, was referring the
13 matter back to the Assistant Commissioner in HRM,
14 asking for reports in relation to the causes of the
15 work-related stress and he was looking for reports from 12:52
16 local management, you're aware of that?

17 A. Yes.

18 184 Q. And you're aware of the fact that Sergeant Hughes was
19 approached on a number of occasions in relation to
20 this, isn't that right? 12:52

21 A. Yes, yeah.

22 185 Q. And he always responded by saying the cause of my
23 work-related stress is well-known --

24 A. Yeah.

25 186 Q. -- within An Garda Síochána, and it relates to the 12:52
26 circumstances surrounding the murder of Baiba Saulite,
27 isn't that right?

28 A. Yes, that's correct.

29 187 Q. So local management were familiar with the fact that

1 Sergeant Hughes had gone out, that he had been very
2 badly affected as a result of these tragic events,
3 isn't that right? Was there any doubt with local
4 management that his absences were directly due to his
5 interactions with the Baiba Saulite case? 12:53

6 A. I don't -- well, he was out sick with stress, which he
7 stated -- which he said was as a result of the
8 circumstances surrounding the Baiba Saulite murder. I
9 think he also said, or part of it was, that he was
10 afraid that he would be blamed for that murder. And 12:53
11 then, later on, that that stress was compounded when he
12 was served with the disciplinary document.

13 188 Q. Yes, indeed.

14 A. Yes. But he always referred back that his stress was
15 as a result of that, the Baiba Saulite -- the 12:54
16 incident -- the thing surrounding the Baiba Saulite
17 murder.

18 189 Q. Well, is it the situation that it's just a matter that
19 you didn't want to make a judgment call on in relation
20 to the causation of the stress? 12:54

21 A. Well, I'm not -- I was not qualified to make a judgment
22 cause [sic] on the causation of the stress.

23 190 Q. Right. Well, I suppose he's seen the CMO, who referred
24 him for psychiatric assessment --

25 A. That's correct, yes. 12:54

26 191 Q. -- a determination was made at the time that Sergeant
27 Hughes was suffering from post traumatic stress
28 disorder. There was no other cause that was identified
29 for that post traumatic stress disorder outside his

1 work and he had identified to local management that the
2 cause of his illness at the time was the fact that --
3 with the events surrounding the murder of Baiba
4 Saulite. So is it your position that this was entirely
5 a matter for the Chief Medical Officer or the Assistant 12:55
6 Chief Medical Officer to determine?

7 A. Yes, it is. The Chief Medical Officer is the principal
8 person who should be making that decision and guiding,
9 probably guiding me, but I wasn't in a position to make
10 that decision because I am not qualified. 12:55

11 192 Q. And in terms of the reports that were being requested
12 continuously by HRM in relation to the causes of
13 Sergeant Hughes's work-related stress, was it a source
14 of frustration locally that these requests were coming
15 in when you felt that it was a question that couldn't 12:56
16 be answered by local management?

17 A. Well, we felt that it was a question we couldn't
18 answer. At that stage there was -- the scoping inquiry
19 was in train, the murder was being investigated by a
20 huge team and anything that would -- that would have 12:56
21 been out of order, would have been brought to our
22 attention.

23 193 Q. That is jumping forward a little bit now to after
24 September 2008 when Sergeant Hughes made his report to
25 the confidential recipient. But just dealing with the 12:57
26 earlier stages prior to that. It is very difficult to
27 get a grasp on this in terms of actually what report
28 was being requested by HRM of you. Did you understand
29 what report it was that they were requesting?

1 A. They were requesting, more or less, the investigation
2 file, as I understood it, what investigations were done
3 into that. Now, the murder was being investigated.
4 And in relation to stress, what caused the stress or
5 what caused it, I wasn't -- we weren't fully au fait 12:57
6 with what investigation we needed to do.

7 194 Q. Indeed. I am not understanding that they were looking
8 for a copy of the investigation file. I don't
9 understand what you mean by that, and I don't see that
10 in the correspondence, and we will open it in due 12:58
11 course, if necessary. But it seems that they're
12 looking for an investigation in relation to the
13 work-related stress?

14 A. Yes, that's what they were looking for.

15 195 Q. I mean, clearly, that doesn't envisage doing an 12:58
16 investigation into the entire circumstances leading up
17 to the death of Baiba Saulite and the investigation of
18 her murder. I mean, I would hardly think that HRM would
19 require or request that sort of investigation or file?

20 A. Well, I can't see how I could carry out an 12:58
21 investigation --

22 196 Q. Yes, indeed.

23 A. -- without going fully into it.

24 197 Q. Well, I suppose this is the problem. I mean, one would
25 have thought, and I don't know, this is just coming 12:59
26 from the outside looking at it, one would have thought
27 that when you are looking for an investigation into the
28 causes of the work-related stress, you're looking for
29 what has sparked the subsequent events and the trauma

1 that is later identified, and if the trauma is the
2 murder of Baiba Saulite and the subsequent events,
3 namely being in fear for your own life, et cetera, and
4 being advised on your safety, that that's relatively
5 straightforward and simple, isn't it? 12:59

6 A. Well, if you're investigating that, you have to go
7 fully into it; what caused it? Why -- what -- you have
8 to look at the -- go into the murder investigation,
9 what his part in it was, how it came about and why
10 would it affect him in such a way. 13:00

11 198 Q. All right.

12 A. So you can't do --

13 199 Q. You think that an investigation of that scale would
14 have been required if you were to conduct the
15 investigation that was envisaged by HRM, is that right? 13:00

16 A. You would -- as much as.

17 200 Q. Okay.

18 MR. MARRINAN: Chairman, it is just one o'clock.

19 CHAIRMAN: Thank you very much. Thanks, Mr. Marrinan.

20 Very good. We will say two o'clock. Thank you very 13:00
21 much.

22

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

25 14:05

26 CHAIRMAN: Now, thanks very much. Thanks, Assistant
27 Commissioner. Now, Mr. Marrinan. Thank you.

28 201 Q. MR. MARRINAN: We know from Superintendent Curran that
29 he met with Sergeant Hughes on the 23rd April of 2007.

1 And if we could just have page 1067 up on the screen.
2 This is a report that he sent to you, and it's dated
3 24th April, the following day. And we don't need to go
4 into this in any detail, but he said, you will see
5 there in the second line:

14:06

6
7 "Sergeant Hughes raised a number of issues which he
8 believed are outstanding and requested that he receive
9 communication regarding same."

14:06

10
11 And you see there:

12
13 "1. The fear that he still had in relation to his own
14 personal safety."

14:06

15
16 And the Feehan investigation and Superintendent Mangan,
17 no communication in relation to the status of that
18 investigation; the investigation conducted by Detective
19 Inspector Dennedy in relation to the article in The
20 Sun, no communication; number 4 there, believes that
21 some disciplinary matter outstanding from a number of
22 years ago, that we haven't really gone into. And then
23 5:

14:07

24
25 "He believes that discipline proceedings may be
26 contemplated against him."

14:07

27
28 Then if we scroll over to the next page, you will see
29 that Superintendent Curran is reporting that he read

1 over this list of issues with Sergeant Hughes and that
2 he requested that -- some communication regarding each
3 matter raised. You responded to that, it's at page
4 3873, and it's a response, 25th April, and we scroll
5 down:

14:08

6
7 "Matters raised by Sergeant Hughes."

8
9 And you point out:

10
11 "There is no evidence from any quarter that Sergeant
12 Hughes or his family is or was under threat in relation
13 to Baiba Saulite murder."

14:08

14
15 And then in relation to issue 2, you say:

14:08

16
17 "The matter will be raised with Chief Superintendent
18 Feehan."

19
20 Do you recall if you did raise the matter with Chief
21 Superintendent Feehan?

14:08

22 A. Yes, I did.

23 202 Q. And what was the response?

24 A. He told me the file was with the A/C, with the
25 assistant commissioner.

14:08

26 203 Q. Right. Was that with a view to contemplating
27 disciplinary proceedings, was that indicated at that
28 stage?

29 A. He just said that the file was with the assistant

1 commissioner.

2 204 Q. Right. Then, number 3 you deal with:

3

4 "Superintendent Denedy carried out a thorough
5 investigation in relation to the article in The Sun
6 newspaper, the result of which was exaggerated by the
7 author of the newspaper item."

14:09

8

9 And then you say:

10

14:09

11 "Sergeant Hughes is not the subject of discipline in
12 relation to --"

13

14 That's the earlier issue, that we are not concerned
15 about, going back to 2004. And then you say:

14:09

16

17 "Has medical advice been sought from the Chief Medical
18 Officer, Garda Headquarters, in relation to the stress
19 Sergeant Hughes has suffered since the murder of
20 Ms. Saulite? Has the welfare officer been contacted in
21 relation to Sergeant Hughes?"

14:09

22

23 And then you say:

24

25 "Superintendent Curran should review the current duties
26 being performed by Sergeant Hughes to ascertain are his
27 current responsibilities, particularly in the area of
28 community policing, suitable and can he be facilitated
29 in his district or in the division accordingly to avoid

14:09

1 such stressful responsibilities. A report will be
2 submitted to this office within one week in relation to
3 this matter."

4
5 So you appear to have been concerned at that stage that 14:10
6 Sergeant Hughes should be relieved of any duties that
7 perhaps may cause him additional stress over and above
8 what he was suffering at the time, would that be fair
9 to say?

10 A. I think it would be, yeah. 14:10

11 205 Q. Do you recall whether you did get a report in relation
12 to that submitted? We don't seem to have one.

13 A. I can't remember.

14 206 Q. Now, separate to that response, can you just say, did 14:10
15 Superintendent Curran indicate to you that, separately
16 to the report, that Sergeant Hughes had raised an issue
17 in relation to a systems failure, leading to the death
18 of Baiba Saulite? Do you recall that?

19 A. Well, I recall nothing like that was raised with me.

20 207 Q. When was the first time you heard that Sergeant Hughes 14:10
21 was raising the issue of a systems failure in that
22 context?

23 A. In that context, I would imagine -- I can't say for
24 certain, but I think it would have been the
25 documentation from the Tribunal. 14:11

26 208 Q. Okay. If we just then move on from that, and if we
27 could perhaps just deal with some correspondence.
28 Yeah. This is an issue that arose around that time.
29 Unfortunately, the date stamps are very poor on the

1 documents, but it seems to have -- at the end of April,
2 this matter seemed to have arisen. If we can look at,
3 yes, a report -- sorry, we will look in the first
4 instance at a report at page 3876. This is a letter
5 from Superintendent Curran in response to a query that 14:12
6 was raised by Sergeant Hughes, who was at work at this
7 time, in relation to a claim that he was making for
8 loss of allowances. And the response in relation to
9 the query that was raised says:

10
11 "With regard to the above and your recent 14:12
12 correspondence, I am to advise you that there is no
13 provision under the Code regulations to enable a member
14 to claim loss of allowances and unsocial hours in
15 relation to an absence from work due to work-related 14:12
16 stress."

17
18 You see that?

19 A. Yes.

20 209 Q. This appears to be the first time that this issue, the 14:12
21 issue arose. If we could have page 1139 up on the
22 screen then, and this is a response that appears to be
23 the 7th May, from Sergeant Hughes, where he
24 acknowledges the correspondence of the 4th May. But
25 the final paragraph reads: 14:13

26
27 "The Code regulations are silent on whether the term
28 'injury' refers to physical injury or otherwise. I
29 respectfully request that this issue be referred to the

1 Chief Medical Officer for determination as to whether
2 my case falls under the category of injury on duty. "
3
4 So that seems to be in accordance with your own view in
5 relation to the matter at the time, is that right? 14:13
6 A. Yes, that's correct.
7 210 Q. And then if we go to page 1137, there is a report from
8 Superintendent Curran to you, where he says:
9
10 "Sergeant Hughes' request for determination by the 14:13
11 Chief Medical Officer is forwarded for your
12 information. "
13
14 And then if we have 3878 up on the screen, you attach
15 that report and you note: 14:14
16
17 "The observations of the Chief Medical Officer are
18 requested in this case."
19
20 So, as far as you were concerned, had you complied with 14:14
21 the obligations that you had in relation to that matter
22 at that time?
23 A. I think so, yes.
24 211 Q. Now, we know that Sergeant Hughes went out on long-term
25 sick leave, there is an issue in relation to the exact 14:14
26 date, but Sergeant Hughes thinks it was July of 2007,
27 but the dates that we have are the 17th May 2007 up
28 until the 21st December 2009; he was out with
29 work-related stress for the entirety of that period.

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So if we can then move on to correspondence that you received from HRM. It's to you and it is dated 19th June of 2007 from Assistant Commissioner Clancy, and it notes the period of absences. And then there's this request:

14:15

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

14:16

And then:

"Ensure that the member is advised of the welfare service."

14:16

And I think that had already been done, in any event.

So that's the request that came in. Now, you got a response, because you raised this query with Superintendent Curran, isn't that right?

14:16

A. That's correct.

212 Q. And if we have page 1161 up on the screen, please. He writes to you and he says, reference to this letter that had come in, he attached the forwarded for your information. And if we have 1145 up on the screen, this is a report from Sergeant Camillus Fitzpatrick. And then it notes:

14:16

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"The decision regarding the nature of the stress, in my view, is for decision by the Chief Medical Officer."

And that, again, coincided with your views and Sergeant Hughes's views. 14:17

At 1163, then, if we could have that up on the screen. In response to that, you wrote to Superintendent Curran, and the date isn't clear, but it's shortly afterwards, it's the beginning of July, I think it's 2nd July. You say: 14:17

"I would appreciate your personal views on the matters raised by Sergeant Fitzpatrick." 14:17

So that was in relation to whose responsibility it was to make this determination, isn't that right?

A. Yes.

213 Q. In relation to injury on duty. If we have 1165 up on the screen, this is Superintendent Curran's response. He attaches a report and in that report is a handwritten note that comes from Detective Inspector Waters, where he said that he phoned Sergeant Hughes and enquired regarding his welfare and he said that he was seeing his welfare officer. 14:18

"He said he was out with work-related stress. He said he is receiving" -- I think it is -- "an excellent

1 service from Inspector Della Murray."

2
3 And if we have 1167 up on the screen, Superintendent
4 Curran, in his letter to you dated 18th July, he notes:

5
6 "Sergeant Hughes advised Inspector Waters that he is
7 out with work-related stress. Sergeant Hughes is
8 liaising with Inspector Della Murray, welfare officer."

9
10 So he hasn't answered the question that you raised;
11 namely, you were looking for his only personal views as
12 to where the responsibility arose. Did you speak to
13 him directly in relation to that?

14 A. Not in relation directly to that, but he had conveyed
15 his opinion to me previously, that, as far as he was
16 concerned, it was a work -- it was a medical issue.

17 214 Q. Okay. So, anyway, that's where matters rested at the
18 time. If we could move forward then to the 21st
19 November, and there was correspondence from Assistant
20 Commissioner HRM to you on that date, and I don't think
21 there's any need to open this because this is
22 correspondence in relation to the issue of the safety
23 of Garda Hughes and Garda Nyhan. And do you recall
24 this? And you caused an inquiry to be made in relation
25 to it and you received a number of reports. I have
26 already dealt with this with Sergeant Hughes and I
27 don't think that anything turns on this, but,
28 nevertheless, this issue arose at the HRM making
29 inquiries and you dealt with it immediately and you

1 reported back to them in relation to the fact that
2 there was no immediate risk to Sergeant Hughes or Garda
3 Nyhan.

4
5 If we then move into the following year, again just 14:21
6 note that Sergeant Hughes remains out of work at this
7 period of time, and if we look at a report that was
8 sent to you by Superintendent Curran, and this is --
9 the report is dated 17th July 2008. It's at page 688
10 of the material, please. So this is a sick report. He 14:21
11 said:

12
13 "I wish to state that Inspector Hanrahan, Coolock Garda
14 Station, contacted Sergeant Hughes by telephone on
15 receipt of a minute that had been received." 14:22
16

17 And then he refers back to an earlier report.

18
19 "Inspector Hanrahan states that he offered to have a
20 meeting with Sergeant Hughes in person but Sergeant 14:22
21 Hughes stated his preference to communicate by
22 telephone. On the same date, Sergeant Hughes requested
23 Inspector Hanrahan to immediately forward the Human
24 Resource Management communication regarding the
25 notification to attend the Chief Medical Officer, the 14:22
26 5th June 2008, and related advices contained therein.

27
28 On the 18th June, I spoke to Sergeant Hughes by
29 telephone. This conversation took place due to the

1 receipt of the HRM communication with the Chief Medical
2 Officer's decision to allow Sergeant Hughes to retire
3 on medical grounds. This notification was faxed on the
4 request of Sergeant Hughes to his solicitor."

14:23

5
6 Then he goes on to note:

7
8 "I requested to meet Sergeant Hughes regarding this
9 matter due to the significance of the Chief Medical
10 Officer's report and impact on his personal
11 circumstances. On the 19th June, Sergeant Hughes
12 contacted me by telephone. He spoke to me in
13 connection with the Chief Medical Officer's decision.
14 He informed me that he had been advised that the term
15 'medically retire' implies that he suffered from a
16 mental illness. This terminology was unacceptable to
17 him."

14:23

14:23

18
19 And we go over to page 689.

20
21 "He stated that he had never been asked about the
22 reason why he was out sick."

14:23

23
24 And then he notes:

25
26 "I am aware that Inspector Della Murray, welfare
27 officer, has spoken to Sergeant Hughes on a number of
28 occasions. In April 2007, I spoke to Sergeant Hughes
29 regarding the matter and he responded that his

14:23

1 work-related stress was connected to the murder of
2 Bai ba Saul ite, the issue that arose around the content
3 of the victim impact report supplied by Bai ba Saul ite
4 to him and the perceived threat to him and his family's
5 safety from Mr. A. 14:24

6
7 He also claimed that An Garda Síochána, in his opinion,
8 had information in its possession concerning threats to
9 the life of Bai ba Saul ite prior to her murder. He
10 claims that subsequent to Bai ba Saul ite's murder 14:24
11 Detective Inspector Walter O' Sullivan (now
12 superintendent, Kilkenny) informed him that the
13 Commissioner was aware of a threat to Bai ba Saul ite's
14 life. Superintendent O' Sullivan, in the appended
15 report, states to the contrary and that Sergeant Hughes 14:24
16 was mistaken in his recollection of this conversation.

17
18 Sergeant Hughes added that the Commissioner
19 subsequently issued a press release which declared that
20 there was no specific threats or information regarding 14:24
21 Bai ba Saul ite in An Garda Síochána's possession prior
22 to the murder. He now states that he was bullied and
23 isolated by colleagues following the murder. He did
24 not name individuals.

25 14:25
26 He stated that he wants closure in this matter and
27 would leave An Garda Síochána on medical grounds if the
28 reason for medical retirement did not detract from his
29 character. He requested mediation in relation to this

1 matter and other matters he raised."

2

3 will you just tell us what you made of that report?

4 A. In what -- in what -- in what way?

5 215 Q. Well, first of all, there is an issue of mediation. 14:25

6 Sergeant Hughes, apparently, had raised the issue of

7 mediation. Did you make any enquiries in relation to

8 that?

9 A. Well, I forwarded the file up to HRM and, if there was

10 going to be mediation, they would be organising it. 14:25

11 216 Q. That specific issue you referred to HRM, did you?

12 A. I referred the whole file to HRM for their information.

13 217 Q. When did you forward the -- when you say the entire

14 file, is this a file that would have been --

15 A. The report. 14:26

16 218 Q. The report?

17 A. That document there in front of me.

18 219 Q. You'd have sent that at that time to HRM?

19 A. Yes, yes.

20 220 Q. Right. Is that normal procedure? 14:26

21 A. Well, a report like that, it is normal procedure to

22 send it on for their information.

23 221 Q. Right. The second issue then obviously relates to

24 Sergeant Hughes raising issues in relation to the

25 knowledge that was then in existence and was known to 14:26

26 members of An Garda Síochána. This, to use his

27 expression, raises the issue of a systems failure. Do

28 you recall, when you read that, whether you were

29 concerned that that matter should be investigated?

1 A. That matter was being investigated. In the scoping
2 inquiry, it would have been looked at. And also in the
3 discipline -- what year is it? 2009? what year are we
4 on? 2009, is it?

5 222 Q. Well, no, this -- 14:27

6 A. This report --

7 223 Q. The scoping exercise has long finished. The
8 disciplinary proceedings are in existence.

9 A. Yeah.

10 224 Q. This is on the 17th July 2008, prior -- 14:27

11 A. Prior.

12 225 Q. -- to Sergeant Hughes raising this issue with the
13 confidential recipient. So I am just wondering
14 whether, at that stage, you realised that Sergeant
15 Hughes was making what appears to be a quite a serious 14:27
16 allegation; namely, that information was available and
17 things were known about Mr. A that he hadn't been
18 advised of and that this may in some way have
19 contributed to her death. So I am just asking you, did
20 you consider at that time that maybe these were 14:28
21 matters, that are set out there by Superintendent
22 Curran, that were worthy of further investigation or
23 indeed just simply clarification?

24 A. Well, the scoping inquiry would have looked at that.

25 226 Q. Well, did you know that for a fact? 14:28

26 A. Well, that's what the scoping inquiry was set up for,
27 to see whether, in fact --

28 227 Q. But, you see, the scoping inquiry didn't deal with that
29 and didn't visit any inquiry in relation to that matter

1 at all.

2 A. I was also aware that the investigating officers were
3 doing the major -- the murder investigation, and
4 nothing, nothing had come up so far in relation to
5 that.

14:28

6 228 Q. Okay. Yes, if we could have page -- excuse me one
7 moment, please, if you don't mind. Yes, if we could
8 just have page 4010. I am just wondering whether you
9 could help us in this regard. You see there there's a
10 letter from Chief Superintendent Michael O'Sullivan to
11 Assistant Commissioner, Human Resource Management.
12 It's dated 24th July, and it refers to matters that we
13 have been discussing earlier on. It says:

14:30

14
15 "I refer to the above caption and attach for your
16 information comprehensive report from Superintendent, R
17 District in this matter."

14:30

18
19 He says:

20
21 "All contact with Sergeant Hughes is being conducted
22 through telephone, specifically at his request. He has
23 declined all offers to meet with local management to
24 date. This places local management at a disadvantage
25 in that no face-to-face contact is possible. I stress
26 again this is at the specific request of Sergeant
27 Hughes."

14:30

28
29 So obviously you're aware of the fact that this later

1 appears in a letter that was sent by Assistant
2 Commissioner Clancy to Séan Costello & Company and
3 there seemed to have been some misunderstanding in
4 relation to Sergeant Hughes and whether or not he would
5 meet with local management, and I think ultimately it's 14:31
6 accepted that Sergeant Hughes was happy to meet with
7 local management, and there appears to have been a
8 misunderstanding.

9 A. Yes, it was.

10 229 Q. But it appears that this letter might be the genesis of 14:31
11 this misunderstanding, and it may well be that
12 Superintendent O'Sullivan, who we haven't been able to
13 make contact with -- can you tell us what would have
14 been his role in relation to this matter? Was he
15 standing in for you? 14:31

16 A. He would have been standing in for me. I was probably
17 on annual leave.

18 230 Q. Okay. So he wouldn't have been familiar, really, with
19 all the circumstances and might have been basing that
20 view on an earlier report that I opened just a few 14:32
21 minutes ago?

22 A. He was most likely basing it on an earlier report and
23 it would have been drafted by the clerks.

24 231 Q. Okay. And I think that, if we just move forward then
25 to a report that was sent to you at page 1100. This is 14:32
26 a report sent by Superintendent Curran and it is dated
27 7th November 2008. Now, it follows on from
28 interactions between Inspector Hanratty and Sergeant
29 Hughes that I needn't trouble you with or go into, but

1 this ultimately is the report that was sent to you. He
2 says:

3
4 "I wish to report that I spoke by telephone with
5 Sergeant Hughes on the night of the 8th October 2008 14:33
6 from 3:30 until 4:30. In the conversation, he made a
7 number of requests. He stated that he had received a
8 memo from HRM in recent days indicating that he had
9 refused to meet with local management. On this matter,
10 I wish to state, for the purpose of clarification, that 14:33
11 he has not refused to meet local management. He has
12 stated that he was content to communicate by way of
13 telephone and, in this regard, there has been an open
14 line of communication.

15 14:33
16 He requested that a statement be taken from him
17 regarding his allegations that there was no
18 coordination between the individual Garda
19 investigations relating to Bai ba Saul ite and John
20 Hennessy prior to her murder in November 2006. 14:34

21
22 In addition, he reiterated his belief that there was
23 information which was in the possession of An Garda
24 Síochána about the perceived threat to Bai ba Saul ite
25 prior to her murder. This, he alleges, exposed her to 14:34
26 danger and may have led to her death.

27
28 He stated that nobody has formally interviewed him as
29 to the reason why he was out sick."

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So there, squarely, he's putting the case that there was some sort of a systems failure and he is making quite serious allegations there. You weren't aware at that time that he had written to the confidential recipient and made his confidential recipient report, were you?

14:34

A. No, I was not.

232 Q. Did you act on any of this information that you were given at that time?

14:35

A. He was previously interviewed in relation to his reason why he was out sick and he claimed at all times that it was as a result of the Baiba Saulite murder and the -- his -- threat to his family, which he perceived, a threat to his family, also in relation to when the disciplinary proceedings were served on him. So he, at all times, claimed that those were his -- those are the things that caused his stress. And in relation to the first paragraph, I understand that Inspector Hanrahan carried out enquiries in relation to the information in possession of An Garda Síochána prior to her murder and found that there was no basis for that.

14:35

14:36

233 Q. I think Inspector Mangan you mean?

A. Hanrahan.

234 Q. Pardon?

14:36

A. Hanrahan.

235 Q. Sorry, I might be misunderstanding. Yes, okay. So if we just -- sorry, I misunderstood what you were saying in that regard. Then, in the third paragraph:

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"He requested that a statement be taken from him regarding his allegations that there was no coordination between the individual Garda investigations."

14:37

You took no action in relation to that? I mean, did you become aware of the fact that he had made a protected disclosure and that the matter had been referred to the Commissioner, who had then appointed Assistant Commissioner Feehan to conduct an investigation? Were you aware at that time that that was the case?

14:37

A. I only became aware of that, of the protected disclosure, when I got documentation from Chief Superintendent Feehan, and, even then, I wasn't aware who had made the protected disclosure, although I assume it was one of two people.

14:37

236 Q. Okay. And then if we just turn over the page, 1101 of the material, Superintendent Curran notes in that, that he says:

14:38

"A meeting will be convened in the near future by Superintendent McLoughlin, HRM, with the Chief Medical Officer, which I will attend in order to progress this matter."

14:38

We saw from some of the correspondence that there was certainly an issue in relation to this investigation to

1 be carried out by local management, but did you think
2 that perhaps a conference might be the best way to
3 resolve this, where all these matters could be thrashed
4 out with the CMO?

5 A. Yes, I expected that it would be brought up at that 14:38
6 conference.

7 237 Q. Okay. Now, if we could just move forward then to a
8 report from Superintendent Curran, and this is dated
9 23rd January 2009. It's at page 351 of the material,
10 if we could have it up on the screen. He refers to a 14:39
11 report that had been submitted by Sergeant Hughes on
12 the 17th December 2008. He says:

13
14 "This meeting was convened for the purpose of
15 discussing welfare issues and was attended by both 14:39
16 Inspector Hanrahan and Sergeant David McCormack
17 accompanied Sergeant Hughes."

18
19 He was an AGSI representative.

20
21 "A number of issues raised by Sergeant Hughes in the 14:40
22 attached communication. Regular contact has been made
23 with Sergeant Hughes, who continues to assert that he
24 is suffering from work-related stress. To this end, he
25 outlines a number of points where he believes that 14:40
26 Garda management has not responded to his satisfaction.
27 He refers to his injury on duty, which he states was
28 never investigated, along with previous allegations
29 relating to bullying and harassment. He further states

1 he intends to return to work at the earliest
2 opportunity should some of the issues raised in this
3 letter be addressed."

4
5 And that letter is at page 503 of the material, and I 14:40
6 don't intend to open this, but he is highlighting in
7 the letter the fact that he had never refused to meet
8 management and he is asking that this matter be
9 officially cleared up. It doesn't seem that it ever
10 was. It was done internally, but not to HRM. And he 14:41
11 is concerned about "a number of work-related issues".
12 Again, he returns to the issue of the injury on duty,
13 and he refers to the fact that he has been reduced to
14 half-pay, and then he says that he believes that the
15 disciplinary process initiated against him was unfair, 14:41
16 unduly protracted and without due process, and then
17 refers to workplace bullying issues. And then at page
18 505, he says:

19
20 "I wish to state that I am available, if required, to 14:42
21 assist Garda management in any way I possibly can in
22 bringing resolution to the above matters.

23
24 It is my intention to return to my duties as a member
25 of An Garda Síochána at the earliest opportunity, but I 14:42
26 am afraid that this is not an option for me in the
27 current workplace environment."

28
29 So, again, can I just ask you what your view was in

1 relation to that matter and the matters raised by
2 Sergeant Hughes at that time?

3 A. Well, they were similar views that he was raising since
4 he went -- you know, since his first sickness. And we
5 were always -- or the people in the district were 14:43
6 all -- especially those dealing with them, were always
7 available to meet him. And in relation to the issues
8 he was raising, at this stage I think he had made the
9 protected disclosure --

10 238 Q. Yes. 14:43

11 A. -- which would have been looking at all of these
12 issues.

13 239 Q. If we have page 722 up on the screen, please -- no,
14 sorry, 7922, I beg your pardon, Mr. Kavanagh, 7922. If
15 we just scroll down. This is a letter sent by you to 14:44
16 the Assistant Commissioner, Human Resource Management:
17
18 "You have the report from Superintendent Curran,
19 together with correspondence from Sergeant Hughes,
20 wherein he raises a number of issues which he believes 14:44
21 Garda management have failed to respond to his
22 satisfaction. A number of investigations have been
23 conducted into various issues raised by Sergeant Hughes
24 over a two-year period. The results of these
25 investigations have not been to the satisfaction of the 14:44
26 member.

27
28 The matter of Sergeant Hughes returning to work is
29 dealt with in an accompanying report to your office on

1 this date."

2

3 what investigations are you referring to there?

4 A. The scoping investigation, also the murder

5 investigation. 14:45

6 240 Q. Well, I am sorry, but the scoping investigation, the

7 result of that was never communicated to Sergeant

8 Hughes. We have been through this earlier on.

9 A. And the discipline investigation and, also, he was

10 being seen by medical people at this stage. 14:45

11 241 Q. Well, the disciplinary investigation hadn't concluded

12 at that point in time.

13 A. It was ongoing.

14 242 Q. But you're referring to the results of investigations?

15 A. Well, I'm not referring to results; I'm referring to 14:45

16 investigations.

17 243 Q. Was there any element at that time that perhaps you

18 were getting a wee bit frustrated with the situation?

19 A. No.

20 244 Q. I mean, you had got -- Sergeant Hughes, at this stage, 14:45

21 was making the same complaints repeatedly, you had HRM

22 writing down looking for reports that you didn't feel

23 you could make available to them, and Superintendent

24 Curran was having fairly regular meetings with Sergeant

25 Hughes, where these matters were discussed and they 14:46

26 were being reported to you, presumably for some action.

27 I mean, did you feel that your hands were tied in some

28 way, that you couldn't act on foot of these complaints

29 and that it was for somebody else to deal with them?

1 A. Well, his main issue was, he was suffering from stress,
2 brought about by the incidents surrounding the Baiba
3 case. I couldn't investigate stress or determine that
4 his injury was stress or how it occurred. At the same
5 time, every effort was made to accommodate him in 14:47
6 relation to meetings, asking him to return to work.
7 The superintendent was available to him at all times.
8 And the inspectors who were put in charge of Swords
9 Station had a specific instruction to be available to
10 Sergeant Hughes and to keep in contact with him. 14:47

11 245 Q. If we could then just move forward again to another
12 report that was sent to you by Superintendent Curran.
13 This is at page 1193 of the material. It is dated 18th
14 February of 2009. Again, it's as a result of further
15 communication between Superintendent Curran and 14:48
16 Sergeant Hughes. If we look there five lines down, he
17 says:

18
19 "He informed me that he had been told by the consultant
20 psychiatrist to whom he was referred to -- referred by 14:48
21 the Chief Medical Officer, had advised him not to
22 return to work. He stated that this psychiatrist
23 indicated that he would highlight the fact that
24 Sergeant Hughes' absence was entirely due to his injury
25 on duty. He wishes to get clarification from the Chief 14:48
26 Medical Officer on this point."

27
28 So, once again, this issue has returned to your desk,
29 as it were, and you are getting a report from

1 Superintendent Curran, and it doesn't really, at that
2 stage, concern you, isn't that right?

3 A. In what way do you think --

4 246 Q. well, I mean, it's a reference to a determination by
5 the Chief Medical Officer -- 14:49

6 A. Oh, yes.

7 247 Q. -- in relation to the injury-on-duty issue. So, yes,
8 if we could just then move on. Now, I am bypassing a
9 number of matters of correspondence that I don't
10 believe are of great assistance to us, but if there is 14:49
11 anything - and you are familiar with the material - if
12 there is anything that I am missing, please say "no,
13 you are moving on too fast there and you are skipping a
14 relevant period".

15 A. No. 14:49

16 248 Q. There is another report from Superintendent Curran to
17 you. Sorry, if you just give me one moment. If we
18 have page 1196 up on the screen. This is now by way of
19 e-mail, and it's to you, it's dated 14th December 2009,
20 and notes the following, after a meeting: 14:50

21

22 "1. Sergeant Hughes stated that he is willing to return
23 to work immediately based on the recommendations of the
24 CMO.

25 14:50

26 2. Sergeant Hughes has requested that he be
27 transferred from the R District with preference for
28 Raheny. He is making this request as he feels that any
29 return to the R District could result in confrontation.

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3. Sergeant Hughes has requested that he be facilitated with an administration post in order to eliminate any potential for physical violence.

14:51

4. Sergeant Hughes stated that if he cannot be facilitated with a transfer, he will return to work in the R District, but due to the history of his illness, he feels a transfer would assist his reintegration into the workplace.

14:51

Forwarded for your information."

So you received that. And if we just look at a letter that you sent to the Assistant Commissioner HRM. This is at page 4262 of the material. If we scroll down. It is dated 21st December. Then you refer to that meeting with Sergeant Hughes and Superintendent Curran, and you note in the second paragraph:

14:51

"Sergeant Hughes has indicated his willingness to return to work, which is to be welcomed. He has, however, set a number of preconditions."

14:52

And then you set those out. And then in the second-last paragraph you note that:

14:52

"These preconditions to the member's return to work are wholly unacceptable. I would have Sergeant Hughes

1 return to work in the R District and his transfer would
2 subsequently taken under active advisement. There can
3 be no question of him returning to an administrative
4 post."

5
6 That seems to run contrary to the advices of the CMO,
7 that you would have been made aware of by HRM, in
8 relation to Sergeant Hughes's return to work. Now, it
9 appears that -- we'll see there a note on the side of
10 that document, there's handwritten note. This appears 14:53
11 to be Chief Superintendent Grogan. Do you recall
12 having a conversation with him at that time?

13 A. Yes, I do. And the reason I stated that was, at any
14 time in the division, there are a good number of people
15 are out sick, some of them long-term, and if you allow 14:53
16 people to make preconditions before they come back, if
17 you concede on one, then you have to concede on others.
18 At that time, the administrative posts were being
19 civilianised and, also, if there was a post in a
20 district, usually there would be -- and other people 14:54
21 with an eye on that position, and if you parachute
22 somebody in, then the rep bodies are on you in relation
23 to it. However, I had a discussion with John Grogan
24 afterwards and we agreed that he could take up an
25 administrative post in Coolock Station. This was 14:54
26 previously the staff sergeant's position and he had
27 retired and it was now being civilianised. However, we
28 agreed to put Sergeant Hughes into that post, into that
29 position, and that we would, if he wanted a transfer,

1 once he came back, we -- I would look at that. If he
2 wanted a transfer within the division, I would be able
3 to do it. If he wanted a transfer outside the
4 division, it would be HRM.

5 249 Q. I think that you stressed in your statement to the 14:55
6 Tribunal there was an occasion on which, around this
7 time, that Sergeant Hughes was looking to get weekend
8 work?

9 A. That was afterwards, when he had taken up the position.

10 250 Q. Yes. And I think that you facilitated him in that 14:55
11 regard?

12 A. Yes, he was facilitated and he was allowed claim his
13 Saturday and Sunday allowances.

14 251 Q. Yeah. And Sergeant Hughes, in his evidence, 14:55
15 acknowledged that that was so and that he had been
16 facilitated when he came back to work.

17 A. Yes. He also stated that his previous incumbent had,
18 but the post had finished with the previous incumbent.
19 This was a new position, an administrative position,
20 usually a nine to five, five days a week, and we 14:55
21 conceded and allowed him to claim his weekend
22 allowances.

23 252 Q. Okay. There is quite a bit of documentation in
24 relation to Sergeant Hughes's return to work, but I
25 think, largely, he returned to work without major 14:56
26 incident --

27 A. Yes, he did.

28 253 Q. -- or problems?

29 A. Yes.

1 254 Q. And as far as you were concerned, was he reintegrating
2 back into the workforce?

3 A. Well, as far as I was concerned, he was, and
4 Superintendent Curran was available to him at all times
5 if he wanted to discuss anything with him, and there 14:56
6 was nobody checking up on him to see that he came on
7 time or went on time. He was --

8 255 Q. Now, I think the Chief Medical Officer had requested a
9 number of reports in relation to Sergeant Hughes's
10 return to work in July of 2010 and a report from 14:56
11 Inspector Waters was provided in that regard and sent
12 on to the CMO, and Sergeant Hughes then went out
13 suffering from work-related stress again. And if we
14 could just have page 4360 up on the screen. This is a
15 letter of the 30th September 2010. Now, this is a 14:57
16 direction that you've given, and I would just like you
17 to explain why you gave the direction. You will see
18 there, it's to Superintendent Curran, and in the second
19 paragraph you say:

20 14:57
21 "You should now interview this member in order to
22 establish the source of the member's stress and, if it
23 is suggested as being work-related, a full
24 investigation should be carried out.

25 14:58
26 Ensure that the member is advised of the welfare
27 service."

28
29 Is that just a standard-form letter or --

1 A. It is, yes. It is a kind of a generic way of saying
2 it.

3 256 Q. Because it's become circular again --

4 A. Yes.

5 257 Q. -- because now we enter into more correspondence. 14:58

6 A. Yes.

7 258 Q. You will see that from the material.

8 A. Yes.

9 259 Q. And I don't intend to go through all of this material
10 with you, but there is a period, certainly between May 14:58
11 and September 2011, where there's an amount of
12 correspondence that goes from HRM to you and then to
13 Superintendent Curran. None of it is responded to.
14 And Assistant Commissioner Fanning appears to have
15 become quite frustrated, and this is my summary of it, 14:59
16 but he went directly to Assistant Commissioner MCHugh
17 and asked him to intervene in order to get a report
18 from local management in relation to the issue of an
19 investigation into the work-related stress. You saw
20 that material? 14:59

21 A. Yes, I did.

22 260 Q. Yes. And I am just wondering whether the lack of
23 action, as it were, can be accounted for by a
24 frustration on the ground that you didn't know what you
25 were supposed to be investigating and what sort of 14:59
26 report was envisaged?

27 A. That would be one way of putting it, and I suppose, in
28 hindsight, we should have responded in that manner.

29 261 Q. But did it stem from that frustration and perhaps lack

1 of guidelines in the circumstances?

2 A. Probably.

3 262 Q. If I could perhaps bring you back then, just finally,
4 to a case conference that was held on the 12th November
5 of 2010. If we could just have page 4407 up on the 15:00
6 screen, please. I am sorry, that is just another of
7 these letters that I have referred to. This one is
8 dated 27th September 2010, it's another letter from
9 Assistant Commissioner Fanning looking for a full
10 investigation. That's not the document that I am 15:01
11 looking for. Will you just bear with me one moment.
12 Yes, page 4407. Sorry, Chairman. You will see there,
13 this is a letter that is sent by Assistant Commissioner
14 Fanning to the Chief Medical Officer and it is dated
15 3rd December of 2010, and he says: 15:02
16
17 "I refer to the above and the case conference held in
18 the office of Assistant Commissioner, Human Resource
19 Management, on the 12th November --"
20 15:02
21 I stand corrected.
22
23 "-- subject to a copy of the investigation into
24 Sergeant Hughes's stress-related work absence carried
25 out by his local management. The participants of the 15:02
26 case conference concurred with the assessment of the
27 Assistant Chief Medical Officer on the 6th March 2009
28 (namely, I cannot conclude that these work-related
29 events constitute formal injury on duty).

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Accordingly, I have written to Sergeant Hughes's local management and I have requested a copy of all investigations carried out into the member's work-related stress. This report will be forwarded to your office on receipt of same." 15:02

Now, you attended that conference, is that right?

A. I did, yes.

263 Q. And will you just tell us your recollection of what was discussed at the conference? 15:03

A. I have little recollection of what was discussed.

264 Q. Well, can you give us some sort of assistance in this, because it's something that we have requested, and we have requested notes, not your fault, there are no notes available, we have requested statements covering what might have been discussed, and nothing is forthcoming in relation to it, but, for instance, was -- I mean, if you are there at that time, it's difficult to understand how Assistant Commissioner Fanning would continue to write out looking for a report in relation to the causes of the work-related stress, when, clearly, you didn't believe that such a report could ever be forthcoming in the particular circumstances of Sergeant Hughes's case, is that fair to say? 15:03

A. That is fair to say. Superintendent Curran and myself, I believe, were at that conference. And in relation to the reports, I don't think that was raised at that. 15:03

1 265 Q. All right. Okay. Well, he might be able to help us.
2 He is giving evidence next week.

3 A. Yes.

4 266 Q. And he has notes himself. Now, we know that Sergeant
5 Hughes subsequently retired in February of 2013. There 15:04
6 never was any investigation in relation to the cause of
7 his work-related stress, and he remained subject to
8 half-pay and pension rate of pay for that period of
9 time. In hindsight and looking back on it, could that
10 issue have been dealt with differently? 15:04

11 A. Well, I think if we had got guidance sooner from the
12 medical people, it maybe could have been dealt with,
13 but we couldn't see how we could investigate somebody's
14 stress.

15 267 Q. But could the sort of circular actions of you 15:05
16 communicating with HRM and HRM communicating with the
17 CMO, I mean, ought that not to have been bypassed at a
18 very early juncture to make a determination so that
19 Sergeant Hughes could have been advised that this had
20 been inquired into and that An Garda Síochána did not 15:05
21 regard his injury as having occurred during the course
22 of his duty?

23 A. Well, we forwarded all files to HRM in relation to
24 Sergeant Hughes. That was his sick certs and stuff.
25 And they sent him to be seen by a psychiatrist and he 15:06
26 was seeing his own psychiatrist. So we were waiting
27 for guidance on the next step to take.

28 MR. MARRINAN: Thank you very much. That's all I have
29 for you for the moment. Would you answer any

1 questions.

2 CHAIRMAN: Thanks very much. Yes, Mr. O'Dwyer.

3 Thanks, Mr. O'Dwyer.

4

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

15:06

6 AS FOLLOWS:

7

8 268 Q. MR. O'DWYER: I must remember to turn on my microphone!
9 Chief Superintendent, I'll use your title, or would you
10 prefer to be addressed --

15:06

11 A. Okay.

12 269 Q. Chief Superintendent, I only really have a couple of
13 questions for you arising from what's just been said,
14 but I suppose the first one, and I will try and follow
15 the sequence which Mr. Marrinan followed with you and
16 opened so many documents that hopefully I won't have to
17 open to you again, but if I could begin with the period
18 before the murder, just before the murder.

15:07

19 Mr. Marrinan opened a document at page 7885, and you
20 may remember, we don't have to open it, but it was a
21 document - it's on the screen now - but it was a
22 document from you to the Assistant Commissioner McHugh
23 at that stage, and it does lay out an awful lot of the
24 background about Baiba Saulite and, I suppose, the
25 nature of her relationship with John Hennessy, that he
26 was her solicitor and what proceedings had been
27 involved and barring orders and all of these type of
28 things. Judging by this, I think it would be fair to
29 say that you did have, or certainly appeared to have,

15:07

15:08

1 quite a knowledge of all of the circumstances or
2 certainly almost all of the circumstances surrounding
3 those two individuals, and we might add Mr. A - you
4 know who I am referring to - certainly at this point,
5 prior to the murder. Now, I know you'd just started, 15:08
6 but, nonetheless, would you accept that, that, looking
7 at this, you had quite a knowledge of the background,
8 shall we say?

9 A. Yes, we had, the Guards had quite a knowledge of the
10 background. But in relation to threats, there wasn't 15:09
11 any information which would suggest that --

12 270 Q. But, I mean, this was in the context, as far as I am
13 aware, I mean, this was in the context of -- this,
14 actually, was after it appeared that Mr. Hennessy was
15 really in serious peril, that there was -- 15:09

16 A. Yes, because there was confidential information that he
17 was under threat.

18 271 Q. Yes.

19 A. And that report was -- came about because of that
20 threat. 15:09

21 272 Q. Yes.

22 A. Because the -- as I understand it, the Law Society got
23 on to the Commissioner in relation to it, so that
24 report was then brought up.

25 273 Q. I understand that. And I suppose the question I have 15:10
26 flowing from that is: would it not have struck you or
27 was it discussed that Ms. Saulite, as a result of the
28 relationship with John Hennessy and the relationship
29 with Mr. A, that she might -- that if Mr. Hennessy was

1 at risk and that there was effectively a hit on him
2 that had been arranged, that she might be at similar
3 risk, knowing all of this information?

4 A. Well, that was looked at and it wasn't felt that she
5 was under threat at that stage, and, when we act on 15:10
6 something like that, you have to have intelligence
7 which will guide you. In relation to John Hennessy,
8 there was clear intelligence that there was a threat.

9 274 Q. Yes. Perhaps --

10 A. There wasn't any clear intelligence that Baiba was 15:11
11 under threat.

12 275 Q. But you do understand my question, that, you know, it
13 would appear, and I know I am coming from the outside
14 and this is 15 years later or whatever it is, but,
15 nonetheless, if he was at that level of threat and he 15:11
16 was her solicitor and the only reason he had come into
17 contact with Suspect A was because of his acting for
18 Ms. Saulite, that Ms. Saulite would be also at risk?

19 A. No, I don't believe so. It was looked at and there was
20 no intelligence in relation to a threat against her. 15:11

21 276 Q. Okay, I understand. Just moving on to the victim
22 impact statement, and I'm sorry this is -- you may have
23 been sitting inside, and this has been -- we have been
24 over this several times over the past few days, but it
25 is quite important. This is the draft victim impact 15:12
26 statement that Baiba Saulite had - well, had prepared
27 with her neighbour. You said earlier that you became
28 aware of it only on the 22nd November 2007. You said
29 that it was Michael Byrne or Donald Waters who had --

1 A. Yeah.

2 277 Q. -- told you about it. You seemed to indicate that they
3 had indicated -- one -- whoever told you -- you don't
4 remember which one of those two told you?

5 A. I don't remember which one. 15:12

6 278 Q. You seemed to indicate that they, whoever it was,
7 indicated to you that there was matters of concern to
8 Sergeant Hughes --

9 A. Yes.

10 279 Q. -- contained within it. Did they tell you anything 15:13
11 else about that?

12 A. No, just that he was concerned with the contents.

13 280 Q. And did that indicate to you that that person knew what
14 it was or what was the issue?

15 A. No, I don't think so, I don't think so. 15:13

16 281 Q. And we know -- well, shall I say, Inspector Cryan has
17 told us that he went into your -- I don't know whether
18 they are close together, but he went to your office, he
19 physically brought the --

20 A. He came into my office in Santry Station. 15:13

21 282 Q. Sorry, I should have said before that, he indicated
22 that you had indicated to him that Assistant
23 Commissioner McHugh really wanted it and was to the
24 level of breaking open his locker, or words to that
25 effect, is that correct? 15:14

26 A. It was just words to that effect. I don't think it
27 would have gone to that.

28 283 Q. Okay. And it is Sergeant Hughes' evidence that that
29 message effectively was relayed to him?

1 A. I believe it was, yes.

2 284 Q. And in any event, that gave rise -- well, sorry, I
3 should just ask you, was there ever any explanation of
4 what suddenly was causing this real -- I mean, such a
5 rush to get the draft victim impact statement at that 15:14
6 particular time, even before Sergeant Hughes was meant
7 to come in to drop it?

8 A. Well, there was a rush to find out what was in the
9 statement. Was there evidence, was there strong
10 evidence that somebody was in danger or -- so there was 15:15
11 a rush to get it.

12 285 Q. Okay. And in any event, Inspector Cryan brought it in
13 to you?

14 A. He did, yes.

15 286 Q. You recounted earlier, I think, that you had an initial 15:15
16 read, and there's absolutely no criticism in that, but
17 you had a read through it, though perhaps not of, you
18 know --

19 A. A cursory run through it.

20 287 Q. Yes, okay. And then you faxed it off to -- 15:15

21 A. To --

22 288 Q. -- I know it sounds strange these days but --
23 A. Somebody else faxed it off for me.

24 289 Q. Oh, sorry. And you faxed it off to the assistant
25 commissioner? 15:15

26 A. Yes.

27 290 Q. Okay. And then Inspector Cryan certainly indicates
28 that you had a conversation of some sort?

29 A. Yes.

1 291 Q. I think he said he didn't hear it, but, nonetheless, he
2 knew you were having a conversation with the assistant
3 commissioner, is that correct?
4 A. That's correct, yes.

5 292 Q. Did you discuss the contents as you saw them? 15:16
6 A. No, didn't discuss the contents because I hadn't read
7 it. All I said was, that's been faxed to you now, I
8 think, and I said I don't know if there is too much in
9 it.

10 293 Q. I don't? 15:16
11 A. I don't know if there's too much in it.

12 294 Q. Okay. And then again, based on what you said earlier,
13 it seems that you, and Inspector Cryan backs this up
14 very much, that you gave him a message, you indicated
15 to him at that point, after having sent it off, you 15:16
16 indicated to him what your view was, I accept an
17 initial view, but what was that?
18 A. Well, I had read -- I had run through it fairly quickly
19 and I had read the file. I saw that the file was
20 well -- professionally done, and I had a quick read 15:17
21 through that, and I knew that he was in a bad way at
22 that time, stressing out and worry, so I said I don't
23 think that - I forget my exact words - I think he has
24 nothing -- there's nothing to fear here, and just to
25 let him know, and that was as a comfort to him, as 15:17
26 such.

27 295 Q. Yes. And to be fair, I think Sergeant Hughes has
28 indicated that he did, in fact, take some comfort from
29 that?

1 A. He did, yes.

2 296 Q. You said in your statement, and Mr. Marrinan I think
3 opened it briefly, but at 7858, we don't need to open
4 it, but you could see that the child abduction
5 investigation was professionally investigated and the 15:18
6 document, which was a handwritten victim impact
7 statement for an upcoming court case, was not an issue
8 for the investigating members; would that accurately
9 reflect your thoughts?

10 A. It would, more or less, yes. 15:18

11 297 Q. And then we know from other evidence that we've heard
12 that there was a press release issued a little over two
13 hours later on in the afternoon; did you know anything
14 about that? This is from the Garda Office, I should
15 say, from the Garda Press Office. 15:18

16 A. I have no recollection. All I know is that the Press
17 Officer usually either rang the incident room when they
18 wanted information or they would ring me, so I don't
19 know. I don't remember talking to the Press Officer.

20 298 Q. would you ever have talked to the Press Office about 15:19
21 these?

22 A. Yes.

23 299 Q. Okay.

24 A. But usually it was somebody from the Office, and really
25 the only times that we would have a chat with the Press 15:19
26 Officer would be at a major incident such as a murder,
27 because the first conference, the Press Officer would
28 always be at it, and we would probably have a press
29 conference afterwards, and usually, after that, the

1 Press Officer wasn't at our meetings.

2 300 Q. Had you had any contact with the Press Officer even the
3 days before, because I think there was a press
4 conference the next day?

5 A. He was at the first conference on the 20th. 15:19

6 301 Q. Yes.

7 A. And there was a meeting in my office later on, around,
8 I don't know, half twelve, one o'clock, and that was to
9 draft a protection order for John Hennessy, the
10 solicitor. And if I can recollect, he had a press 15:20
11 conference arranged for, in front of Santry sometime
12 around one or half one.

13 302 Q. Yeah.

14 A. After that, he wouldn't have been at any of our -- at
15 the conferences. 15:20

16 303 Q. But in the course of that, did you get the -- did you
17 give any information to -- I am just trying to -- I am
18 trying to find his proper title, but Chief
19 Superintendent Donohue, who was the Press Officer at
20 the time? 15:20

21 A. Yes.

22 304 Q. Did you give any information to him? Was there any
23 exchange of information about what might go into --

24 A. He would have got his information from the senior
25 members there. Detective Superintendent Byrne and 15:21
26 Inspector Waters, they were familiar with this case. I
27 probably only knew about the same as him when this
28 murder occurred.

29 305 Q. Well, how do you think the -- how do you think that

1 the -- the press release that was issued refers, albeit
2 obliquely, but it is clear that it refers to a court
3 document rather than victim impact statement. It is
4 clear somebody had told Chief Superintendent Donohue
5 about it?

15:21

6 A. Yes, somebody did, yes.

7 306 Q. Do you know how he came to --

8 A. Sorry?

9 307 Q. Do you know who that was or how he came to know about
10 it so quickly after?

15:22

11 A. No, I don't know. All I can tell you is, as far as I
12 can remember, it was not me.

13 308 Q. Okay. Moving on to the fact-finding and disciplinary
14 process. So you know there was a -- I think you
15 referred to it several times as, that there was a
16 scoping exercise, and then, after that, there was an
17 initiation of a disciplinary investigation; you know
18 that?

15:22

19 A. Yes, yes.

20 309 Q. Okay. You've referred to the scoping investigation or
21 the fact-finding investigation several times in
22 response to Mr. Marrinan, and I may be mistaken in my
23 impression, but you seem to consider that that would
24 look at the type of issues that we -- now or later on
25 came to be referred as systems failures issues. Am I
26 misinterpreting what you've said or is that...

15:23

27 A. Well, it's a scoping exercise into the murder and what
28 information was available beforehand, so it would have
29 been looking at certain things.

1 310 Q. Yes.

2 A. It wouldn't have been a full investigation, but it
3 would be looking at the critical aspects of it.

4 311 Q. And did you think, now this is just what you thought
5 yourself, that it would look at information around 15:23
6 coordination? That's really the -- if I might --
7 that's the general point about the systems failure
8 pre-murder, that there was no coordination. Did you
9 think, between different investigations, information
10 was being held by different people, there wasn't -- 15:23
11 A. Well, I didn't believe that there was no coordination.
12 There were a number of incidents. The abduction case
13 was fully investigated and the file was with the DPP.
14 The threat to John Hennessy was being investigated by
15 the detectives in Swords, and the burning of -- the 15:24
16 attempted burning of Baiba's car was being investigated
17 by members, and then you had the murder, which was a
18 huge investigation. So the other incidents would have
19 been the threat to John Hennessy and the burning of the
20 car, they would have been pulled into the main 15:24
21 investigation.

22 312 Q. Okay. But what I was asking you, I suppose, was, did
23 you think the scoping exercise was going to look at
24 that aspect, as such? You know, look at the issue, an
25 issue around coordination or... 15:24

26 A. I am not too sure. I wouldn't think so. It would
27 depend on who is doing it.

28 313 Q. Sorry, it possibly is my misunderstanding of what you
29 are saying. And did you have any role in the -- are

1 you aware that Inspector Mangan was somebody who was
2 doing the initial stages, shall we say, of the
3 fact-finding?
4 A. Yeah.
5 314 Q. But did you know anything about it -- 15:25
6 A. No.
7 315 Q. -- I mean, in terms of what they were looking at or...?
8 A. No, I hadn't any role in it.
9 316 Q. Okay. And were you interviewed or...?
10 A. I don't think so. I have no recollection of being 15:25
11 interviewed on it.
12 317 Q. Either -- you know, it almost had two parts. There was
13 a second part -- well, not a second part, but there was
14 a further report by Assistant Commissioner Feehan. Did
15 he interview you or anything? 15:26
16 A. No, he didn't.
17 318 Q. Okay. And what about the subsequent disciplinary
18 process, were you aware about the investigation or the
19 charge or, should I say, the allegation?
20 A. I was aware when it was started. 15:26
21 319 Q. Okay.
22 A. When it started, I became aware that there was a
23 disciplinary investigation.
24 320 Q. Okay. Were you consulted in any way about that or...?
25 A. No, I was not. 15:26
26 321 Q. And were you aware of the specific allegation that was
27 being made against Sergeant Hughes?
28 A. No, I wasn't fully aware but I assumed it was along --
29 I assumed it was along the lines of the victim impact

1 and other issues, but I wasn't -- I wasn't aware fully
2 of what was being looked at.

3 322 Q. Moving on. Just, I just wanted to cover something else
4 that Mr. Marrinan brought up, that was this article in
5 The Sun, The Sun newspaper. You may remember 15:27
6 Mr. Marrinan mentioned it earlier on and there was an
7 investigation by -- John Dennehy [sic], I think, was
8 the man. I may have got his name wrong, but --

9 A. No, John Dennedy.

10 323 Q. John Dennedy, yeah. And you accepted this morning that 15:27
11 the result of that, and you know generally the content
12 of that, that article, should I say, and it indicated
13 that, you know, that there was a threat. Now, this is
14 to Sergeant Hughes. This is what the article had
15 indicated. 15:27

16 A. Yes, yes.

17 324 Q. And it was mentioned this morning that -- or earlier
18 on, that this was never -- that there was this
19 investigation, but the result of the investigation,
20 which was that, you know, I suppose that there was -- 15:28
21 that this had all been effectively -- or, you know,
22 was -- there wasn't any substance, they hadn't got any
23 information to base this, that it was effectively a --

24 A. Exaggerated.

25 325 Q. Yes, exactly, an exaggerated story, but that that 15:28
26 wasn't communicated to Sergeant Hughes?

27 A. Yes, I was, but I would be surprised at that, but if --
28 I can't say that it was or it wasn't.

29 326 Q. I suppose --

1 A. -- we went to the trouble of doing the investigation.

2 327 Q. Yes. And I think, to be fair to you, you seem to
3 indicate that that wouldn't have been -- I don't want
4 to -- I am not in any way putting words in your mouth,
5 but you seem to feel that he should have been provided 15:29
6 with feedback or the results or the report. This is
7 Sergeant Hughes?

8 A. Yes, I would agree. I'd have to. The other issues
9 that he raised, that came in to me, later on, I'd
10 responded the next day. 15:29

11 328 Q. Yes.

12 A. So I would always be concerned that the information
13 would be got out as soon as possible.

14 329 Q. Yes. I suppose the fact that he wasn't receiving
15 information or getting a result from this investigation 15:29
16 wasn't really being told what was happening, that
17 certainly, from his point of view, that would isolate
18 him, he might feel isolated or excluded or not be
19 receiving feedback?

20 A. He was receiving feedback and he was -- at that stage, 15:30
21 Inspector Cryan, I think, was keeping in regular
22 contact with him, and, when he was replaced by
23 Inspector Hanrahan, he got specific instructions from
24 me that he was to be available and to keep in contact
25 with Sergeant Hughes and Garda Nyhan. 15:30

26 330 Q. I understand that and I know you mentioned that earlier
27 about Inspector Cryan. I didn't mean that; I just
28 meant in respect of that investigation about The Sun,
29 that he should -- you know, that how not being informed

1 would have affected him. That's all I am talking
2 about.

3 A. Well, it may have affected him, I'd have to say. But
4 once he raised it, he got the information immediately.

5 331 Q. And in terms of his absences, which is the -- I suppose 15:30
6 the next point, you've said that, in your view,
7 Inspector Cryan was the one you mentioned, was in touch
8 with him. Inspector Cryan doesn't appear to have been
9 doing any of the sort of formalities -- well, perhaps
10 if I start a different way. You accepted earlier on 15:31
11 that there was never a Code 11.39 interview at any of
12 the stages in his home, in Sergeant Hughes's home?

13 A. He was interviewed numerous times about his sickness,
14 his stress at work, or work-related stress, and he
15 always claimed that it was as a result of the Baiba 15:31
16 case, the fear -- his fear in relation to himself and
17 his family, and, at the start, he had a fear that he
18 was going to be blamed by the DDU. And then the --
19 when the discipline was served, it more or less added
20 to it. 15:32

21 332 Q. Well, rather than go over all of the correspondence
22 again, which I have no intention of doing, but the -- I
23 suppose something Mr. Marrinan put to you this morning
24 just strikes me in relation to that. We have all of
25 these requests over so many years to get a report on 15:32
26 the -- because Sergeant Hughes was always saying that
27 this was workplace-related stress, it related to things
28 that occurred in the course of work and things that
29 were occurring in the course of work, and you've

1 summarised what some of them were, at least. why could
2 you not simply report that he says the causes of his
3 stress are A, B, C, D, E, perhaps a little by --
4 A. They were reported, they were reported numerous times.
5 333 Q. And would you accept that there doesn't appear to be, 15:33
6 shall we say, formal Code 11.37 reports?
7 A. You'll have to remind me what 11.37 is again. I am
8 retired for eight-and-a-half years.
9 334 Q. Oh, sorry. These are the reports, I suppose, about his 15:34
10 injury on duty and, I suppose, really a report about
11 the circumstances of his stress, but there would be --
12 specifically of his workplace stress, but would
13 specifically refer to the Code and -- there doesn't
14 appear to be that, and Sergeant Cryan indicated that he
15 hadn't prepared these types of reports. 15:34
16 A. No.
17 335 Q. And I think Mr. Marrinan mentioned to you that one of
18 the difficulties seemed to be that there was, I think
19 he referred to, and a fair way of putting it, continual
20 requests from HRM for these types of reports and that 15:34
21 they weren't being responded to. Now, this is HRM.
22 A. Well, in relation to his injury on duty, he was
23 claiming it was stress.
24 336 Q. Yes.
25 A. And we're not qualified to investigate stress or the 15:35
26 causes of stress. That is a matter for the CMO. And
27 that was --
28 337 Q. I understood your -- that's what I understood your
29 answer to be this morning, but, nonetheless, HRM were -

1 sorry, Human Resource Management I assume is what it
2 means - were asking you to look at this and we ended
3 up, I think it was described as in this circular, you
4 know, that nothing -- you know, you weren't responding
5 or, if you were responding, it was simply to say that 15:35
6 this was a matter for -- only for the CMO, but they
7 were saying no, you know, at various stages you need to
8 look at this and, you know, provide some form of
9 investigative report about this, and I am not -- I
10 mean -- you know that you needed to provide a report at 15:36
11 least going into the -- what he alleged to be the
12 causes of his stress, can I put it that way?

13 A. If you are going into what he alleged, you have to do a
14 proper, full investigation. And you're talking about
15 2011, I think. At that stage, there were a number of 15:36
16 investigations which had looked at all aspects of it,
17 and I don't think it would be feasible for us to do
18 another full investigation on top of that, in relation
19 to stress, without guidance from a CMO.

20 338 Q. So do you say that you didn't respond and they weren't 15:36
21 done because you had no guidance as to how to do it, is
22 that really the --

23 A. At that time, yes, that would be the case, I think.

24 339 Q. Okay. Right. would you accept, knowing what you,
25 well, knew then, and certainly what you know now, that 15:37
26 the causes of his stress may have been, may have lay --
27 I suppose have lain outside the -- it wasn't just
28 purely a medical issue; that something was giving rise
29 to this continuing stress, you know, over time, after

1 the murder?

2 A. Yes, but I can't determine what is causing his stress.

3 340 Q. well --

4 A. I can only surmise that it is tied in with the Baiba
5 case. 15:38

6 341 Q. Okay.

7 A. But there may be other issues outside of that.

8 342 Q. well, to be fair, you've mentioned some of them. I
9 mean, the disciplinary process, that he felt that that
10 was completely unfair. We've seen letters in which, 15:38
11 you know, as time went by, a lot of these issues were
12 being outlined, they were being -- would you accept
13 that? You know, some of the letters we've seen earlier
14 seem to be talking about different issues that were
15 occurring after the murder, in the workplace. I mean, 15:38
16 you have said the disciplinary process, for example --

17 A. Yes. But at all times, Sergeant Hughes always
18 maintained that his stress, even right up to 2011, went
19 back to the Baiba case.

20 343 Q. Yes. well, certainly that was something he -- I am 15:38
21 sure he would say today was -- that his stress arose
22 from that, and that, of course, arose in the context of
23 his workplace, did it not?

24 A. Yes, but it's not for me to determine is that correct
25 or not; that is for a medical expert. 15:39

26 344 Q. Okay. Can I ask you about the confidential -- well,
27 sorry, before I do that, we've seen some letters that
28 you received certainly in 2008/2009 that seemed to
29 indicate some of the issues Sergeant Hughes was raising

1 about -- now, I'm not saying it said systems failures,
2 but that seemed to be talking about the systems
3 failures issues in general, but, prior to that, were
4 you aware of what he had said to, for example,
5 Inspector Cryan about a lack of coordination of
6 investigations? And that was on the 22nd November of
7 2007.

15:40

8 A. I don't -- I don't think I was. I think I just saw
9 that when I did my statement for the Tribunal in
10 relation to his statement.

15:40

11 345 Q. Okay. And what about Inspector Curran's, his
12 discussions with Sergeant Hughes in April of 2007, were
13 you aware of anything arising from that or did
14 Inspector Curran tell you anything about any of these
15 systems failures issues?

15:41

16 A. No, he did not. Systems failures, I don't know when I
17 came across that first. I think it was, again,
18 documentation from the Tribunal.

19 346 Q. Sergeant Hughes says he was, as indicated, originally
20 he wasn't putting them on paper, but he was -- I mean,
21 he was talking about these issues. Now, the exact --
22 well, Sergeant Hughes says that he first used systems
23 failures in talking to Inspector Curran, but that he
24 was talking about these issues, perhaps not using that
25 title, to a number of different people over a period
26 before, say, 2008.

15:41

15:41

27 A. I have no recollection of it being brought to my
28 attention.

29 347 Q. Okay. And then what about the confidential recipient,

1 were you -- what was your level of knowledge about
2 those matters?

3 A. I got documentation from them and that was the first
4 that I knew that there was an investigation, and I
5 answered that. 15:42

6 348 Q. Okay.

7 A. But I had no hand, act or part in the investigation.

8 349 Q. Would it not have been fairly obvious, given the
9 questions and given, you know, what they were actually
10 investigating, that it could only be Sergeant Hughes or 15:42
11 else Garda Nyhan?

12 A. Well, I think I said that in my statement. I didn't
13 know who had made the confidential, although I assumed
14 it was one of two people.

15 350 Q. Okay. So that assumption would mean you would have 15:42
16 linked the complaints to those individuals?

17 A. No, I assumed that it was one of those two people who
18 had made the complaints.

19 351 Q. And just something I may have skipped over but it's
20 around the same time, but Mr. Marrinan asked you about 15:43
21 the reference -- now, unfortunately, something has been
22 attributed to you that may not have been you as such,
23 it was a person who was standing in for you, but you
24 know this issue about the misunderstanding?

25 A. Yes. 15:43

26 352 Q. You do acknowledge that that was a --

27 A. That was a mistake.

28 353 Q. -- that was a mistake?

29 A. I acknowledged that in my statement.

1 354 Q. Yes. Okay. And I suppose I am asking because, I
2 suppose, the underlying mistake was -- appears to have
3 been made by, I think it is, Michael O'Sullivan, rather
4 than you whereas --

5 A. Well, I think he was only signing the post, probably. 15:44
6 That was probably drafted by my clerks.

7 355 Q. So that was, as we now know, that was completely
8 incorrect?

9 A. It was incorrect, and it was acknowledged.

10 356 Q. And you know that that had a knock-on effect in that 15:44
11 that was included in a later letter, which is, I don't
12 think we need to open it, but, 4018, from Assistant
13 Commissioner Clancy to Sergeant Hughes's solicitor, and
14 obviously was portraying him in a -- as being a person
15 that was uncooperative because of that, you know that 15:44
16 he wasn't -- he wouldn't meet and, therefore, that they
17 couldn't -- you know, they weren't able to interview
18 him in person, I suppose, would be the knock-on?

19 A. Well, that didn't -- that didn't have any effect on the
20 people within the district who were meeting him, who 15:45
21 were directed to be available to him and meet him, so
22 they continued to meet him, so it didn't have any
23 effect there.

24 357 Q. But you probably realise that that -- certainly the way
25 it's put across in the letter is, I suppose -- I mean, 15:45
26 it disparages Liam, it makes -- or, sorry, Sergeant
27 Hughes, it makes Sergeant Hughes appear, you know, to
28 be an uncooperative person, somebody who's not doing
29 interviews because, well, he doesn't want to, as

1 opposed to someone that was available?

2 A. Yes, but the local people knew that he was available
3 and they were in contact with him.

4 358 Q. Okay. But I just mean in terms of, this is the
5 impression that the Assistant Commissioner for Human 15:46
6 Resource Management has because of that communication?

7 A. Just at that time, for a short period, yes, and that
8 was a mistake and it was acknowledged. It was probably
9 the wrong take on a report that one of the clerks took
10 up on. 15:46

11 359 Q. Okay. I was talking about the confidential recipient
12 and the complaints, and you indicated that you assumed
13 it was one or other --

14 A. Yeah.

15 360 Q. -- of the two guards. So, at that stage, you would 15:46
16 certainly have been aware of issues that Sergeant
17 Hughes was raising, because, if you link them, you
18 could see what his complaints were?

19 A. Well, I knew what his issues were beforehand; I knew he
20 had the stress and what he claimed was causing the 15:47
21 stress.

22 361 Q. But I suppose the confidential recipient seems to --
23 you know, obviously is dealing, well, with the
24 disciplinary process, but with some of his complaints
25 about systems failures? 15:47

26 A. Yeah. I was aware that it would be looking at all
27 aspects of the case, the policing, everything.

28 362 Q. Yes.

29 A. But I had no concerns on that.

1 363 Q. Okay.

2 A. I actually welcomed that because I thought that that
3 would sort things out --

4 364 Q. Okay.

5 A. -- fully. 15:47

6 365 Q. And was that your view, that this was with somebody
7 else, as it happens Assistant Commissioner -- well, he
8 wasn't that at that stage, but with Assistant
9 Commissioner Feehan, and that he would look at all of
10 this and -- 15:48

11 A. Yes, I had no problem with it.

12 366 Q. And therefore, you didn't have to?

13 A. Well, it was better that somebody outside was looking
14 at it, rather than me trying to set up a team and look
15 at an internal issue. 15:48

16 367 Q. Okay. And just, I suppose, two final questions. In
17 relation to the transfer, and Mr. Marrinan has opened
18 the letter at page 4262, that wouldn't appear to be
19 facilitative of Mr. Hughes, it's very -- or Sergeant
20 Hughes? 15:49

21 A. I don't agree with that. I was looking -- I was
22 looking ahead, and I think I said it in the
23 questionnaire, it was nothing to do with Sergeant
24 Hughes. I was looking ahead where I'd have to deal
25 with other people who were on sick and going to be on 15:49
26 the sick, and maybe I shouldn't have gone down that
27 road, but that's what was influencing me when I
28 answered that. I had a discussion immediately after
29 that with John Grogan and we made arrangements that he

1 would come back to the staff office and that we would
2 look at a transfer if he wanted it down the road.

3 368 Q. But what preconditions, and I know it is a long time
4 ago, but what preconditions was he insisting on?

5 A. He was looking for a transfer to the J District, to 15:50
6 Raheny.

7 369 Q. Sorry, he was looking for?

8 A. A transfer to the J District, to Raheny District.

9 370 Q. Was that the only precondition? He was looking for a
10 transfer? 15:50

11 A. Yeah, and that there was a -- at that stage, there may
12 have been an office job available in the J District,
13 which was subsequently filled before this.

14 371 Q. Yes. And you --

15 A. But if he was back at work, we could have looked at 15:50
16 that in a better light.

17 372 Q. Okay.

18 A. And that's why I wrote that.

19 373 Q. Okay. So you --

20 A. If somebody is out sick and set preconditions before 15:50
21 they come back, if you concede, you have to concede on
22 the next person who does it. If somebody is back, then
23 you can deal with stuff and you can facilitate people.

24 374 Q. Right. And one, I suppose, final issue that hasn't
25 really been canvassed, but it's just about the Daily 15:51
26 Star article. This is not The Sun article. This is
27 The Star article, Mick O'Toole. Are you familiar with
28 that?

29 A. Yeah.

1 375 Q. In your statement, you said that you very much doubt
2 that the information came from a senior guard and that
3 you never had contact?
4 A. No, I never had.

5 376 Q. It turns out, I think it's fair to say, that the 15:51
6 information about the disciplinary proceedings or the
7 disciplinary investigation, should I say, did come from
8 a guard?
9 A. Yes.

10 377 Q. And a guard of some seniority, and I am not in any way 15:52
11 suggesting it's you, but what do you think -- I mean,
12 what would be your view of that?
13 A. Correct me if I am wrong, but did Mick O'Toole not say
14 that he thought the information came from somebody not
15 above the rank of inspector? 15:52
16 CHAIRMAN: He did.

17 378 Q. MR. O'DWYER: Yes. well, he -- yes, he did say that in
18 his evidence here, yes.
19 A. I'd have no cause to disagree with him.

20 379 Q. Okay. Sorry, I understand what you mean. Yes, sorry. 15:52
21 Okay, so you're saying that you wouldn't see that
22 particular qualification as meaning -- you think that,
23 because he qualified it in that way, he's not talking
24 about a senior enough person, is that what you mean?
25 A. Well, as I understand it, he's not talking -- and as I 15:53
26 understand it, Sergeant Hughes thought that the
27 information came from a high-ranking garda.
28 380 Q. Yes.
29 A. An officer. And that's when I say that I don't believe

1 it, and I certainly never spoke to Mick O'Toole in my
2 life, or any other media person, and he then said it
3 was not above the rank of inspector.

4 381 Q. Okay. But in general terms, I mean -- so do you
5 accept -- I mean, you seem to -- I mean, it is implied, 15:53
6 and perhaps I am wrong, but what you are saying, the
7 fact it was an inspector is okay?

8 A. I didn't say it was an inspector. Not above the rank
9 of inspector.

10 382 Q. Sorry, a person of that rank -- 15:53

11 CHAIRMAN: Mr. O'Dwyer --

12 MR. O'DWYER: I am sorry.

13 CHAIRMAN: -- I mean, fair is fair. There is a limit
14 to what you can attribute to -- I know it is Friday
15 afternoon. 15:54

16 MR. O'DWYER: I am sorry.

17 CHAIRMAN: But he said nothing of the kind, he implied
18 nothing of the kind. I have to break my resolution to
19 remain silent --

20 MR. O'DWYER: Yes. 15:54

21 CHAIRMAN: -- which I have written down, and say
22 nothing, but that is ridiculous, Mr. O'Dwyer, as a
23 suggestion. Sorry.

24 MR. O'DWYER: Excuse me, sorry. I wasn't -- I was just
25 trying to -- I was trying to tease out what you meant 15:54
26 by that and that was -- I do apologise --

27 CHAIRMAN: -- "senior enough" is what the journalist
28 said.

29 MR. O'DWYER: And I am not -- yes.

1 CHAIRMAN: Okay, Mr. O'Dwyer.

2 383 Q. MR. O'DWYER: Nonetheless, you would accept that the
3 leaking of information of this sort that somebody was
4 involved in, well of any sort really, but particularly
5 sensitive information like this, that somebody is 15:54
6 involved in a disciplinary, would be a breach of the
7 Garda Code and it would be unauthorised?

8 A. It would be unauthorised, but it is very hard to keep
9 everything when you've a huge number of people involved
10 in an investigation. 15:55

11 384 Q. Well -- yes. I mean, there would have been -- the
12 investigation team wouldn't have been that huge?

13 A. And the investigation team and the district or station
14 party. It's very hard to keep things tight.

15 385 Q. Well, could I just put something to you on that. I 15:55
16 mean, would it not have seemed, given that the leak is
17 very specific, you know, the part that appears to be a
18 leak, something new, is the disciplinary investigation,
19 that one could start with the people involved in the
20 disciplinary investigation and, just in terms of 15:56
21 questioning, to see did anyone involved directly leak
22 the information?

23 A. Look, I don't know how to answer that fully because you
24 don't know where it came from.

25 386 Q. Yes. 15:56

26 A. And even if you had an indication, you could maybe do
27 something, but when you don't know where it came from,
28 it could be any number of people.

29 MR. O'DWYER: Thank you, Chief Superintendent. I have

1 no further questions.

2 CHAIRMAN: Thanks very much. Now, An Garda Síochána.

3 Yes, Mr. O'Higgins.

4 MR. MÍCHEÁL O' HIGGINS: Thank you, Chairman.

5

15:57

6 THE WITNESS WAS CROSS-EXAMINED BY MR. MÍCHEÁL O' HIGGINS

7 AS FOLLOWS:

8

9 387 Q. MR. MÍCHEÁL O' HIGGINS: Assistant Commissioner, the
10 hour that is in it, three minutes to four on a Friday, 15:57
11 I am going to keep my questions very short. Can I ask
12 you, when you arrived, first of all, took over as
13 divisional officer in October 2006, where were you
14 physically based?

15 A. Santry Station. 15:57

16 388 Q. Right. Now, you attended, you indicated, the
17 conference, and I think you indicated in your statement
18 there were -- contact was made with the members, Garda
19 Nyhan and Sergeant Hughes' home districts, and they
20 were asked to pay attention to members -- to those 15:57
21 members' addresses?

22 A. That's correct, yes.

23 389 Q. How did that take shape? who organised that?

24 A. Inspector Cryan.

25 390 Q. Right. You've indicated that on the 20th November 2006 15:57
26 you received correspondence at your own office from
27 Sergeant Bob Kavanagh, relaying a concern that Sergeant
28 Hughes had?

29 A. Yes.

1 391 Q. Do you recall that?
2 A. Yes, I do, yeah.
3 392 Q. For his own safety?
4 A. Yes, yeah.
5 393 Q. What steps did you put in train to organise protection 15:58
6 in relation to that being alleviated?
7 A. Well, I wrote to Crime and Security to see was there
8 any intelligence of a threat and I also made contact
9 with their home division, so the divisional chief in
10 that Louth/Meath division, and he then made contact 15:58
11 with the local superintendents, asking them to do a
12 safety into the members' homes.
13 394 Q. Yes. And was a risk assessment carried out --
14 A. A risk assessment, sorry, into their homes, houses.
15 395 Q. And were you satisfied that one was carried out? 15:58
16 A. Yeah, I got reports back from them saying what they had
17 done.
18 396 Q. And it reported that there was not a specific threat?
19 A. Well, that was back from Crime and Security.
20 397 Q. Yes. 15:59
21 A. That there was no --
22 398 Q. Mr. Marrinan brought you through a number of different
23 reports. Can I just ask you to deal with one, and we
24 might just have it very briefly on the screen, page
25 688, please, and this is a report from Superintendent 15:59
26 Curran from July of 2008. If we go, perhaps, towards
27 the bottom of page 688. This is headed:
28
29 "Sick report Sergeant Liam Hughes."

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And it is to yourself, I think. Towards the bottom there is a reference to - that's it there in the last paragraph - to Sergeant Hughes being unhappy with the phrase "medically retire". Was that something you were aware of? He had a grievance about the usage of the expression "medically retire" --

A. Yes.

399 Q. -- because it implied, according to this, that he suffered from a mental illness?

A. Yes, yeah.

400 Q. That was something that was conveyed to you by Mark Curran?

A. Yes, it was.

401 Q. All right. Well, the main aspect I want to inquire about -- in relation to this report, if we scroll down to the next page, please, there is a recital of Sergeant Hughes's - just the top there - Sergeant Hughes's criteria -- or, sorry, causes of his stress, and I want to bring you through these. It says, the third line:

"In April 2007, I spoke --"

This is Superintendent Curran spoke.

-- to Sergeant Hughes regarding the matter and he responded that his work-related stress was connected with the murder of Baiba Saulite, the issue that arose

1 around the content of the victim impact report supplied
2 by Baiba Saulite to him and the perceived threat to him
3 and his family's safety from Mr. A."

4
5 Do you see these reasons there? 16:00

6 A. Yes.

7 402 Q. Does the recital there given by Superintendent Curran
8 as to what the sergeant had said to him as to the cause
9 of the stress, does that accord with your understanding
10 of what he was maintaining was the cause of his stress? 16:01

11 A. Yes, it does.

12 403 Q. Thank you. And the last question I have for you
13 requires page 37 to be put up on screen, please, and
14 this is the interview that Sergeant Hughes gave to the
15 interviewers, and if we move towards the bottom of page 16:01
16 37, the following is said, five lines from the bottom:

17
18 "His criticism of Mark Curran in respect of the period
19 of July to December."

20
21 And then it says: 16:01

22
23 "Again, my absence for this period was not properly
24 investigated and I believe to be targeting of me in the
25 context of isolation, cover up, suppression of 16:01
26 investigations and an abuse of process. The people who
27 I believe were targeting me in this regard were local
28 management --"
29

1 And we might just go to the next page.

2

3 " -- Superintendent Mark Curran, Chief Superintendent
4 Gerard Phillips --"

5

16:02

6 That's yourself.

7

8 " -- Assistant Commissioner HRM, who I believe to be
9 Catherine Clancy. Also, I believe Dr. Richard Qui gley,
10 Assistant Chief Medical Officer, his continued
11 referrals of me to psychiatric assessment, along with
12 his knowledge that the matters have not been
13 investigated by local managers, represent a
14 discrediting of me. "

16:02

15

16:02

16 All right. You can only speak for yourself. What do
17 you say to the allegation that you personally were
18 targeting Sergeant Hughes?

19 A. I did not target Sergeant Hughes. I have never -- I
20 don't work -- I never worked that way, and I certainly
21 didn't target Sergeant Hughes, and any time I could
22 help him, I did.

16:02

23 MR. MÍCHEÁL O' HIGGINS: Thank you very much.

24 CHAIRMAN: Anything, Mr. Marrinan?

25 MR. MARRINAN: Nothing arising, sir.

16:02

26 CHAIRMAN: Oh, thank you very much. Okay. Thanks very
27 much, Assistant Commissioner, thank you for coming in
28 to help us, and you're now finished and you're free to
29 go and you don't have to come back to us.

1 THE WITNESS: Thanks.

2 CHAIRMAN: Thank you very much. Thanks, everybody.

3 Very good. Have a nice weekend, I hope the weather is

4 all right, and we will see you Monday.

5 MR. MCGUINNESS: Chairman, I was just going to mention 16:03

6 one matter.

7 CHAIRMAN: Sorry, you can go.

8

9 THE WITNESS THEN WITHDREW

10 16:03

11 MR. MCGUINNESS: Our schedule next week, as you know,

12 of course, commences on the Monday, and I was just

13 going to remind some of the parties that the Tribunal

14 won't be sitting in public to take evidence on the

15 wednesday. 16:03

16 CHAIRMAN: Thanks very much. Okay, wednesday, so you

17 have a day off on wednesday or a day to prepare,

18 whatever it is. All right. Thank you very much.

19 Thanks for that. I should have mentioned that and I

20 should have remembered that, Mr. McGuinness, thank you 16:03

21 very much. Lovely.

22

23 THE HEARING THEN ADJOURNED TO MONDAY, 21ST FEBRUARY

24 2022 AT 10:30AM

25

26

27

28

29

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