

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

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

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

HEARING HELD IN DUBLIN CASTLE
ON MONDAY, 21ST FEBRUARY 2022 - DAY 170

170

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.

I N D E X

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1 THE HEARING RESUMED ON MONDAY, 21ST FEBRUARY 2022 AS
2 FOLLOWS:

3
4 CHAIRMAN: Good morning.

5 MR. MCGUINNESS: Good morning Chairman, we're starting 10:30
6 today with the evidence of Mark Curran.

7 CHAIRMAN: Certainly. Thank you very much.

8
9 CHIEF SUPERINTENDENT MARK CURRAN, HAVING BEEN SWORN,
10 WAS EXAMINED BY MR. MCGUINNESS AS FOLLOWS: 10:30

11
12 CHAIRMAN: Thanks very much. We met you before in a
13 previous episode, isn't that right?

14 THE WITNESS: That's true.

15 CHAIRMAN: Thanks very much, chief superintendent. 10:31

16 MR. MCGUINNESS: Chairman, for the convenience of the
17 parties, Chief Superintendent Curran's statement is to
18 be found at page 1023 of our papers --

19 CHAIRMAN: Thank you.

20 MR. MCGUINNESS: -- together with its appendices, 10:31
21 commencing at 1066 and there is a question and answer
22 supplement, as it were, to be found at pages 7818
23 onwards.

24 1 Q. You are still serving in An Garda Síochána, and you are
25 currently holding the rank of chief superintendent? 10:31

26 A. That's correct, Chairman.

27 2 Q. Where are you serving at presently?

28 A. Currently in Ballymun Garda Station which covers the
29 DMR northern division.

1 3 Q. DMR North. Now, I think you were originally promoted
2 to the rank of superintendent in June 2004 --
3 A. That's correct.
4 4 Q. -- is that correct? And I think you served in a number
5 of different districts, including Roscommon and Lucan? 10:32
6 A. Yes.
7 5 Q. And one other I think, is that right?
8 A. Then I went to Coolock on the 6th March '07 from Lucan.
9 6 Q. Yes. And you were transferred there from Roscommon
10 division, is that right? 10:32
11 A. No, I went to Roscommon on promotion in '04 and then I
12 went from -- in '05 I went to Lucan until '07.
13 7 Q. Until '07, okay. Now, we have all seen from your
14 statement, that despite the transfer, you had some
15 responsibility for, I think, some previous incident -- 10:32
16 A. Yes.
17 8 Q. -- serious incident --
18 A. Yes.
19 9 Q. -- that you had been dealing with in your previous
20 district. And just in a general sense, what was the 10:32
21 nature of that?
22 A. It was a road traffic fatality, and a member of An
23 Garda Síochána was involved in the vehicle. So, that
24 occurred on the 4th March, and an investigation had to
25 be launched then. I was really very much involved in 10:33
26 that for some weeks afterwards.
27 10 Q. All right. So, in practical terms, it did deflect you
28 from your new duties as a superintendent --
29 A. That's correct.

1 11 Q. -- would it be fair to say?
2 A. That's true.
3 12 Q. Okay. Now when you came into the district, who was
4 there?
5 A. In terms of management -- 10:33
6 13 Q. In the division as well?
7 A. So, the chief superintendent was Chief Superintendent
8 Gerry Phillips at the time.
9 14 Q. Yes?
10 A. In the district, I was -- the managing team, I think I 10:33
11 had, Inspector Waters was the inspector in charge,
12 Inspector Cryan and the detective inspector was Walter
13 O'Sullivan.
14 15 Q. Yes. Now, you very helpfully set out a description of
15 the role and -- rank and role responsibilities 10:33
16 attaching to superintendents --
17 A. Yeah.
18 16 Q. -- and what that envisages on a practical level. And I
19 don't intend to take you through that. But you set out
20 various duties there, at the bottom of page 1029 10:34
21 onwards, and at number 12, if we just look at page
22 1030, it's a HR sort of description: dealing with human
23 resource matters, for example training, transfers --
24 it's on 1030 -- bullying and harassment allegations,
25 managing and monitoring of sick leave and other 10:34
26 absences and welfare related issues.
27 what sort of practical experience had you got in that
28 area in particular by the time you moved to Coolock?
29 A. Well, basically, the way this works in every district

1 is somebody has responsibility and reports to the
2 superintendent, so it's a type of -- the administration
3 is done by an individual or individuals. In Coolock at
4 the time, there was, the staff sergeant was Sergeant
5 Fitzpatrick. So, when I came to Coolock, he would have 10:35
6 managed a lot of it. It's a very big district. The
7 biggest district I had previously, Roscommon was
8 probably - I am guessing now - 110 and Lucan was 150,
9 and this was a district with about, so it ranged
10 between 250 and 280 guards at any one time. So, my 10:35
11 experience was limited enough, but okay, enough to -- I
12 mean, I also was an inspector in charge in the
13 Bridewell previously for a number of years, so I had a
14 pretty decent understanding of that responsibility.

15 17 Q. Yes. Now, normally, as I understand it, when you're 10:35
16 taking over a district, you'd expect to get a briefing
17 from the previous superintendent?

18 A. Yes, the previous superintendent had retired on the
19 12th November I think it was.

20 18 Q. Quite sometime before that? 10:35

21 A. Yes.

22 19 Q. And he was unavailable I take it then?

23 A. Yes, I never met the man. I think I saw him at a
24 funeral years later.

25 20 Q. Then Inspector Waters then, as we know, had been acting 10:36
26 superintendent, and did he give a briefing in relation
27 to matters?

28 A. I'm sure he did. I would have sat down with him for a
29 few hours, as I would have with Inspector Cryan.

1 Normally we'd have an inspector in every unit, in this
2 case we only had one unit inspector effectively, that
3 was Inspector Cryan, so there was a big demand on those
4 two inspectors at the time. So, the two of them would
5 have filled me in, as would Walter O'Sullivan in terms 10:36
6 of the crime brief.

7 21 Q. Right. And when you arrive in the district, is it your
8 practice to visit the various stations that are in the
9 district or --

10 A. Yes. 10:36

11 22 Q. -- form part of a sub-district?

12 A. Yes, that would be the standard.

13 23 Q. And did you visit Swords at the time?

14 A. I'm sure several times I would have gone out there,
15 yes. 10:36

16 24 Q. We know Sergeant Hughes had been out on sick leave,
17 certified by his own doctor for work related stress --

18 A. Yes.

19 25 Q. -- from late December until the 3rd of March. And
20 then, he resumed duty on the 6th March. Would you have 10:37
21 been aware of that issue?

22 A. Probably afterwards. I have a recollection of someone
23 telling me that Sergeant Hughes, and I think -- I'm not
24 sure if Garda Nyhan, but Sergeant Hughes had returned
25 off sick leave. But again, the way it was working for 10:37
26 me, I was probably doing two hours a day, maybe three
27 hours a day in Coolock, maximum, in the first few weeks
28 because I was over in Lucan.

29 26 Q. We have in our papers a report from Sergeant

1 Fitzpatrick of the 6th March, it's directed to Sergeant
2 Hughes asking him to produce a sick cert for the last
3 week of his absence --

4 A. Yes.

5 27 Q. -- when he returned on the 6th March. And is that 10:37
6 something you'd be aware of, or you'd expect him to be
7 routinely doing on his own initiative?

8 A. I'd expect that is something he would do routinely.
9 That sort of detail wouldn't really cross -- I mean
10 there is -- I know in Coolock one time I did a survey 10:38
11 and just in the office alone there was a thousand
12 documents going through a week, it's now 3,000. So
13 there's huge volumes. You can only hit the higher end
14 stuff and the routine is left to other people.

15 28 Q. Yes. Within a week of returning to duty his solicitors 10:38
16 were writing to A/C HRM, to Assistant Commissioner
17 Clancy, and perhaps we'd just look at that letter --
18 1277. And it's dated the 13th March. It's date
19 stamped as having been received on the 26th, it would
20 seem. And he is referring there to a previous matter 10:38
21 in the first sentence, which seems to be a previous
22 disciplinary matter. Would you have been briefed about
23 that on your arrival or soon after your arrival?

24 A. No, where does it say discipline in that?

25 29 Q. It's the first paragraph, that's what we think it's 10:39
26 relating to: "A matter to be reviewed."

27 A. No, I know nothing about that, no. All I would have
28 known is that Sergeant Hughes had returned. I wouldn't
29 have known much about the background to anything that

1 happened, you know.

2 30 Q. Just the second paragraph then deals -- refers to the
3 issue of the murder of Baiba Saulite, et cetera. What
4 was your knowledge of that?

5 A. Em, of which piece now? The abduction, is it? 10:39

6 31 Q. Well I mean, what did you know about it? Had you any
7 familiarity with the abduction file or --

8 A. Limited. There would have been a briefing from someone
9 that Sergeant Hughes was involved, along with others,
10 in investigating that case, and also had been engaging 10:40
11 with the late Ms. Saulite. That's about it really. I
12 wouldn't have gone into a huge amount of detail or
13 understood that there was any complication around that,
14 to be honest with you.

15 32 Q. Yes. The third paragraph then relates to the person 10:40
16 suspected of having done it. And then the fourth
17 paragraph relates to a newspaper report. Was that
18 something you would have known --

19 A. No.

20 33 Q. -- the headline that was published before Christmas, 10:40
21 very soon after the murder?

22 A. No, no.

23 34 Q. Okay. The next page then goes on to, if we look at
24 that, it goes on to deal with an investigation, and a
25 feeling of isolation there. 10:40
26 Had you known, when you arrived in your new office, as
27 it were, about what investigations were going on at the
28 time relating to Sergeant Hughes?

29 A. No.

1 35 Q. Okay. The second paragraph there complains about the
2 manner in which he had been treated by his authorities,
3 as set out above. And about a fear for his life there.
4 Was that something that was brought to your attention;
5 any special protection measures for the sergeant or...? 10:41
6 A. No. I'm sure someone would have said that he was in
7 fear of his life, you know, as a result. And looking
8 at the file, it just reminded me that someone must have
9 said something to me that there was special safeguards
10 put in at the time for him, and I'm sure it was a 10:41
11 stressful time for him.

12 36 Q. Yes. The third paragraph, if we scroll down, relates
13 to then an investigation. Did you know anything about
14 that at the time?

15 A. Not too much. I think Mangan, the Inspector Mangan, I 10:42
16 knew there was something there, but I didn't know -- I
17 didn't know whether it was Mangan was investigating
18 Hughes or Hughes had reported something to Mangan for
19 investigation, I wasn't sure.

20 37 Q. Yes. Inspector Mangan wasn't from your division or 10:42
21 district, isn't that right?

22 A. No, he was a detective inspector inside in Store Street
23 I believe at the time. I don't really know him very
24 well at all. And he would have worked for then Chief
25 Superintendent Feehan, who was the Chief North Central. 10:42

26 38 Q. Yes. In the second last substantial paragraph there,
27 there is a phrase in the sentence in the middle:
28
29 "In addition, no assistance has been provided to our

1 client even in the limited circumstances of the 'peer
2 support' system which is available. "

3
4 would you -- what would you understand by the peer
5 support system in that regard? 10:42

6 A. Em, that's a system where there's some member, a
7 colleague, has received training and understands that
8 early intervention can be very important in terms of
9 people who suffer from trauma or who have been exposed
10 to traumatic episodes. So, the peer support then 10:43
11 really gives way to the welfare service, if that person
12 elects to -- and the employee assistance service -- if
13 the member decides to avail of that. So, I would take
14 it, it would be an assumption for me, it's quite normal
15 for me to ask that question in relation to every 10:43
16 incident, I take it my colleagues would do the same.

17
18 So peer support is in the early days more so, but it
19 can extend in for a longer period of time. And I would
20 expect all of that was provide and given to Sergeant 10:43
21 Hughes at the time by me. I'd be surprised if I wasn't
22 told that happened actually, but I have no memory of
23 it.

24 39 Q. Yes. The last sentence of that paragraph goes on to
25 say: 10:43

26
27 "Also, our client requires the payment of allowances,
28 having been on sick leave as a result of injury on
29 duty, and this requires the certification of the

1 divi sional officer and we would be obliged if you would
2 provide for this."

3
4 Now, did you know, when you took over, or fairly
5 shortly afterwards, that Sergeant Hughes had been out 10:44
6 on the basis of a certified work related stress,
7 certified by his general practitioner?

8 A. I probably did, you know. I probably did.

9 40 Q. This issue relates to a payment of allowances, and what
10 was your understanding at the time? Obviously it would 10:44
11 seem that Sergeant Hughes wasn't pay effective in terms
12 of his basic pay at this point in time, isn't that
13 right?

14 A. That's right. Well I think -- he had returned to work,
15 so I think the pay effect happens after six months in 10:44
16 those days, so, the allowances piece I think was
17 treated afterwards when he sent in an application, up
18 to the CMO.

19 41 Q. Yes. But just to sort of deal with your understanding
20 of the matter, as a new superintendent in this 10:44
21 district, is it correct to say that unless and until
22 somebody had clocked up, as it were, 183 days of sick
23 leave absence, they would still be getting their full
24 pay?

25 A. Well, the allowances isn't paid to them if they are not 10:45
26 performing duty, but they would still get the full
27 basic pay, yes.

28 42 Q. The full basic pay?

29 A. Yes.

1 43 Q. After 183 days then, it drops to half pay?
2 A. That's correct.
3 44 Q. Isn't that correct?
4 A. In those days, yes.
5 45 Q. Yes. And then at the time then there was a rolling 10:45
6 four-year period as well, which, if you exceeded 365
7 days absent --
8 A. You go on a pension rate.
9 46 Q. -- you'd be on pension rate?
10 A. Yes. 10:45
11 47 Q. And that later became TRR, isn't that right?
12 A. Yes.
13 48 Q. In 2010?
14 A. Yes.
15 49 Q. Isn't that right? 10:45
16 A. Yes.
17 50 Q. Temporary rehabilitation remuneration, it was called?
18 A. Yeah.
19 51 Q. Could we perhaps just look at the provisions relating
20 to that before we proceed further. I take it that in 10:46
21 2006 you were familiar with the provisions of 11.37 in
22 the Garda Code?
23 A. In simple terms, yes.
24 52 Q. Perhaps we'd look at that at page 6703. And paragraph
25 (1) there under the heading "Injuries" provides: 10:46
26
27 "If a member suffers personal injury and is rendered
28 non-effective or otherwise, a full report of the
29 circumstances should be submitted immediately to the

1 member's divisional officer. When non-effectiveness as
2 a result of an injury exceeds 60 days in any period of
3 90 days the report will be forwarded to the Assistant
4 Commissioner Human Resource Management. A decision
5 regarding culpability will be made locally by the
6 divisional officer except in cases where:

10:46

7 (A) the divisional officer is of the opinion that the
8 injuries were due to wilful default or negligence on
9 the part of member;

10 (B) the divisional officer has a doubt about the
11 matter.

10:47

12 In such cases the file will be forwarded to the
13 Assistant Commissioner Human Resource Management for
14 directions."

10:47

15
16 Then if we go down to number (4), subparagraph (4) down
17 the page it deals with the issue of injuries -- just to
18 read it, I suppose:

19
20 "Injuries sustained without wilful default or
21 negligence by a member in the discharge of duty, if of
22 a serious nature are likely to affect health or
23 condition of health permanently or eventually to
24 incapacitate in the performance of a duty, will be
25 recorded at Headquarters. When the member resumes duty
26 a certified copy of such record will be forwarded to
27 and acknowledged by the member. A note of this record
28 having been made will be entered into the member's form
29 D6 and the Headquarters number quoted. If the member

10:47

10:47

1 has not received this record within a reasonable period
2 after resumption of duty, an application should be
3 made, unless already informed that the injury is not
4 recorded. Only such injuries as are recorded, or are
5 eligible for recording or under consideration for 10:48
6 recording will be considered in the event of a member
7 ever applying for a special pension on the grounds that
8 the member has been incapacitated by an injury received
9 in the execution of duty."

10
11 So, there doesn't appear to be any work related stress
12 sort of consideration there?

13 A. No.

14 53 Q. And there wasn't at the time, isn't that correct?

15 A. No. And I think actually, Liam Hughes mentioned 10:48
16 afterwards it's silent, it's silent in relation to
17 stress matters.

18 54 Q. Yes. Had you ever previously, up to this point, been
19 asked to conduct an investigation into work related
20 stress, or to try and delve into how a member viewed 10:48
21 their health as being affected by work related stress?

22 A. I can't recall. But it's likely I did, but the
23 difference here would be that if there was an incident,
24 it would have been relating to someone who got
25 assaulted, it was directly linked to -- 10:49

26 55 Q. A straightforward --

27 A. A straightforward. Not a complicated version, no. I
28 hadn't dealt with.

29 56 Q. In terms of a resumption of duties, the Code refers to

1 return to work interviews in different circumstances,
2 and after relatively short periods of absence, isn't
3 that correct?

4 A. That's correct.

5 57 Q. And in the ordinary way with Sergeant Hughes returning 10:49
6 to work in early March, I suppose it wouldn't
7 necessarily be known when he might appear, would that
8 be usual? A member is out and then they --

9 A. Yeah, I think --

10 58 Q. -- reappear? 10:49

11 A. -- they could just appear on a particular day
12 unannounced possibly, yeah. And, the way that works in
13 somewhere as busy as Coolock is, it's the line manager
14 that deals with that sort of issue. So, I'm not sure
15 -- I don't think Liam was met -- is that what one of 10:50
16 his points is?

17 59 Q. Yeah, I am just wondering, was there any advance
18 knowledge, as far as you know, that he was actually
19 returning on the 6th?

20 A. No. I wouldn't have a clue. I mean, I landed and it 10:50
21 was just -- like, of all my service of nearly 40 years,
22 Coolock is just off on its own orbit. It's very, very
23 busy. So, a detail of that level you wouldn't pick up
24 unless it's very -- you know.

25 60 Q. And he was based exclusively in Swords, as I understand 10:50
26 it?

27 A. Yes, he was in the community policing unit in Swords.

28 61 Q. And what local officer would, or perhaps should have
29 been involved in a return to work interview?

1 A. I think there might have been a technical issue there,
2 in that Inspector Cryan hadn't been allocated to Swords
3 and then we have a short of inspectors, so, we were two
4 unit inspectors short, that might have been an issue
5 that caused that, you know. Having said that, I would 10:51
6 expect that, you know, an inspector that came across
7 Sergeant Hughes would have the conversation with him
8 seeing that he was out, you know.

9 62 Q. We have heard that Sergeant Hughes, and his position,
10 was brought to your attention by Sergeant Camillus 10:51
11 Fitzpatrick on the 23rd April?

12 A. Yes.

13 63 Q. Could you just outline those circumstances insofar as
14 you recall them?

15 A. My memory was that I got a call from Sergeant 10:51
16 Fitzpatrick, and he said something that -- the way I
17 picked it up is that Sergeant Hughes was in a bad way.
18 And then he mentioned something about Inspector Mangan
19 and I think the comment he quotes me as saying is stay
20 out of the loop. So, to say out of the loop. I am not 10:51
21 the loop of that, he is working outside of the normal
22 channels of communication. And the engagement that
23 Sergeant Hughes had with Inspector Mangan was -- I had
24 no line of sight of it or authority over it. So,
25 that's where the stay out of the loop is. It does, for 10:52
26 a deliberate reason, to exclude the superintendent in
27 Coolock, that's the way I saw it.

28 64 Q. Can I just interrupt your answer --

29 A. Yeah.

1 65 Q. -- if you don't mind? This has been quoted by Sergeant
2 Hughes has having been said by Sergeant Fitzpatrick I
3 think apparently quoting you, but was there such a
4 comment made by you to Sergeant Fitzpatrick?
5 A. Well I may have -- I can't remember exactly it because 10:52
6 we're going back a long time, but I would have said, I
7 was staying out of the loop. I wasn't going to go to
8 Mangan directly or anything like that, to intervene,
9 because he is now coming off channel to me already.
10 And so, that's why I would have said that type of 10:52
11 thing.
12 66 Q. So, any comment of that nature was in relation to your
13 position, is that right?
14 A. Yes, that's what I would have thought, yeah.
15 67 Q. In response to something that was said about Inspector 10:52
16 Mangan's inquiry, is that right?
17 A. I got the impression, in the Mangan inquiry, the import
18 for me was that he had heard nothing back. There was
19 something there. So I didn't feel it was my job to
20 link in, you know, subject to what Sergeant Hughes said 10:53
21 to me later on, it wasn't my job to do that.
22 68 Q. So, was it to your mind a complaint about something, or
23 really just a concern that he had heard nothing back?
24 A. Heard nothing is what I -- that's my understanding,
25 yeah. 10:53
26 69 Q. Okay. And what else, what else did Sergeant
27 Fitzpatrick say to sort of express his concern about
28 Sergeant Hughes's welfare?
29 A. I just got the impression he said he is in a bad way,

1 so... And that would have prompted me then to make
2 contact with him directly.

3 70 Q. well, did he suggest -- he, Sergeant Fitzpatrick --
4 suggest you should come and see him?

5 A. He may have, he may have. 10:53

6 71 Q. All right. I think you did leave Coolock Garda Station
7 and drive to Swords to meet him, is that right?

8 A. Yes.

9 72 Q. On that day?

10 A. Yes, I think I may have made an arrangement with him,
11 with Sergeant Hughes. 10:54

12 73 Q. Okay. Now we know that generated a report where you
13 set out five particular matters which the Tribunal has
14 seen, and perhaps we'd just look at page 1067 briefly.
15 And you set out a list here of issues which he believed 10:54
16 are outstanding and requested that he receive
17 communication regarding same.

18 Now, Sergeant Hughes has given a picture of you in a
19 statement and his evidence, you sort of scribbling
20 notes on a bit of an envelope or a bit of brown paper 10:55
21 or... do you recall that you did take notes?

22 A. I took notes on a piece of paper. whatever, I don't
23 know, it was an envelope, there mightn't have been some
24 other piece of paper to hand.

25 74 Q. This was in your office in Coolock? 10:55

26 A. No, no, it was in Swords.

27 75 Q. It was in Swords?

28 A. Yes. I would say, I think it was the community
29 police's office in Swords, and -- yeah, so I took

1 notes.

2 76 Q. Yeah. And do you want to refer to the five items there
3 and give the Chairman your recollection of whether
4 anything more was said or how they were explained?

5 A. Em, I have no memory of the meeting, the content of the 10:55
6 meeting. Just to start off. My memory is of Sergeant
7 Hughes -- looking at the Sergeant Hughes, and I nearly
8 feel it was at the end of the conversation, and he was
9 a type of distressed or in fear of his life. That was
10 my concern leaving there. And that's the impression, 10:55
11 that was the most dominant impression I got of the
12 whole meeting. I have no recollection of the
13 discussion, other than I took notes. And if I was to
14 venture as to what happened in the meeting, I would say
15 I would have given him assurances that there was no 10:56
16 intelligence or no information that there was any
17 threat to his life in any way. And because I would
18 have thought that -- that would have been the first
19 thing, if there was a threat to any member's life I
20 would get that in any briefing straight away. So -- 10:56
21

22 My other memory of that, probably prompted by Sergeant
23 Fitzpatrick's mention of the Mangan report, was that he
24 heard nothing back. And he was waiting for something
25 back. So, that meeting, when it concluded, I went back 10:56
26 to Coolock -- this is my memory is and is telling me --
27 that I went back to Coolock, wrote out the notes, a
28 draft of this document. Then I rang Sergeant Hughes,
29 went -- read over the draft to him, he made a

1 considerable amount of changes and then I rang him back
2 again after those changes were done, and I would say
3 there is probably 15 or 20 minutes in that, when I rang
4 him back afterwards. And he was then happy with the
5 document as we see there now.

10:57

6 77 Q. All of this was done verbally. I mean, there was no
7 question of faxing a draft or...

8 A. No. And this is in '07, there was no e-mail available
9 in An Garda Síochána at the time.

10 78 Q. But are you clear in your memory that you discussed the
11 draft and he even suggested some changes in it?

10:57

12 A. I gave -- you could say editorial control went to him
13 on this document.

14 79 Q. Okay. In paragraph 5 there, at the bottom, the last
15 sentence says:

10:57

16

17 "He is under the care of a medical professional who has
18 certified his ability to perform tasks."

19

20 Had he -- did he refer to work related stress in any
21 direct way or any issue?

10:58

22 A. I can't remember. I mean, like, I can't remember, no.

23 80 Q. Yes, okay. And insofar as reading it over to him and
24 him being satisfied, was that all on the same day that
25 you had met him?

10:58

26 A. I think so. I think so. And I think it was done -- I
27 was writing it -- so, to go back, this was done in long
28 hand, so that's why it would have taken a bit of time,
29 maybe a longer time to do it, and that's why I had to

1 ring him back afterwards, you know.

2 81 Q. That's what I was going to ask you. This document is a
3 typed report --

4 A. Mmm.

5 82 Q. -- setting out the issues. This was not read back to 10:58
6 him but what was read back to him was a long hand --

7 A. Yes.

8 83 Q. -- 1 to 5, setting out these issues --

9 A. Yes.

10 84 Q. -- as recorded here? 10:58

11 A. As recorded here. And I left it out for typing, and
12 that's the routine of dealing with that then. So it
13 went into the typist, and I wasn't there, and obviously
14 I wanted it to go. So, Inspector Waters signed it on
15 my behalf. 10:59

16 85 Q. And that would be normal routine, for your inspector to
17 send out correspondence on your behalf?

18 A. Something of an urgent nature, yeah.

19 86 Q. Sergeant Hughes's account to the Tribunal and in his
20 evidence said that, you know, he communicated, you 10:59
21 know, quite different, more extensive concerns to you
22 about matters, including what's been referred to in a
23 general way as systems failures issues.

24 A. Yes.

25 87 Q. Have you any recollection of that in any shape or form, 10:59
26 or with that appellation on it, as it were?

27 A. No, I don't. And no, I just can't remember the meeting
28 but I can't -- I'd also say that if he did say
29 something as pronounced as that I would have acted in a

1 different way. I mean, it would have been in the
2 report. He had control of that report, first of all,
3 but if something is said the way he said it to it me it
4 may have generated a separate report. And I think I
5 also would have asked him quite a few questions about 11:00
6 what he meant by that. And also, I think it's a
7 striking term actually. It's not a term that would
8 have been used in anyway in management terms or
9 management language at the time. So, I think it would
10 have stuck with me. That's my own real memory. 11:00

11
12 And also, I suppose, one of the reasons I don't have a
13 memory of this is because it was captured, and we say
14 'the job was done' and there weren't any, say, trailing
15 wires in it. 11:00

16 88 Q. Okay. He embodies his concerns in a report to
17 Inspector Della Murray slightly later in June...

18 A. Yes.

19 89 Q. And he gave evidence in relation to those also. And
20 perhaps if we just look at Day 159 of the transcript, 11:01
21 where he is giving evidence about these, by reference
22 to the document. And it's at page 86 of the transcript
23 on Day 159, going into 87, where there is considerable
24 detail given, as we will see. Just bear with us, chief
25 superintendent. 11:01

26
27 I think that report, in any event, was forwarded, the
28 one we have just looked at, to the Chief Superintendent
29 Phillips.

1 A. That's correct, Chair, yes.

2 90 Q. And if we go to page 86 of the transcript. And this is
3 where he is expanding his concerns, and if we look at
4 there from line 18, it says:

5
6 "Now, the first concern in that paragraph you have is
7 that there was no supervision." 11:02

8
9 And then on the next page he is quoted as following
10 there -- if we scroll back up: 11:02

11
12 "I am concerned that there were two "conspiracy to
13 murder" threats on John Hennessy's life and that Mr. A
14 was suspect for these threats. It disturbs me, given
15 the potential threat to the life of John Hennessy, that
16 an investigation akin to a murder investigation was not
17 arranged, particularly since his house had already been
18 the subject of an arson attack before the "contracts"
19 were placed on him. In fact, I am aware that John
20 Hennessy was also concerned at the apparent lack of
21 Garda attention to his life prior to Bai ba's murder."

22
23 Now, do you recall Sergeant Hughes raising any concern
24 about Mr. Hennessy in any detail or at all?

25 A. I can't remember. I think at this stage Mr. Hennessy 11:03
26 had protection on him.

27 91 Q. Yes.

28 A. Garda protection. So, I can't remember anything that
29 -- nothing -- I have no recollection of any prior to

1 that meeting.

2 92 Q. It goes on to deal with the issue of the next quote:

3

4 "I am concerned that the incident of criminal damage
5 (arson) to Ms. Saulite's car in the weeks prior to her
6 murder was dealt with only as that, an isolated
7 criminal damage incident and investigated by members
8 from Malahide station. Again, this appears to have been
9 left as a separate investigation."

10

11 Do you recall any reference that he made to the arson
12 of Ms. Saulite's car?

13 A. I don't. I don't recall anything like that. It's
14 possible that he did, and I mean, again, I'm saying
15 this -- if I was to speculate, the only thing I 11:04
16 remember this, about Liam, was that he was in fear of
17 his life at this meeting. And that would have been in
18 the context of explaining maybe why he was in fear,
19 that there was mention of anything like that, of
20 Hennessy or any other matter, but again -- I can't 11:04
21 remember.

22 93 Q. Yes. The next one recorded there is, he is quoted as
23 saying:

24

25 "I am concerned that having dealt with the abduction 11:04
26 case for almost two years little or no intelligence was
27 furnished to me by the Garda authorities concerning the
28 grave threat he posed to the witness in the case, yet
29 within four days of Ms. Saulite's death the Circuit

1 Court was told that Mr. A was capable of murder if
2 released on bail."

3
4 Do you recall any concern about intelligence that
5 hadn't been shared about this dangerous person? 11:05

6 A. No. As I say, I can't remember. But what I would say
7 is that if there was something for me to act on, I
8 would have done it. And I would also say that, as I
9 say, he had editorial control of that document, that
10 one dated the 24th April. But anything that required 11:05
11 investigation was being dealt with by Mangan. So --
12 and then, I just -- I can't remember any part of the
13 conversation, that's all. You know.

14 94 Q. If we just go onto the next page, 88 there then. He is
15 quoted there as expressing the following: 11:05

16
17 "I am concerned that the inquiry is focusing strictly
18 on the meeting that Baiba Saulite had with myself and
19 Garda Nyhan at Swords Garda Station in the days prior
20 to her death." 11:05

21
22 Did you -- A) did you know anything about that issue of
23 a victim impact statement or a meeting prior to her
24 death?

25 A. I knew something about the victim impact statement, 11:06
26 but little, not too much to be honest, you know. And I
27 take it from the document itself, obviously it was an
28 item for discussion, and he was in fear of being
29 disciplined as a result.

1 95 Q. Yes. Again, quoting from the report to Inspector
2 Murray, he says:
3
4 "I have already informed a superintendent and two garda
5 inspectors that I have serious concerns as set out 11:06
6 above."
7
8 And he is asked who he is referring to. He says
9 Superintendent Curran and Inspectors Waters and Cryan.
10 Would you like to respond to that? 11:06
11 A. Neither of them said anything to me. The only thing I
12 knew about that was that Inspector Mangan had met with
13 Sergeant Hughes and I wasn't sure of which way it was:
14 was it a complaint or an investigation into Hughes?
15 96 Q. Yes. And looking at the totality of those issues, if 11:07
16 those issues had been mentioned to you, do you expect
17 you would have made note of them?
18 A. I don't know. I would have thought that whatever
19 issues were mentioned to me were captured in that note,
20 and the word "investigate" would have implied that 11:07
21 there was something for Inspector Mangan to do in his
22 report.
23 97 Q. Sergeant Hughes has gone on to tell the Tribunal that
24 he, at this point in time, was somewhat apprehensive
25 and fearful of reporting matters in a very direct way. 11:07
26 Did you experience -- or did you apprehend any degree
27 of reticence in how Sergeant Hughes was dealing with
28 you on this day in April?
29 A. Em, I can't remember. But I would think something

1 tells me he wasn't sharing what was in the Mangan
2 report with me.

3 98 Q. Did you come away from the meeting with any sense that
4 Sergeant Hughes was reporting a sort of wrongdoing that
5 was being covered up, and that he was making a 11:08
6 complaint to you that you had to pass on in that
7 regard?

8 A. No. And that's my point. I would have felt obliged if
9 he had said something so pronounced. But also, the
10 fact that the -- the investigation piece was being 11:08
11 covered by Mangan meant I had nothing further to do,
12 other than to go off and deal with the other issues.
13 And primarily was the threat to his life, which I set
14 off and made a lot of enquiries into relation to.

15 99 Q. One of the items in the list as recorded it is a -- at 11:09
16 number 5 -- the prospect of discipline proceedings
17 being maybe contemplated against him.

18 A. Yes...

19 100 Q. Did he go to any detail of why that might be, or what
20 it related to, as far as you can recall? 11:09

21 A. I can only see, it's basically arising out of the
22 victim impact statement. So, again, I can't remember
23 the meeting but he was worried that the fact that the
24 victim impact statement had said something that
25 suggested there was a threat to his life that he hadn't 11:09
26 reacted on obviously left him exposed.

27 101 Q. It would appear that Chief Superintendent Phillips made
28 a report back to you, and I don't think at this remove
29 you have any memory of having received it?

1 A. No, but I do think it's -- I just, I can't rely on my
2 memory on this one, but I do -- like I feel I may have,
3 like when I did the statement I didn't think I did have
4 it, but I do have some very basic memory of something
5 of it now. And I know in subsequent phone 11:10
6 conversations, that I don't have a record of, with
7 Sergeant Hughes, and there would have been quite a few,
8 I believe, by June, I would have dealt with each of
9 those issues, primarily the issue of the threat to his
10 life, which I had made a number of enquiries on. 11:10

11 102 Q. Yes. We perhaps should look at the reply, page 3873,
12 from Chief Superintendent Phillips. And he deals with
13 them in the sequence in which they are set out by you.
14 Number 1:
15 11:11

16 "There is no evidence from any quarter that Sergeant
17 Hughes or his family is or was under threat in relation
18 to the Bai ba Saulite murder."
19

20 Obviously, if that was, as you understood it, one of 11:11
21 his primary concerns, is it likely that you would have
22 then communicated that to the sergeant?

23 A. Oh, I did. I know I had several conversations around
24 that.

25 103 Q. And can you recollect how he reacted to that? Was he 11:11
26 comforted by that or was he clinging to another view?

27 A. Em, my memory of that is he said the absence of
28 intelligence doesn't mean there is no threat.

29 104 Q. Right. And issue number 2 says:

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"This issue will be raised with Chief Superintendent Feehan."

And that was the ongoing Mangan report, isn't that right?

11:11

A. Yes.

105 Q. And did you understand that that was an issue that you were meant to raise with him or that Chief Phillips was going to do?

11:12

A. I had no contact with Chief Feehan about this, any of this.

106 Q. Okay. And did you know that Chief Superintendent Feehan was doing a fact-finding mission?

A. To be honest, I probably didn't, until I heard Feehan and then it made sense that he was his divisional officer and Mangan was tasked to do it on his behalf.

11:12

107 Q. Yes. As a district officer, would you be consulted by an investigating chief superintendent about whether somebody should be recommended for discipline?

11:12

A. No. If it was in my division and my chief superintendent at that time, yes. No.

108 Q. And presumably, if you had been aware of some member's conduct that warranted investigation in the district, you would have an input into --

11:12

A. Yes.

109 Q. -- either a fact-finding mission --

A. Yes.

110 Q. -- or a recommendation to go to HRM, would that be

1 right?

2 A. No, I'd say to the person making the decision.

3 111 Q. The appointing officer, is it?

4 A. Yes.

5 112 Q. And -- 11:13

6 A. Not necessarily. It's only if he sought it.

7 113 Q. Pardon?

8 A. Only if he sought the information.

9 114 Q. Only if he sought it?

10 A. Yes. 11:13

11 115 Q. Now, presumably you knew Assistant Commissioner McHugh?

12 A. Yes.

13 116 Q. And did you have any conversation with him about any
14 conduct of Sergeant Hughes?

15 A. No. I don't think I spoke to Assistant Commissioner 11:13
16 McHugh about Sergeant Hughes. And I would say even
17 then, it was 2012 in the High Court, and even then it
18 was about the issue of the day rather than Sergeant
19 Hughes.

20 117 Q. Did you have any discussion with him about the 11:13
21 initiation of the disciplinary proceedings?

22 A. No contact whatsoever.

23 118 Q. Or the basis of it?

24 A. No contact whatsoever. And no understanding of why a
25 discipline started. 11:13

26 119 Q. Number 3 on this list:

27

28 "Superintendent Denny carried out a thorough
29 investigation in relation to an article in the Sun

1 Newspaper, the result of which was exaggerated by the
2 author of the newspaper item."

3
4 Now, the Tribunal has heard that Inspector Cryan was in
5 a position to brief Sergeant Hughes about the 11:14
6 interviewing of the journalists, and Sergeant Hughes
7 wanted arrests to take place. Did you know that that
8 was an issue for him, that -- had he raised it in that
9 way when you met the previous day or...?

10 A. Obviously he did, when it's there. And I went off and 11:14
11 I know I spoke to the then Detective Inspector Denny
12 around his investigation and what the outcome of it
13 was. And I remember the word "tabloidised" was the
14 word that he used; that there was no evidence that it
15 should be of concern to Sergeant Hughes arising out of 11:14
16 his investigation. I know I then spoke to Sergeant
17 Hughes with that and used that term, and I know in
18 those subsequent conversations Sergeant Hughes would
19 have said something to me along the lines that he knew,
20 having made enquiries through his own solicitor, that 11:15
21 there was no threat of -- they didn't -- the article
22 didn't reveal any information that wasn't known.

23 120 Q. Okay. But he told you that he had known that from his
24 solicitors himself, is that right?

25 A. Yes. 11:15

26 121 Q. Number 4 there:

27
28 "Sergeant Hughes is not the subject of discipline in
29 relation to Garda [blank] allegations."

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That seems to be the historical one. Did you -- were you in a position to relay that back to Sergeant Hughes?

A. I am sure I did. I would have, like, checked all these. Anything I could have got access locally, I would have done it. 11:15

122 Q. The fifth issue is a question:

"Has medical advice been sought from the CMO Garda HQ in relation to the stress Sergeant Hughes has suffered since the murder of Ms. Saulite? 11:15

Has the welfare officer been contacted in relation to Sergeant Hughes? " 11:16

This appears to be the first issue, the first time an issue was raised with you about Sergeant Hughes's stress, is that right?

A. Formally, yes, I'd say, yes. 11:16

123 Q. Then, in the paragraph below, the 1 to 5 it says:

"Superintendent Current should review the current duties being performed by Sergeant Hughes to ascertain are his current responsibilities, particularly in the area of community policing, suitable and can he be facilitated in his district or in the division accordingly to avoid such stressful responsibilities? 11:16
A report will be submitted to this office within one

1 week in relation to this matter."
2
3 was Sergeant Hughes sort of seeking any change in his
4 duties, to your knowledge, or...
5 A. Not to my knowledge, no. 11:16
6 124 Q. Okay. And have you a recollection of dealing with the
7 last issue there, both in number 5 and in the
8 concluding paragraph?
9 A. Em, I don't have a recollection of that, no. And the
10 paragraph there - was he happy to that I should review 11:17
11 his current duties? - I would imagine I would have said
12 that he was happy to be there. I didn't see any need
13 to move him. He didn't ask. In the report itself,
14 more or less one of the final lines of the 24th April
15 report, he more or less says that he is happy enough to 11:17
16 work there.
17 125 Q. Yes. It would seem at this time that Sergeant Hughes's
18 basic pay hadn't been affected by his absences from
19 work related stress in a direct way.
20 A. No. 11:17
21 126 Q. Did you yourself think it was necessary to carry out an
22 investigation into the stress and/or particularly
23 because of this request?
24 A. Em... no is the answer straight away. But I'm not sure
25 at that point if I was fully aware of what had gone in 11:18
26 in terms of reports and files around his work related
27 stress. I would say -- I was told the matter had been
28 dealt with.
29 127 Q. Pardon?

1 A. Sorry, I don't know if you can hear me. I would have
2 expected someone would have informed me that the
3 appropriate correspondence had been transmitted up to
4 this time. I can't remember anything of complexity
5 arising at that point. 11:18

6 128 Q. Sergeant Hughes appears to have written directly to you
7 in early May in relation to the allowances issue.
8 Could I just ask you to look at that -- page 3877 --
9 and it's headed "Superintendent Coolock - claim for
10 loss of allowances". And it's obviously a polite 11:18
11 inquiry as to his entitlement for claiming loss of
12 allowances resulting from absence on sick leave?

13 A. Yeah.

14 129 Q. And just on that issue, throughout your dealings with
15 him, was he courteous to you? 11:19

16 A. Oh yes.

17 130 Q. And he recites there in the middle paragraph, going
18 out, resuming duty, again reporting sick. And he is
19 respectfully seeking directions as to what procedure
20 should be adopted with a view to recouping an 11:19
21 allowances due. And I think you reply to him on the
22 4th May, if we look at page 3176, one page back. And
23 you have referred to the fact that there is no
24 provision. And that was correct to the best of your
25 knowledge, at the time? 11:20

26 A. It was not done by me, it was done by Inspector Waters,
27 signed on my behalf.

28 131 Q. He acknowledged receipt of that, if we look at page
29 1139. And, again, this is directed to you as

1 superintendent. And it's a slightly different inquiry,
2 in the middle paragraph he says:

3
4 "I respectfully wish to seek clarification with regard
5 to the issue of injury insofar as set out in the 11:20
6 relevant Code Regulations. It is my assertion that my
7 absence on sick leave was as a direct consequence of
8 traumatic occurrences in my workplace. This is also
9 the view of two medical practitioners I am attending.

10
11 The Code Regulations are silent on whether the term
12 "injury" refers to physical injury or otherwise. 11:20

13
14 I respectfully request that this issue be referred to
15 the Chief Medical Officer for determination as to 11:21
16 whether my case falls into the category of "injury on
17 duty". "

18 A. Yes, Chairman.

19 132 Q. And it raises an issue there which has a number of
20 different aspects to it. 11:21
21 Firstly, he is not referring here to work related
22 stress, isn't that right?

23 A. He mentions the word injury, and the traumatic
24 occurrence.

25 133 Q. Yes, but he is asserting that whatever happened to him 11:21
26 is an injury, isn't that right?

27 A. Yes. Well he is looking -- well I'd say he is looking
28 for a certification under 11.37, yes.

29 134 Q. And you sent that on to Chief Superintendent Phillips,

1 isn't that correct?

2 A. That's correct.

3 135 Q. If we look --

4 A. Is it me that signs that?

5 136 Q. Well, that's signed by Sergeant Hughes and that's his 11:21
6 letter to you.

7 A. Yes.

8 137 Q. And had you got a view at that stage that it's purely a
9 medical matter as to whether something is an injury on
10 duty? 11:22

11 A. It would be incidence for me, especially when the word
12 'traumatic' -- even though I didn't deal with it, if
13 you ask me there, it's now traumatic incident, the Code
14 is silent on it and it's a medical issue because it
15 says trauma, and we are not qualified to understand or 11:22
16 diagnose trauma in any way whatsoever. We leave that
17 to the CMO.

18 138 Q. Anyway, if you look at page 1137, you forwarded that on
19 to the chief superintendent. It's just as simple as
20 that with no view on it, with nothing -- or nothing -- 11:22

21 A. Is that the page number? It's ironic 1137 is the page,
22 actually.

23 139 Q. Yes, indeed. And Chief Superintendent Phillips, we
24 have seen, sent that onto the Commissioner, Assistant
25 Commissioner HRM, if we look at page 3878, seeking the 11:23
26 observations of the Chief Medical Officer --

27 A. Yes.

28 140 Q. -- in this case. And in your view was that the correct
29 thing to do at the time?

1 A. Absolutely.

2 141 Q. Did you receive any response to that?

3 A. I think there was something came down to ask me to
4 identify the source of the stress.

5 142 Q. Well, perhaps we'll come to that then in a minute. 11:23
6 The Tribunal has heard, obviously, that in -- on the
7 4th May, while this is going on, this correspondence is
8 going on, that Chief Superintendent Feehan was
9 appointed to conduct a disciplinary investigation

10 A. Yes, I think it was in -- yes, I think it was May I 11:24
11 think, he started off, yeah.

12 143 Q. There was a direction there of the 4th May by the
13 appointing officer. Were you informed of that?

14 A. No.

15 144 Q. Is that something that's not normally done in relation 11:24
16 to a member in your district?

17 A. Em, no. Normally, a discipline is within the division,
18 but I take it in the fact-find that a higher officer
19 was looking at the operation of the division itself,
20 and it's an unusual case that someone of Assistant 11:24
21 Commissioner rank would be doing the discipline in
22 relation to anything that happens in the division, in
23 my district. But I had no knowledge in any way, shape
24 or form, of anything -- or I had no part to play in any
25 part of that discipline process. 11:25

26 145 Q. It's really not whether you have a part, but, there is
27 no routine notification sent to you --

28 A. No.

29 146 Q. -- that one of your members is now under scrutiny?

1 A. I don't think I was notified. I mean I am open to
2 correction that there might have been -- I think there
3 might have been something came down about discipline
4 papers to be served, or something, after the fact, but
5 not in the decision to pursue discipline. 11:25

6 147 Q. Okay. So you'd be aware of the requirement for the
7 member to present himself in order to be served with
8 the --

9 A. Yes. That type of stuff would --

10 148 Q. And they have to acknowledge the receipt of the -- 11:25

11 A. Yes, but that might be done outside of a channel. You
12 know, if someone met them that was involved in the
13 service of papers, it wouldn't have anything to do with
14 me. It's the team that are appointed to do it.

15 149 Q. Sergeant Fitzpatrick, I think, sent you a further sick 11:25
16 report on -- if we look at page 1145, this is on the
17 29th June of 2007. This is after the service of the
18 discipline notice and a work related stress certificate
19 had come in, and he brought that to your attention, is
20 that correct? 11:26

21 A. Look -- yes, I take it from that document, yes.

22 150 Q. You reported that up to the chief superintendent, if we
23 look at page 1161?

24 A. It's his view that it's a matter for the CMO as well.

25 151 Q. Yes. But Chief Phillips wrote to you at the same 11:26
26 time -- if we look at page 1163 -- sort of saying:
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28 "I would appreciate your personal views on the matters
29 raised by Sergeant Fitzpatrick."

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Now, that's perhaps ambiguous. Was that discussed by you with Chief Superintendent Phillips?

A. No, I don't think so at all.

152 Q. And did you go back to him with a personal view? 11:27

A. I can't remember. I know I gave him the source of the stress, yeah.

153 Q. But was it -- was it -- in your mind, was your view being sought as to whether there was work related stress or as to whether it should be referred to the CMO? 11:27

A. Oh to the CMO, referral to the CMO.

154 Q. Okay. The matter appears to have gone from you to Inspector Waters -- if we look at page 1165 -- and you forwarded it to Inspector Waters. Was that for the purpose of inquiring into the work related stress? 11:28

A. I'm not sure if that's the sick report, that he had just gone sick.

155 Q. But superintendent -- or Inspector Waters reports there, at 348: 11:28

"I phoned Sergeant Liam Hughes on [mobile number]. I inquired regarding his health, if he was involving the welfare officer. He said he was out with work related stress. He is receiving an excellent service from Inspector Della Murray, welfare officer." 11:29

And you reported that up, then, to the chief superintendent, if we look at page 1172. This is on

1 the 31st July. And was there some contact between you
2 and Sergeant Hughes in this interim period?

3 A. No, none at that time.

4 156 Q. Okay. It says in the second paragraph:

5 11:29

6 "He is in regular contact with both myself and
7 Inspector Cryan. The stress in which he referred to in
8 previous sick certificates relates to his concerns
9 around the Baiba Saulite murder. He initially had
10 fears about his and his family's safety but that has 11:30
11 abated somewhat in recent times."

12

13 I mean that would appear to relate to something he
14 informed you of?

15 A. Which bit? 11:30

16 157 Q. The last bit in particular?

17 A. This, "family's safety"?

18 158 Q. Yes.

19 A. Oh yes, that would have been an ongoing conversation I
20 had with him since the meeting of the 24th or the 23rd 11:30

21 April, whenever it was. So I would have had quite a
22 few conversations and done a lot of work in relation to
23 research and to be giving him absolute up to date
24 detail to give him confidence. And this is, like, you
25 know, the fact that we're five months after the murder 11:30
26 itself as well. So, I was very familiar with that side
27 of things.

28 159 Q. We know from his evidence, and the documents, that he
29 suffered a pay cut in September of 2007 as a result of

1 the 183-day absence being triggered.

2 A. Mmm.

3 160 Q. Were you concerned as to how that should be dealt with
4 then, or his stress at the time? I mean, certificates
5 were coming in to you all the time, isn't that right? 11:31

6 A. Yeah. The certificate side is a routine matter. I
7 would have -- you know, if they were sent in -- I think
8 there might have been an issue, there was some delay
9 somewhere along the line, but that's the administration
10 side, but the 183A -- I wasn't sure if it was September 11:31
11 or -- but I knew, I think it was Inspector Hanrahan
12 had raised it with me, that -- and the way I saw it is,
13 the matter had gone up to the chief superintendent and
14 gone to the -- for the CMO. And it is my understanding
15 that around that time, sometime mid-July or sometime, 11:31
16 he had got an appointment with a consultant.

17 161 Q. Yes. I mean, I suppose you were never provided with
18 any medical reports --

19 A. No.

20 162 Q. -- either from the CMO or his independent doctors other 11:32
21 than the GP certification?

22 A. No, that's -- I wouldn't -- and even if I did, I
23 wouldn't have -- it's, the person who would make the
24 organisational decision would be, in my mind, the CMO,
25 principally. 11:32

26 163 Q. You don't seem to have been involved, to any real
27 extent, with Sergeant Hughes until a conversation took
28 place between you and him in July of 2008, is that
29 right?

1 A. I would have thought I would have had a conversation
2 before then. I mean, I can't remember. In July '08 --
3 Ah no, I would have, yeah. Because I feel something
4 came down to me in June I think, wasn't it. That's --
5 so that triggered the first conversation in that 11:33
6 summer. I think it was the medical retirement in '08.
7 So that triggered a conversation with him, or a number
8 of conversations with him.

9 164 Q. Yes... perhaps we'd look at your report of July 2008
10 sent up to Chief Phillips -- it's at page 688. And 11:33
11 this appears to have been triggered by the suggestion
12 that there might be retirement on medical grounds,
13 isn't that correct?

14 A. Yes, I had been notified by my authorities that an
15 opportunity was being presented to him that he could, 11:33
16 if he wanted to, retire on medical grounds, and I can
17 see there I rang him on that day, the 18th June, and I
18 do remember thinking it was quite a profound moment, so
19 I have to meet him, and he was happy to communicate by
20 telephone at the time. So -- 11:34

21 165 Q. Inspector Hanrahan appears to record there that he
22 offered to have a meeting with Sergeant Hughes in
23 person but Sergeant Hughes stated his preference to
24 communicate by telephone.

25 A. Em... 11:34

26 166 Q. You didn't interpret that as a refusal to meet, I take
27 it?

28 A. No, no, not at all. I think that was a previous
29 meeting in relation to CMO had some concerns I think.

1 So, the meeting -- it's a similar type of approach, you
2 know, I rang him, in this case, it was in relation to
3 medical retirement. I don't think Inspector Hanrahan
4 was dealing with the medical retirement issue.

5 167 Q. In the second paragraph, you refer to the conversation 11:34
6 there, and then in the third paragraph you refer to a
7 request to meet him. Did you in fact then meet him?
8 A. No. He preferred to communicate by telephone.

9 168 Q. Okay. And did you discuss with him the issue of
10 retirement on medical grounds? 11:35
11 A. Well, I told him there was an offer here. And I think
12 I had faxed it. You can see there I had faxed it. In
13 the days of fax, I faxed the document to his solicitor.
14 And I think in that one, I think on the -- I rang him
15 and then I probably rang him back the next day, or he 11:35
16 rang me back, and there was another conversation. But
17 on the offer to medically retire, he wasn't happy. You
18 can see it there, he wasn't happy because of the record
19 that would infer that he had an infirmity.

20 169 Q. Yes. On the next page, if we just look at that, on 11:35
21 page -- at the top of 689, he says:
22
23 "He stated that he has never been asked as to the
24 reason why he was out sick."
25 11:36
26 You record there that you are aware that Della Murray,
27 welfare officer, had spoken to Sergeant Hughes on a
28 number of occasions. You recall there your
29 conversation:

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"In April 2007 I spoke to Sergeant Hughes regarding the matter. He responded that his work related stress was connected to the murder of Bai ba Saul ite, the issue that arose around the content of the victim report supplied by Bai ba Saul ite to him and the perceived threat to him and his family's safety from [blank].

11:36

He also claimed that An Garda Síochána in his opinion had information in its possession concerning threats to the life of Bai ba Saul ite prior to her murder. He claims that subsequent to Bai ba Saul ite's murder Detective Inspector Walter O' Sullivan (now superintendent Kilkenny) informed him "that the Commissioner was aware of a threat to Bai ba Saul ite's life". Superintendent O' Sullivan in appended report (appendix C) states to the contrary and that Sergeant Hughes was mistaken his recollection of this conversation."

11:36

11:36

11:37

Firstly, when he said that to you on the phone, how did you react to that?

A. I said the first thing is I'll just check with Walter O'Sullivan.

170 Q. And did you phone him straight away then?

11:37

A. Pretty soon afterwards, yes.

171 Q. And was that the first time you heard that being asserted?

A. That's the first time.

1 172 Q. By Sergeant Hughes?

2 A. By -- by anyone I think, yeah. Sergeant Hughes never
3 before that had said it to me.

4 173 Q. You record then that:

5

11:37

6 "Sergeant Hughes added that the Commissioner
7 subsequently issued a press release which declared that
8 there were no specific threats or information regarding
9 Bai ba Sauli te in Garda Station's possession prior to
10 the murder. He now states that he was bullied and
11 isolated by colleagues following the murder. He did
12 not name individuals."

11:37

13

14 Had he ever complained of bullying to you before, in
15 the post-murder period?

11:37

16 A. No. No. I always took the bullying to relate to prior
17 to the murder, and going back some time.

18 174 Q. You record as him stating:

19

20 "He wants closure to this matter and would leave An
21 Garda Síochána on medical grounds if the reason for
22 medical retirement did not detract from his character.
23 He requested mediation in relation to this matter and
24 other matters that he'd raised."

11:38

25 A. Yes.

11:38

26 175 Q. And what was your understanding of what he wanted
27 mediation about?

28 A. My take now is that -- and probably was at the time --
29 that he wanted, he was happy to go with the medical

1 discharge pay without a medical discharge label being
2 put to it.

3 176 Q. Insofar as the disciplinary matters are concerned,
4 there appears to be no mention of them in this report.
5 Was there no mention of it in his conversations with 11:38
6 you on this occasion?

7 A. I don't think so, you know. I'm not saying it wasn't,
8 but I just don't think so. I probably would have
9 recorded it if it did. If there was something he
10 wanted me to do anyway. 11:39

11 177 Q. You were in receipt of a report from then
12 superintendent O'Sullivan, also dated the 17th July,
13 and you obviously had that for the purpose of
14 forwarding it on, isn't that correct?

15 A. Yes, the superintendent -- then, he would have been 11:39
16 recently been promoted and assigned to Kilkenny -- had
17 sent that report up to me on my request to clarify the
18 issue.

19 178 Q. And I think that's at page 1132. And at page 1133 he
20 deals with that suggestion that had been made to you, 11:40
21 and you pass that on?

22 A. Yes.

23 179 Q. Is that right? He had gone on to pension rate in May
24 '08. Was that a matter about which he complained to
25 you? 11:40

26 A. I can't recall, you know. I think Inspector Hanrahan
27 had dealt with him previously. I can't -- if it's not
28 there -- and if there was an issue, I didn't have to
29 actually resolve. You see, a lot of those things are

1 attended to by default. The local management doesn't
2 have any control on it. It's something across the
3 public service. So, it's determined or prescribed to
4 periods of time trigger pay reductions.

5 180 Q. Yes. That is a feature of the system. There is sort 11:40
6 of automaticity involved --

7 A. Yes.

8 181 Q. -- in the matter. When the days pass, no decision is
9 required of you, and no decision that you make gives
10 effect to that, is that right? 11:41

11 A. No, it's something, it's remote to me. It's -- as you
12 say, it's an automatic thing.

13 182 Q. Could we look at a report just a week or so after this
14 from Superintendent O'Sullivan at 4010. This has given
15 rise to some controversy. It's directed to the 11:41
16 Assistant Commissioner, but you have seen that before?

17 A. In the Tribunal documents, yes. I wasn't sure at the
18 time. I'm sure you are going to ask me, but I wasn't
19 sure at the time where the source of it was.

20 183 Q. It would seem that you must have had some contact with 11:41
21 Chief Superintendent O'Sullivan on foot of which he --

22 A. No.

23 184 Q. -- wrote this?

24 A. No.

25 185 Q. No? 11:42

26 A. No.

27 186 Q. So somebody else had relayed this information to him,
28 as far as you were aware?

29 A. Yes, I guess it's someone in the chief superintendent's

1 office at the time. And chief superintendent -- when I
2 say chief superintendent, I think he had obviously been
3 recently promoted and was awaiting transfer, which
4 would have been within a week or so. So, he was gone
5 from the division shortly afterwards. 11:42

6 187 Q. Okay. I don't think you had any further direct contact
7 with Sergeant Hughes until December of that year then,
8 is that correct?

9 A. No, I had contact with him in October.

10 188 Q. In October? 11:42

11 A. 8th October, yes. And that was a report then I think
12 on the 7th November or something. You know, this is
13 where he had raised the issues about his annoyance at
14 the idea that someone -- that he had been told by the
15 CMO or someone up in HRM that he had refused to meet. 11:43
16 So I spoke to him. Inspector Hanrahan had spoken to
17 him previously I think on the same date actually.

18 189 Q. Yes. He had furnished you with a report which had been
19 furnished up clarifying that issue?

20 A. Yes. But there was also other matters that he wanted 11:43
21 to -- he raised other issues around Baiba, in relation
22 to investigation issues and he wanted somebody to be
23 assigned to him, and this is in the 8th October
24 conversation -- he wanted somebody to be assigned to
25 investigate that, all or any of the reports or concerns 11:43
26 that he had reported over the previous years. So that
27 was included in that report.

28 190 Q. Yes. But he was linking it, wasn't he, to his work
29 related stress, is that right?

1 A. Em, I'd say -- more specifically, I would say his
2 frustration about his concerns.

3 191 Q. Yes. You did organise a meeting with him in December,
4 on the 17th December, isn't that correct?

5 A. That's correct. 11:44

6 192 Q. And could you just explain the purpose of that?

7 A. That was, having spoken to him in October, and also,
8 the frustration he obviously experienced when hearing
9 that there was somebody saying that he wasn't meeting
10 us, or wasn't available to us, it would be routine 11:44
11 enough to make contact with people who were out on long
12 term sick, and he was in my mind at the time, so I
13 asked him to come in and meet me. And he did. And
14 there was a meeting, I think it was Inspector Hanrahan
15 and Sergeant McCormack at it. Sergeant McCormack would 11:44
16 be an Association of Garda Sergeants and Inspectors
17 representative and at that meeting he handed a document
18 to me.

19 193 Q. Yes. I think you did a report of that meeting. If we
20 look at page 1094. And this is a report which is 11:45
21 slightly delayed in terms of its -- it's dated the 23rd
22 January, for whatever reason?

23 A. Yes.

24 194 Q. And by this stage, that is the date of the meeting, the
25 17th December, had you been aware that he had made a 11:45
26 complaint to the confidential recipient?

27 A. No, and I knew a confidential -- I knew there was an
28 investigation going, because I think around November
29 somebody had come out to us from the team and asked for

1 correspondence, of which I dealt with personally,
2 because I wanted to make sure that we didn't -- they
3 got everything we had, but also, we retained everything
4 we had. So I don't know if it was Detective Inspector
5 Sweeney or someone I had dealt with, so I knew there 11:46
6 was some investigation going, but I didn't know that
7 Sergeant Hughes was in fact a whistleblower, as a
8 matter of fact I never knew he was until the High Court
9 in 2012.

10 195 Q. And he hadn't mentioned it or hinted at in the meeting 11:46
11 in October?

12 A. No, no.

13 196 Q. This obviously attaches his report. Perhaps we should
14 look at his report in page 1096. And he presented you
15 with this when he arrived, is that right? 11:46

16 A. That's when I think -- that's the document, as far as I
17 remember, yes.

18 197 Q. At the end of the first paragraph he refers to his
19 medical certificates from his GP.
20 In the second paragraph, he refers to the issue of 11:46
21 refusing to attend.

22 At the third paragraph, if we go down to that at the
23 bottom of the page, he raises these issues in the
24 following terms:

25
26 "As you are aware, there are a number of work related
27 issues outstanding which I believe have caused my
28 illness. I reported matters of serious workplace
29 concern to a number of inspectors and indeed may I 11:47

1 respectfully say to you personally between November
2 2006 and April 2007. "

3
4 Obviously he is lumping you and the inspectors into
5 that period. 11:47

6 A. Mmm.

7 198 Q. "I believe that Garda management has failed to properly
8 and professionally address these serious issues. The
9 fact that these issues have not been properly addressed
10 by Garda management has led to a situation whereby my 11:47
11 general welfare, from a health and financial
12 perspective, has deteriorated over the past two years.
13 I believe that Garda management has failed in the
14 extreme to properly and professionally address the
15 serious issues pertaining to my situation. " 11:47

16
17 would you accept that that was his view of his own
18 position? And the second question: was it your view
19 also, or how did you respond to that?

20 A. Em, well, I had really supported anything he had 11:48
21 reported to me in April and in July, and also in the
22 November report relating to the 8th October phone call,
23 so I had done that piece. To me, the Mangan/Feehan
24 piece was something that he was dealing with
25 independently of me, and I would take it they had -- 11:48
26 and they had dealt with it. So, obviously there is a
27 dilemma there. I'm not party to the outcome of these
28 things, so I'm sort of in the hands of the
29 organisation.

1 199 Q. He goes on to deal with the issue of failing to
2 conduct, properly conduct a proper investigation into
3 the reason for his absence from work. And it continues
4 into the next page saying:

11:48

5
6 "I have not been formally interviewed to date in that
7 regard by Garda management."

8 A. Yes.

9 200 Q. "I am aware that certain reports have been submitted to
10 Commissioner HRM by Garda management concerning my
11 absence from work."

11:49

12
13 He finds it difficult to understand "how such reports
14 could be formulated without sight of an official report
15 in that regard taken from or submitted by the member
16 affected."

11:49

17
18 He then raised the issue of workplace bullying,
19 harassment and intimidation that he has been subjected
20 to.

11:49

21
22 Did he give you any details of that?

23 A. No, he never did, never named anybody.

24 201 Q. He says he is aware of the official regulations which
25 cater for Garda management action to be taken in case
26 of protracted absences by members on sick leave.

11:49

27
28 "As far as I am concerned, these regulations were not
29 adhered to at all by Garda management in my case."

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He then refers to his reduction in salary. The next paragraph, he refers to submitting his medical certificates. He refers to the issues that that caused. He refers to the disciplinary process initiated against him is "unfair, unduly protracted and in my view conducted without due process". Then he complains again about the failure of Garda management -- at the bottom of the page -- to properly and professionally investigate the reason for his absence on sick leave, giving details there.

11:50
11:50

Did you read this then and discuss this at the meeting with him?

A. I think the first I had it, at the start of the meeting and went through, you know, I suppose as quickly as I could and efficiently I went through it and picked out the issues of concern, and I addressed each of them as I saw at the time.

11:50

202 Q. And your report then is a short report -- if we go back to page 1094. And you don't go into detail there. You do detail your responses in your statement to the Tribunal?

11:50

A. Yes.

203 Q. If we look at page 1040 of your statement. And in relation to the first issue, you express the view there that, you know, that was an issue for the CMO, isn't that right, essentially?

11:51

A. Yes.

1 204 Q. And that you knew he had met the CMO and an independent
2 psychiatrist?
3 A. Yes, I knew that, yes.

4 205 Q. Number 2, in relation to the issue of not being
5 formally interviewed, you are referring to the 11:52
6 psychiatric examination as a management generated act.
7 And was that sufficient in your view?
8 A. Well, I had had the conversation with him in April, and
9 subsequent conversations where I had a fair idea of
10 exactly what it was troubling him in terms of the work 11:52
11 related stress; he had said it to me. And then also he
12 had indicated then to Inspector Waters, in, was it
13 July, that the discipline had triggered that bout of
14 work related stress and had, I suppose, compounded, is
15 the word here I use to A/C Phillips, that actually was 11:53
16 -- they are the reasons that I supplied at the time as
17 being the source of it. So I thought any investigation
18 would have followed with a medical inquiry.

19 206 Q. Yes. You do refer there to your earlier report up in
20 November about the October conversation? 11:53
21 A. Yes.

22 207 Q. And you express the view that the interview would have
23 been conducted by or on behalf of the CMO, into that
24 issue, and reported upon. If we just scroll down two
25 lines, you set out your view there. But, can I just be 11:53
26 clear: did you indicate to Sergeant Hughes, on this
27 date, in December, that was your view? That the CMO
28 was dealing with these matters?
29 A. I can't remember, to be honest with you. I don't know.

1 I know there was no notes available to me when I went
2 to go back to my statement.

3 208 Q. The third issue there, we have dealt with that, and you
4 fully accepted that at the time, and that was
5 corrected, as far as you were concerned? 11:54

6 A. Absolutely. It was news to me at the time in October
7 when I heard this seems to be -- some communication
8 issue.

9 209 Q. At number 4 of the issues dealt with, if we go further
10 down that page, you are making the observation that you 11:54
11 never received a complaint, and as far as you were
12 concerned, that the references to bullying were in
13 connection with the earlier one, is that right?

14 A. I always took it to be that, yes.

15 210 Q. But you do record him as not having named individuals, 11:54
16 but you didn't ask him who was involved?

17 A. I can't say if I did or not, to be honest with you, but
18 I know I did ask him at one point somewhere, I just
19 can't remember what date. I know I asked him and he
20 said -- the words -- my memory is he said it doesn't 11:55
21 matter, or something.

22 211 Q. Issue number 5 raised by him, you deal with in your
23 statement at page 1042, about the decision to cut his
24 salary in half. Do you recall responding to him about
25 that at the meeting? 11:55

26 A. I expect that I would have said that to him. It wasn't
27 a matter for me, you know. I had no control over it.

28 212 Q. In relation to issue number 6 about the sending of the
29 sick certs, et cetera, and issues of delay, was any

1 delay reported by you -- -- up to you?

2 A. I think Inspector Hanrahan had mentioned something to
3 me about the issue of fast transmission of
4 certificates, but I thought it was resolved.

5 213 Q. Yes. Issue number 7, about the disciplinary process -- 11:56
6 if we just go down there -- do you recall responding to
7 him at the meeting about that?

8 A. As I said, I had nothing to do with it, you know. So,
9 I really wasn't in a position to respond, that's all I
10 can say. 11:56

11 214 Q. Issue number 8 -- over the page there -- again, you
12 have recorded your own view here, but do you recall
13 expressing that view to him at the time? You don't
14 seem to --

15 A. I don't recall -- which piece? 11:56

16 215 Q. The end of number 8. You say: "I can't recollect my
17 response to him."

18 A. I can't recollect -- I know I did have a conversation
19 one time around it, I think it was probably afterwards
20 actually. 11:56

21 216 Q. Then at number 9 then, if we look at that issue, where
22 you are quoting from that. You say you forwarded the
23 report.

24 A. Yes.

25 217 Q. And what was your view at this point of his work 11:57
26 related stress?

27 A. Em, I think the -- I am trying to remember -- I think
28 it was the discipline, if I remember overall, the
29 discipline had started to become pretty much an issue

1 for him, and I think that was communicated in
2 correspondence back in May '08 as a concern by
3 Inspector Hanrahan after meeting him. So I thought
4 that was very much prominent in his life. And, you
5 know, the issues around the half pay, I understand they 11:57
6 were beyond my control, so... I would have thought at
7 that stage the threat to his life would have been --
8 have dwindled, the sense of the threat to his life
9 would have dwindled considerably. But I can see he has
10 some frustrations for sure there. 11:58

11 218 Q. Number 10, his intention to return to duties. Was that
12 something you supported at the time?

13 A. Yes, I would have always -- I'm of the view that the
14 longer -- well, it's not a view, it's actually the
15 science is, the longer you are out the less chance you 11:58
16 have of coming back. So, I wanted to do what I could
17 to support him and give him the opportunity to come
18 back into work and I would support him in any way I
19 could.

20 219 Q. Yes. The last matter there referred to "as a full 11:58
21 investigation of all matters pertaining to this report
22 would have the effect" -- the quotation goes on in his
23 actual report to say:

24
25 "The full investigation of all matters pertaining to 11:59
26 this report and the restoration to full pay and
27 allowances due would have the effect of somewhat
28 enhancing my situation from a welfare point of view."
29

1 I mean, did you think it was your responsibility, or
2 duty, to investigate all or any of the matters that he
3 was raising?

4 A. Em, I don't think there is anything for me to
5 investigate. My responsibility there is to send it up, 11:59
6 and my biggest concern for him was to try and see if I
7 could support him from a welfare point of view, which
8 was the point of that meeting in the first place.

9 220 Q. Yes. You have commented on a document that he
10 produced, which was a note to his solicitor, about this 11:59
11 meeting --

12 A. Yes.

13 221 Q. -- that you were provided with by the Tribunal in the
14 papers. I'm not going to take you through all of your
15 comments, but on page 508 if we look at page 508, at 12:00
16 the bottom, he goes through his contemporaneous record
17 that he sent on to his solicitor as his record of the
18 meeting, and if we just scroll down, the second
19 paragraph -- all three paragraphs is a sort of a
20 summary of it. 12:00
21

22 "Superintendent Curran was very much of the opinion
23 that the thing to do was draw a line in the sand, move
24 forward and let the Garda "whistleblower" determine
25 will rights and wrongs of the matter." 12:00
26

27 Now, it's not a direct quote but would you agree with
28 that as a statement of your attitude, or your
29 knowledge?

1 A. Look, I was trying to appeal -- I was trying to -- I
2 know at the meeting I would have certainly said, look,
3 let's try and move forward here, and that's where I
4 would have offered him the opportunity to come back
5 into work and given him a personal assurance that I 12:01
6 would have supported him.

7 222 Q. Yes. Okay. And the reference to the Garda
8 whistleblower, did you know that Chief Superintendent
9 Feehan had been appointed then by this time?

10 A. No. Oh Feehan, I probably did, if they had met me in 12:01
11 November to look for documents.

12 223 Q. Pardon?

13 A. Sorry, Chief Feehan's people had been out to me in
14 November looking for documentation.

15 224 Q. And these are all documents under your control in the 12:01
16 district, isn't that right?

17 A. The documents that were available to me, yes.

18 225 Q. And you made a number of statements to him ultimately
19 which recorded the provision of all of these documents
20 that he requested to Chief Superintendent Feehan? 12:02

21 A. I don't think I spoke to Feehan at all about that.

22 226 Q. To one of the members?

23 A. Sweeney I think it was.

24 227 Q. Is that right?

25 A. Yes. I think that point in the next paragraph, that I 12:02
26 see that:

27

28 "My strong feeling is that he is stonewalling the real
29 issues and has been instructed not to engage in any

1 inquiry on my behalf that will expose the real truth
2 behind the serious issues at hand."

3
4 There was nothing of the sort happening there.

5 228 Q. Pardon? 12:02

6 A. There was no position taken by me about stonewalling
7 and there was no instruction given to me at all, in
8 relation to this is a meeting that I had asked and
9 generated out of concern for his welfare. Nobody had
10 instructed me or asked me to do it. 12:02

11 229 Q. Yes. But it seems to be an interpretation that he was
12 putting on everything you had either said or done, that
13 you were engaging in a conscious way to prevent the
14 truth coming out about matters.

15 A. Well -- 12:02

16 230 Q. Is that the way you interpret this?

17 A. No. That might be his perception of it, yes. But if
18 you look at the matters he is raising, a lot of them,
19 they are out of my control. The discipline has nothing
20 to do with me. The matters of the sickness and the 12:03
21 pay, it's automatic. So, I mean, like, I was doing
22 what I could and I had reported the issues that he had
23 said to me previously.

24 231 Q. He goes on to say:

25 12:03

26 "I feel the purpose of the above meeting was to allow
27 Superintendent Curran the opportunity to submit a
28 report to the authorities stating that he had offered
29 me the opportunity to return to work as described but I

1 had declined all offers made."
2
3 If we just go on to see how that concludes. He says:
4
5 "I did not commit myself in that regard either way, but 12:03
6 stated that I would have to consider all matters with
7 my legal and medical representatives."
8
9 And was that your impression, that he was, as it were,
10 hedging his bets on returning to work or not? 12:03
11 A. I don't really know. I mean, I'd have to take it he
12 was getting guidance from his own medical people as
13 well. I mean, I have never fully understood his
14 position, to be honest.
15 232 Q. Okay. Were you meeting him from a genuine position of 12:04
16 trying to get him back to work?
17 A. Yes. I mean this is a man that I would have known
18 throughout my service, and I was his sergeant back in
19 1990, I think it was, for a couple of years. I was an
20 inspector in the Bridewell when he was a sergeant 12:04
21 working in the district office as a district clerk, and
22 we'd have had many conversations, you know. And they
23 were good natured and there was never friction of any
24 way between us. So I would have known this guy -- I
25 knew him as a guard. So over my career I would have 12:04
26 known him quite a lot and I was just trying to see what
27 I could do for this man who I knew was a colleague from
28 a human point of view.
29 233 Q. You had known him from other stations when you were

1 both occupying different positions before you came to
2 coolock?

3 A. Yes.

4 234 Q. I think you -- you met him again on the 18th February
5 of 2009, is that correct? 12:05

6 A. I think -- there is a meeting or a phone call? I can't
7 remember.

8 235 Q. That's?

9 A. Oh, I think it's a meeting, yes.

10 236 Q. Perhaps if we look at page 1193. It may not be so 12:05
11 clear from the report, but it's a report to Chief
12 Phillips of that date.

13 A. Oh yes, I remember this.

14 237 Q. And it says: "With reference to the above, I have 12:05
15 spoken to Sergeant Hughes regarding this matter. I
16 first communicated with him on the 9th February and
17 then on this date, 18th February 2009. On the first
18 occasion he stated that before he responded he wanted
19 to consult with his solicitor. Again, on this date, I
20 read over the contents of A/C O'Sullivan's minute once 12:06
21 again. He informed me that he had been told by a
22 consultant psychiatrist, to whom he was referred by the
23 Chief Medical Officer, had advised him not to return to
24 work. He stated that this psychiatrist indicated that
25 he would highlight the fact that Sergeant Hughes's 12:06
26 absence was entirely due to his injury on duty.
27 He wishes to get a clarification from the Chief Medical
28 Officer on this point."

29 A. Yes.

1 238 Q. What was the purpose then that -- were you trying to
2 find out was he coming back to work? And if not, why
3 not?
4 A. I think that would have been triggered by a request to
5 meet him on behalf of then Assistant Commissioner 12:06
6 O'Sullivan to communicate that he was -- if, in the
7 CMO's opinion, he was fit to return to work. And that
8 was my meeting, in-personal meeting to communicate that
9 to him.

10 239 Q. Yes. So he, for his part, was being guided by the 12:07
11 psychiatrist?
12 A. His psychiatrist, yes.

13 240 Q. That's what he was saying to you?
14 A. Yes. A different opinion.

15 241 Q. Did you see him much more in the course of 2009? 12:07
16 A. I don't think I did, no. Towards the end of '09, yes.

17 242 Q. Did you become aware, though, that the disciplinary
18 inquiry had been discontinued as against him in July of
19 2009?
20 A. I must have. I don't have any memory of that piece, to 12:07
21 be honest with you. I don't think I would have been
22 notified. I don't think I was. But I can't remember.

23 243 Q. Yes. Would you not expect to have been informed of
24 that because of it an important issue, you had a member
25 missing from the district not on duty? 12:08
26 A. Yeah, look, I may have been, I just don't have a
27 recollection of it. I think because it was slightly
28 off, because it was slightly different, it may not have
29 the normal channel of communication on it. It's likely

1 someone told me. But I just can't remember.

2 244 Q. Yes. You next seem to have a note of a meeting with
3 Sergeant Hughes in December 2009 --

4 A. Yes.

5 245 Q. -- is that right? And you have no other noted meeting 12:08
6 with him between this one we have been looking at in
7 February and December '09?

8 A. No.

9 246 Q. Are you surprised by that or --

10 A. I thought -- I think -- I believe I would have spoken 12:08
11 to him, but I can't remember. But I know I had met
12 Inspector Lacey, who had just took up in April '09, and
13 specifically asked him to look after the welfare of
14 Sergeant Hughes. So from my point of view, there would
15 have been regular contact with him. 12:09

16 247 Q. And --

17 A. And I know he introduced himself to Sergeant Hughes as
18 well.

19 248 Q. And I think you had received a minute, or seen a minute
20 from the HRM about the CMO's advice about him being fit 12:09
21 to return to work?

22 A. Yes, that would have come down I am sure, because I
23 think -- I guess that's what prompted the meetings in
24 December.

25 249 Q. And perhaps we'd look at, then, your note because it's 12:09
26 a report up to the chief, isn't it, Chief Phillips --
27 at 1196 -- it's a report dated the 14th December. And
28 he also, having confirmed that he was willing to return
29 to work immediately, requested a transfer with a

1 preference for Raheny?

2 A. Yeah. And I would have introduced Raheny as an idea,
3 because I was aware of a position that had been free
4 down there similar to the role that he ended up with in
5 Coolock. So I suggested that to him at that time. 12:10

6 250 Q. There is a reference there to confrontation, was that a
7 reference to relations with other members?

8 A. I take it, it was. But it's important to, I suppose,
9 in this -- from this, looking back over those years --
10 this was 2009, and it was basically two years, nearly 12:10
11 two and a half years after he went sick originally. A
12 lot of the people that I now know he had issues with,
13 were gone. They had moved on. Very few people -- and
14 that district is, even now, it's full of -- like young
15 people, there is a huge turnover of people in that 12:11
16 district, so --

17 251 Q. You are talking about members still now, are you?

18 A. Oh members, yeah, sorry.

19 252 Q. I mean, there is a reference to physical violence on
20 the next one. That related to the sort of nature of 12:11
21 duties he might be doing, is it? Not operational in
22 the sense of being --

23 A. Oh yes, light duty.

24 253 Q. Light duty?

25 A. Yes. 12:11

26 254 Q. Was this given effect to then, this return to work, in
27 the new year?

28 A. I think he started in December actually in the role, he
29 said he'd take that position that was in the staff

1 sergeant's office.

2 255 Q. Yes. There was some concern expressed about whether
3 these were preconditions though, do you recall becoming
4 aware of that from Chief Phillips, communication with
5 the Assistant Commissioner? 12:12

6 A. I am not sure if I ever saw that at the time. I saw it
7 in the documentation here. I understand where that
8 would be expressed because we were -- there was a huge
9 shortage of sergeants in the division at that time, so,
10 we would -- I suppose we wanted everybody as we could 12:12
11 to be operational, so I think he was taking that
12 position. It wasn't about Sergeant Hughes as such; it
13 was just a business decision that caused him to express
14 that. But it wasn't an issue for me. I was happy to
15 -- I really was very happy actually for Sergeant Hughes 12:12
16 to be returning to the workplace.

17 256 Q. Yes. But if we look at the note there -- 4262 -- the
18 chief seems to have taken your report as Sergeant
19 Hughes requiring these things, rather than perhaps
20 understanding that you had sort of discussed them with 12:12
21 him as a way forward, is that a fair way of putting it?

22 A. Possibly, yes.

23 257 Q. And in any event he did return to work, and I think you
24 then did arrange for his transfer, isn't that correct?

25 A. Yeah, I think he transferred him from Swords into 12:13
26 Coolock.

27 258 Q. Yes, if we look at that -- 4299. So this is in March
28 of 2010, if we just scroll down there. It went up to
29 the chief, and then up again, and it was sanctioned,

1 and it took place then, isn't that right?

2 A. Yes.

3 259 Q. And I think you subsequently had a meeting with
4 Sergeant Hughes and a representative of a -- a GRA
5 representative? 12:14

6 A. In June.

7 260 Q. Sorry -- in June of that year, is that right?

8 A. Yes.

9 261 Q. On the 29th June. Perhaps we'd look at that report --
10 1190. It commenced -- perhaps if we go to the bottom 12:14
11 of page 1191, because it commenced with an e-mail to
12 you from him, isn't that correct?

13 A. Yes.

14 262 Q. On the 29th June. And he is raising the issue of
15 entitlements to allowances -- second paragraph deals 12:14
16 with him being unhappy in his current position, lack of
17 job description. And the third one is that the matters
18 which caused his protracted absences haven't been
19 resolved, and he wanted a consultation with the ACMO.
20 He wasn't, of course, being certified as absent with 12:15
21 work related stress at this period?

22 A. No, he was back fit for duties, yes.

23 263 Q. And obviously the discipline aspect had been resolved
24 by -- in the sense of having been discontinued in the
25 previous year by -- 12:15

26 A. Yes.

27 264 Q. The failure to have the other investigations didn't
28 appear to prevent him coming back at this point in
29 time?

1 A. No, he would have come back in December, and I think he
2 was happy to -- well, he would argue the word 'happy'
3 is subjective, but he certainly -- he came back and he
4 seemed to be eager enough to get into it.

5 265 Q. But in any event, in relation to these issues, you 12:15
6 reported up -- if we go through the issues in the
7 document, a page up. And you express your view there
8 about the entitlements, and you are suggesting working
9 on Saturdays and Sundays to ease his financial position
10 a bit -- paragraph 1. 12:16

11 A. I think -- I know, I think I was probably more
12 concerned that he would not be offline but eventually
13 the decision was made by myself and Chief Phillips to
14 give him the Sunday allowance. So my concern was that
15 -- it was nine to five Monday to Friday, it was a 12:16
16 position that was -- it was effectively civilianised
17 after the retirement of the previous -- the person
18 previously there. So, at the end of the day we gave
19 him the Sunday allowance, and that's in effect double
20 pay, and that was -- you know, he wanted to catch up 12:17
21 with paperwork, is my memory, that's the reason why he
22 wanted to do it.

23 266 Q. You discussed his current position, and at the end of
24 the paragraph you record that he left the meeting
25 stating he was happy to continue working in the office. 12:17
26 And that was the way it was left, is that right?

27 A. Yes.

28 267 Q. The issues not addressed, matters not addressed --
29 number 3 -- you record him as stating that the Garda

1 Commissioner is well aware what the issues are that he
2 refers to.
3 And then there was a request for a referral to the CMO.
4 A. Yes.
5 268 Q. And that he wanted to discuss matters that were 12:17
6 confidential?
7 A. Yes, Chairman, yeah.
8 269 Q. And then you just conclude there about having had
9 numerous conversations with him in his staff role. And
10 that you intended to meet him on a weekly basis? 12:17
11 A. Yeah, I would have met him frequently.
12 270 Q. He did go out for a short period of -- well, first of
13 all, did you get any formal response from your line
14 management on any of these issues?
15 A. I think Chief Phillips would have been satisfied to 12:18
16 allow him have the Sunday allowance.
17 271 Q. Yes. He did go out on a short period of sick leave --
18 A. Yes.
19 272 Q. -- in September?
20 A. Yes. 12:18
21 273 Q. And I think you were given a direction in relation to
22 investigating his work related stress in September,
23 isn't that correct?
24 A. To meet him and ask him what the cause of the stress
25 was, yes. 12:18
26 274 Q. You record in an e-mail that you met him regarding the
27 content of the HRM memo concerning stress related
28 sickness on the 22nd September?
29 A. Yes.

1 275 Q. And that he will come back to you by wednesday,
2 following consultation with his solicitor.

3 A. That's correct, Chairman.

4 276 Q. What had -- just for the record that's at page 4363.
5 what had you discussed with him? Had you sought to 12:19
6 inquire into his stress?

7 A. I think the simple inquiry: what is the cause of your
8 stress? And I probably would have referred to the
9 Assistant Commissioner's memo. And, at which point he
10 said he wasn't in a position to respond until he spoke 12:19
11 to his solicitor and then he came back to me
12 afterwards.

13 277 Q. Yes. And what did he say to you when he came back to
14 you?

15 A. That his concerns relate to all the other issues that 12:19
16 predate the period of sickness, and that was a four-day
17 period of sickness, then the longstanding concerns were
18 the issues.

19 278 Q. I mean, we have, in our e-mail, obviously -- in our
20 papers an e-mail of his, at page 1180, to you of the 12:19
21 12th October, and is that the way he came back to you
22 or was there any discussion about that document? You
23 had a meeting, obviously, on the 5th, where you
24 produced the document and then he responds in this
25 document? 12:20

26 A. Yes.

27 279 Q. And is this the first document that you received from
28 him giving his own account, as it were, of work related
29 stress issues, or did you see it as that?

1 A. I think it was -- I saw it as being very specific to
2 this period.

3 280 Q. He was linking his three-day absence here, which had
4 obviously been preceded by, you know, a significant
5 period of being on duty and at work, but he was
6 relating it back to all his former absences?

12:20

7 A. Yes.

8 281 Q. And in the middle paragraph:

9
10 "As previously advised, I continue to be deeply unhappy
11 in my place of work. The serious matters which have
12 caused my continued illness have previously been
13 reported to Garda management."

12:21

14
15 And he refers to his previous report to you, and that
16 he hasn't heard of any developments regarding that
17 report since. And he goes on to set out his position
18 there, complaining of not having been interviewed, his
19 concerns not having been addressed.

12:21

20
21 And in the last paragraph he refers -- on the next
22 page, 1183 -- to the situation "with regard to my
23 current health situation, my recovery prospects has
24 been the subject of a further recent review with the
25 Assistant Commissioner CMO along with an appointed
26 medical specialist at Garda Headquarters. I am
27 reluctant to give specific details in this report with
28 regard to these medical consultations, lest to say that
29 the continued failure, as I see it, to properly and

12:21

12:21

1 professionally address the reported issues is having an
2 increasingly negative effect on my health and
3 well being. "

4
5 what did you understand from all of that? Or, where 12:22
6 did that leave you as far as you were concerned?

7 A. well, this really is a medical matter.

8 282 Q. Pardon?

9 A. I saw it as a medical matter. Again, it's not
10 something I can resolve locally. 12:22

11 283 Q. Yes. But I mean the medical personnel weren't going to
12 prescribe any inquiries or investigations?

13 A. No. But if there was any issues, if they wanted any
14 particular niche areas to be clarified, we could have
15 done that. 12:22

16 284 Q. Were you in any way concerned that HRM, whilst
17 referring to the issue of work related stress, weren't
18 being more specific as to what you were being required
19 to either do or inquire into or report?

20 A. Yes. It was very general. It was the same format and 12:22
21 same use of words in respect of all 11.37s. It was
22 nothing bespoke to the fact that it was work related
23 stress caused by an issue or an injury that wasn't
24 actually identifiable in the normal way.

25 285 Q. Yes. In your reply, which we'll look at now, you do 12:23
26 refer inter alia your knowledge of the impending High
27 Court proceedings, but had you learnt earlier of the
28 initiation of proceedings?

29 A. There was, I think there was some mention in late '07

1 of High Court proceedings. And in terms of the High
2 Court proceedings that arose, that ended up in 2012, I
3 couldn't tell you when I heard that but certainly in
4 '11 I would have been hearing it.

5 286 Q. Yes. I'm just wondering, from your point of view, did 12:23
6 they cause you -- or did they impact in any way to
7 impede you from doing what you thought you were
8 required to do in relation to Sergeant Hughes? Did you
9 see them as a restraint or difficulty?

10 A. Well, I just felt I couldn't do anything other than 12:24
11 rely on the medical professionals.

12 287 Q. Okay. Perhaps we'll just look at your report then at
13 1177. 19th October. The first paragraph refers to the
14 A/C's minute to do the investigation.
15 The second paragraph refers to your conversation with 12:24
16 him on the 5th obviously.
17 The third refers to Sergeant Hughes's report.
18 And then you say:

19
20 "This particular issue is, to the best of my knowledge, 12:24
21 currently with A/C HRM. I also understand that
22 Sergeant Hughes has brought a case before the High
23 Court regarding the issue of "injury on duty" against
24 the Garda Commissioner. This appears to be a medical
25 legal issue." 12:25

26 A. Okay.

27 288 Q. Then you refer to his welfare having been the subject
28 of previous reports, which you detail there. You refer
29 to his return to work.

1 And then in the final paragraph, on the next page you
2 say:

3
4 "In my communication with Sergeant Hughes, his general
5 unhappiness relates to his longstanding issues. I do 12:25
6 not get a sense from him that he is unhappy to perform
7 the duties currently assigned to him. I request a
8 direction on whether the minute from A/C Commissioner
9 HRM can be supplied to him."

10
11 That's obviously a minor issue perhaps. But his 12:25
12 longstanding issues there, how would you describe them
13 at this point in time? What was your view, or your
14 understanding of his longstanding issues?

15 A. Em, the discipline, the preferring of the breach of 12:25
16 discipline. Again, the fear for his safety and that of
17 his family I think probably had left him at that stage.
18 And then, he was obviously concerned that he was --
19 matters that he was reporting were not being dealt with
20 to his satisfaction. 12:26

21 289 Q. I mean, at this point in time the confidential
22 recipient investigation, did you know what had happened
23 that?

24 A. No. I can't remember when I heard the -- as I say, I
25 know now, I think it's May I think in the Tribunal 12:26
26 documentation was May of '10, that he got something.
27 But I didn't know.

28 290 Q. Yes. I am just wondering did you have any view
29 yourself as to whether anything was outstanding? His

1 discipline had finished, the confidential recipient had
2 been made known to him, as you believed it?

3 A. I take it his biggest complaint at that time, outside
4 of the whistleblowing thing, which I didn't know about,
5 was the discipline and the way he was dealt with there, 12:27
6 that he felt aggrieved.

7 291 Q. Yes. Did you become aware of a case conference, did
8 you attend a case conference then?

9 A. I know I was at a case conference in Garda
10 Headquarters, yes. 12:27

11 292 Q. And we have a minute from Assistant Commissioner
12 Fanning of the 20th October -- 4385. Now, just on a
13 small point first. Would you have taken notes at that
14 case conference yourself?

15 A. I don't think so. It wasn't my meeting, so I wouldn't 12:28
16 -- I don't think I did. I may have brought a file or
17 something with me, but I don't think -- I have no
18 memory of that. I mean, I can't remember what was
19 said. I can tell you my only memory is that, I think
20 it was Dr. Quigley spoke at it. That's the only memory 12:28
21 I have.

22 293 Q. Yes. This is now a report to Dr. Donal Collins, who is
23 the Chief Medical Officer. And in the middle paragraph
24 -- well, I suppose reading the first paragraph he says:
25 12:28
26 "I refer to the above and to your minute dated 28th
27 September 2010 and the conundrum that you now find
28 yourself in vis-a-vis the categorisation of Sergeant
29 Hughes's injuries and whether they are or are not

1 associated with injury on duty.

2

3 I am also to inform you that at a recent management
4 meeting, where the Chief Medical Officer was present
5 and the pension regulations were taken into account, it 12:29
6 was established that it was a matter for the Chief
7 Medical Officer to adjudicate as to what is or is not
8 an injury on duty."

9

10 Is that something that you agreed with or...? 12:29

11 A. I would say that would make sense to me. It's a
12 medical issue, yes.

13 294 Q. He goes on to say:

14

15 "This should be done in the context of all available 12:29
16 information to hand and unfortunately it must be done
17 in the absence of any clear case law in this
18 jurisdiction. Therefore, I suggest to you that a case
19 conference needs to be held as soon as possible to
20 resolve the matter that you have highlighted so that a 12:29
21 definitive and clear direction can be given. Given
22 that the change in your opinion will have serious
23 consequences for pay and judicial proceedings that are
24 currently ongoing this matter has to be dealt with as a
25 matter of urgency." 12:29

26

27 Did you understand that in fact that the CMO had
28 changed his view about whose function it was --

29 A. No.

1 295 Q. -- to determine it?
2 A. No, I wasn't aware of that.
3 296 Q. Had you yourself seen the -- any memos in relation to
4 that?
5 A. I don't think -- I don't believe I did, no. 12:30
6 297 Q. Okay. I think you did receive some memos from
7 Assistant Commissioner Fanning the following year,
8 isn't that correct, in July of 2011?
9 A. Yes. As I say, I was looking for a report, and I think
10 there was a report produced and dated the 29th July. 12:30
11 298 Q. Yes. And that's your report at page 1198 of our
12 papers. And you were writing this to Chief
13 Superintendent Phillips obviously?
14 A. Yes.
15 299 Q. And you are making it clear, in the second paragraph 12:31
16 there -- well in the first paragraph, that Sergeant
17 Hughes hadn't provided the details required of the
18 nature of his complaint that Inspector Lacey had been
19 seeking from him>.
20 A. Yes, that's my understanding. Some memo had come down 12:31
21 -- and I can't remember those memos at this stage
22 because I know I was missing a little bit between
23 March, April and May because of the Queen's visit, but
24 there was a request to ask Sergeant Hughes if he wanted
25 to make a formal complaint under the bullying policy 12:32
26 because he had reported -- I had spoken to him on the
27 4th January, and in the morning before he went sick,
28 and then also in the afternoon after he went sick and
29 at that time he said that the matter was -- the reason

1 for his sickness was between him and his doctor. And
2 then later on in the afternoon I spoke to him, and also
3 on the 14th February, and he more or less indicated
4 that all the issues were longstanding -- of long -- the
5 longstanding concern issues were the reasons why he was 12:32
6 out sick. So the issue that came down from the CMO was
7 to establish whether there was a complaint made under
8 bullying because that hadn't been made to me, it wasn't
9 brought to my attention, and that's what I'm saying
10 there. But really what I'm saying is that he had made 12:32
11 no complaint under the policy.

12 300 Q. And were you aware that Dr. Quigley, at this time, had
13 been raising the issue as to whether work related
14 stress investigations had taken place by local
15 management? 12:33

16 A. I think that may have been come down -- it did come
17 down, I saw in the correspondence, yes. I think
18 Inspector Lacey sent that up again -- I wasn't
19 around -- so he wasn't familiar with the background to
20 this. 12:33

21 301 Q. Yes. And this was the purpose then of that report, and
22 also to detail your exchanges with Sergeant Hughes on
23 the matter, isn't that correct?

24 A. Yes, and also just to give a history to it. The fact
25 is, when he went sick there was no issue for me to act 12:33
26 on, so I'd knew he'd go to the CMO. I think whap
27 happened was when he went to the CMO he started talking
28 about being bullied and isolated and that triggered
29 some inquiry then.

1 302 Q. But you are stating bluntly here that "no investigation
2 was conducted locally in respect of any specific injury
3 on duty to sergeant Hughes. The nature of the injury
4 on duty contention related to a wide range of events
5 and issues some of which were the subject of
6 investigation by Assistant Commissioner Feehan."

12:33

7
8 Now, you'll agree with me that it was more than four
9 years since he had raised the issue of injury on duty
10 in May 2007?

12:34

11 A. Yes.

12 303 Q. And you were now in July 2011?

13 A. Yes.

14 304 Q. What did you conceive was the nature of your function
15 and responsibility in reporting on that issue?

12:34

16 A. Well, I had had a conversation and I provided -- with
17 him -- I had several conversations commencing there on
18 the April one, and so I think it's the cause of stress
19 is really what is of concern here, and I took it that
20 the source of stress, as I reported it was, at the time
21 the threats, the concerns he had, and then it was
22 compounded by the discipline, service of discipline
23 papers in June I think it was.

12:34

24 305 Q. But I suppose what I want to just be very clear about.
25 Did you consider yourself to have performed what was
26 required of you by simply reporting up that the cause
27 of his stress was his reaction to the Baiba Saulite
28 murder, the inquiry that was being conducted by Chief
29 Superintendent Feehan, the disciplinary inquiry, the

12:35

1 failure to hold other inquiries, and his fears for his
2 safety, or did you consider that they were facts which
3 were relevant to somebody else deciding on the issue of
4 injury on duty?

5 A. Yes, I think, as you know, there is no process here for 12:35
6 to guide people like me on the ground around this, and
7 so if you look at the Garda Code, even in the 11.37 is,
8 if there is any doubt the matter should be referred to
9 the Assistant Commissioner HRM.

10 306 Q. You are reporting, sort of looking backwards here, for 12:35
11 maybe a period of six months then, from paragraph 3
12 onwards, about a previous conversation with him in
13 January, the issue of retraining, his sort of seeming
14 to be anxious, as you reported in the last paragraph,
15 and mildly upset at that prospect. A discussion that 12:36
16 you had again with him on the 14th February in relation
17 to his sick leave. If we go down to the bottom there
18 -- page 1198 -- you say you again spoke to him by
19 telephone on the 14th February 2011 in respect of sick
20 leave. 12:36

21 "He stated there were many issues outstanding which
22 prevented him from returning to work. As in many
23 previous conversations I assured him of my full support
24 in assisting him in returning to a full operational
25 role." 12:36

26
27 Just going back to that conversation on the phone, did
28 he go into any detail of those outstanding issues, or
29 were you just clear that you knew what he was talking

1 about?

2 A. I don't -- I think I would just use that term and I
3 wouldn't have fleshed it out, no. And I think there is
4 also a document where I think Inspector Lacey had
5 spoken to him where he says the issues of concern were 12:37
6 non -- there was no non-medical issues in relation to
7 his concerns. So that's when Lacey spoke to him. I
8 can probably find that for you.

9 307 Q. Yes, Inspector Lacey, had he spoken to him on or around
10 the same time as you had? 12:37

11 A. Yes, yes.

12 308 Q. And he was classing them as non-medical issues?

13 A. That's what Sergeant Hughes said to him at the time
14 when he reported that up.

15 309 Q. The Chairman asked him about the non-medical issues on 12:37
16 Day 161, pages 16, 17, and 18, I don't want to go into
17 his own account, but --

18 A. Okay.

19 310 Q. -- that was how he was describing them here.
20 You go on, on the next page -- 1199 -- then, to give 12:38
21 your own opinion in relation to the matters. At the
22 end of the first paragraph, the last line you were
23 under the impression he was relatively content while
24 performing the duty. But his main complaint was that
25 he was unhappy with the issues that he reported to the 12:38
26 Garda authorities had not been dealt with to his
27 satisfaction. "He never complained to me of any
28 bullying incident that occurred whilst performing the
29 "light duties ..."

1 And you are referring to the CMO's memo there that you
2 obviously had a report of at the time. And you say
3 that no issue of this nature had been brought to your
4 attention by Sergeant Hughes. But on the receipt of
5 the Sergeant Hughes's report you will examine the
6 report further.

12:38

7
8 Did he ever come back to you with a report relating to
9 those matters?

10 A. I think there is a letter -- the A/C met him in June,
11 July, I think it was the 14th July, and he was to come
12 back with a report, and he didn't. And -- but I'd
13 also, just I think it was a January meeting, I know I
14 said earlier on, to put it in context here. I think at
15 the meeting in January, an in-person meeting, he had
16 said to me that he had distrust of Garda management,
17 and I asked him -- and I was struck because I felt I
18 had accommodated him quite a lot and I was supportive
19 and we had a good enough relationship, I asked him did
20 that include me? And he said, "No, the people above
21 you."

12:39

12:39

12:39

22 311 Q. Yes. Dr. Quigley was requiring an urgent report of
23 management by letter dated the 29th July, and was your
24 response here, was that part of that response to the
25 Chief Superintendent Phillips in DMR North?

12:40

26 A. I take it it was. I think that report -- I don't know
27 if his dated report had got to me by the time of that
28 report.

29 312 Q. Perhaps you had been made verbally aware of it?

1 A. Possibly.

2 313 Q. Inspector Lacey prepared a report -- I'm sorry, you
3 prepared a report later in September?

4 A. Yes.

5 314 Q. And that -- 12:40

6 A. The 15th yeah.

7 315 Q. And that was in response to Assistant Commissioner
8 Fanning's request for several items to be dealt with in
9 preparation for the litigation, isn't that correct?

10 A. Yes. 12:40

11 316 Q. And that report is at page 4353 -- 4533. And we note
12 the litigation was settled but this gives an overview,
13 from your perspective, in relation to all the relevant
14 issues, isn't that correct?

15 A. Yes. 12:41

16 317 Q. 4533. And the first matter related to the initial
17 period before you became district officer, isn't that
18 right?

19 A. Yes.

20 318 Q. Inspector Waters was referred to there then having 12:41
21 conversations with Sergeant Hughes.

22 Paragraph 2, on the next page, it refers to your
23 meeting in April 2007 -- just a line or two up there,
24 if we just go back up -- just in this description, that
25 "I met Sergeant Hughes in my office who stated to me he 12:42
26 had been suffering from stress."

27 There is no reference there to the concerns that you
28 had raised that he had. Was that just an oversight on
29 your part or...?

1 A. Em... well I suppose I had probably dealt with it in,
2 what I felt was the source of stress, and also the
3 medical people at this stage was quite advanced, so
4 there would have been what I would have thought was an
5 advanced understanding up in Garda Headquarters around 12:42
6 it.

7 319 Q. You go on to deal then, in paragraph 2 below on that
8 page and the next page, as an overview of his return to
9 work and what was being done to help him return to work
10 in a professional way. And is that accurate and 12:43
11 correct?

12 A. Yeah, it is correct.

13 320 Q. The third and fourth issues relate to matters that
14 we're not immediately concerned with. But what was the
15 last dealing you had with Sergeant Hughes? Did he ever 12:43
16 return to work after this?

17 A. He never returned to work, no.

18 321 Q. And were any other requirements made of you by Garda
19 management to require you to account for how you had
20 dealt with him? 12:43

21 A. No. If my memory serves me right, and I know the
22 documentation is there, there was something there he
23 felt that -- his medical professional felt -- and I
24 know -- I could be getting this wrong, but the High
25 Court case was something that was looming and he 12:44
26 thought he would be vindicated by that. So... you
27 know, that came around fairly quickly.

28 322 Q. Yes. You know, of course, Sergeant Hughes has referred
29 to you in statements as having targeted, isolated and

1 harassed him, in a sense, bullied him?

2 A. That I did?

3 323 Q. Yes. Would you like to reply to that?

4 A. I never did that to anybody in my life, and I wouldn't 12:44
5 do it to him. I wouldn't do it to any colleague, and I
6 never did it at any time in my career to him, and
7 particularly in the periods we're talking about, I
8 totally reject that.

9 324 Q. You deal with a number of issues that were raised in
10 the question and answer document. You had no 12:45
11 involvement in the fact-finding, or the disciplinary
12 inquiry --

13 A. Nothing to do with me.

14 325 Q. -- of any sort, is that correct?

15 A. Nothing to do with me, no. 12:45

16 326 Q. Did you consider that anything that he said to you
17 verbally was a complaint of Garda wrongdoing that you
18 had to either report up or take some action in relation
19 to matters that weren't otherwise being addressed?

20 A. Well anything he reported to me, like, of that nature 12:45
21 was written down and sent up.

22 327 Q. You state, at page 7835 of the question and answer
23 document, that in terms of a full investigation being
24 carried, a full investigation into the causes of
25 Sergeant Hughes's claimed stress was, in your opinion, 12:46
26 not possible to conduct.

27 A. No.

28 328 Q. Would you like to explain why you have expressed that
29 opinion?

1 A. Well, I mean you have a murder investigation, you have
2 a discipline investigation, and you have got an
3 investigation -- a scoping investigation as it turns
4 out. So another investigation into all of that is
5 ludicrous really, to be honest. Like, you can't touch 12:46
6 a murder investigation. The discipline investigation
7 is something that's set out; it's in accordance with
8 the regulations at the time.

9 329 Q. It's self-standing and it's either done in accordance
10 with it -- 12:46

11 A. Exactly.

12 330 Q. -- or if it's not, it can be challenged?

13 A. Yes. It's just a fact of life in the guards. In an
14 organisation we have these discipline matters.

15 331 Q. Yes. And you had no authority to do anything, 12:47
16 presumably in your view, in relation to that itself?

17 A. No.

18 332 Q. Insofar as the confidential reporting investigation is
19 concerned, again, albeit that you complied with the
20 requests for the provision of documents, you had no 12:47
21 other function, had you, in relation to that at all?

22 A. No other function, no.

23 333 Q. Insofar as the medical classification of his condition
24 is concerned, you have never certified anyone as having
25 suffered an injury on duty, have you, based on medical 12:47
26 criteria?

27 A. Oh, medical only, yes. For these type of thing where
28 there would have been trauma, sometimes even the most
29 recent cases would involve a report that -- from the

1 CMO saying that the probable cause relates to the
2 incidence, and that would be after much medical inquiry
3 and often years down the road.

4 334 Q. Yes. Thank you, Chief Superintendent Curran, I have no
5 further questions at the moment. 12:48

6 CHAIRMAN: Thanks very much. Do you want to start now
7 or would you prefer to leave it till two o'clock,
8 Mr. Lynn? I'll tell you what, Mr. Lynn, we'll leave it
9 till two o'clock and then you can start. I'll take it
10 out of your hands. We'll say two o'clock -- sorry. 12:48
11 Thanks very much.

12

13 THE HEARING ADJOURNED FOR LUNCH AND RESUMED AS FOLLOWS:

14

15 CHAIRMAN: Now, thanks very much. Yes, Mr. Lynn. 14:01

16

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

18 335 Q. MR. LYNN: Chief Superintendent Curran, good afternoon
19 to you, my name is Michael Lynn, I am representing
20 Sergeant Hughes, and I want to go roughly in 14:01
21 chronological order.
22 You came to Coolock in March of 2007?

23 A. Yes.

24 336 Q. I don't know whether you are aware -- can you hear me?
25 A. Sorry, I beg your pardon. 14:02

26 337 Q. Sorry, you came to -- you were transferred to Coolock
27 in March of --
28 A. 6th March '07, yes.

29 338 Q. And I don't know whether you're aware from previous

1 evidence, but in November, the 22nd November, Sergeant
2 Hughes had mentioned to Inspector Cryan his concern
3 about coordination failures. Were you aware of that?
4 A. I don't think I was, to be honest with you, no.
5 339 Q. And a letter was opened this morning, I don't think we 14:02
6 need to go to it, from Mr. Costello, Sergeant Hughes's
7 solicitor, 13th March of 2007, referring to his
8 concerns about Ms. Saulite's murder. Now, you met
9 Sergeant Hughes in April?
10 A. That's correct, Chairman, yeah. 14:03
11 340 Q. And that was following a phone call from Sergeant
12 Fitzpatrick?
13 A. That's correct.
14 341 Q. Now, had you spoken to Sergeant Hughes before that?
15 A. I'm not sure, I don't think so. I think in the 14:03
16 questionnaire that I put in I thought I might have, but
17 I may be over thinking it. I have tried hard to try
18 and recollect what happened, that's as good as I can
19 come up with.
20 342 Q. So, you had a phone call with Sergeant Fitzpatrick, and 14:03
21 you met Sergeant Hughes I think later that day, the
22 23rd April?
23 A. Yes.
24 343 Q. Is that correct?
25 A. That's correct. 14:03
26 344 Q. And did you make a written note of that meeting?
27 A. Obviously I did because I based the report on it that
28 you saw dated the 24th.
29 345 Q. And you didn't retain that note?

1 A. No.

2 346 Q. Sergeant Hughes's recollection is that it was made on
3 an envelope?

4 A. A piece of paper, whatever.

5 347 Q. Well you don't dispute his version, that it was on an 14:04
6 envelope?

7 A. I can't -- I have no recollection of the meeting
8 itself.

9 348 Q. And you were asked this morning did you recollect
10 whether there was a mention by Sergeant Hughes of 14:04
11 incidents involving Mr. Hennessy. I think you said you
12 didn't recall that?

13 A. I have no recollection of any content of the discussion
14 at all, other than my memory of him being in fear.

15 349 Q. You have no memory of any of the discussion? 14:04

16 A. No.

17 350 Q. Sorry, this is the 23rd April meeting?

18 A. Yes, I know. All I can do is, the document dated the
19 24th April, I am relying on that as being an accurate
20 record of the content of the discussion but I can't 14:05
21 remember anything, and I have tried hard.

22 351 Q. Well, can I just take you to the -- you did a question
23 and answer with the Tribunal?

24 A. Yes, there is a piece there and I said I believe that I
25 did discuss that, but, as I say, the correct term 14:05
26 should have been I believe it's possible, because I
27 can't remember, and I have said that in my statement
28 dated in '20.

29 352 Q. Okay. Well let's -- it's at page 7830. We might just

1 go back a little bit up actually, to the previous page
2 I think it is. Sorry, no, I'm sorry Mr. Kavanagh,
3 we're actually -- you were actually on the right page I
4 think. So we can go down -- scroll down again please,
5 thank you. It says:

14:06

6
7 "I have been asked with respect to the above extract
8 whether Sergeant Hughes at my meeting with him at
9 Swords Garda Station on the 23rd April 2007 told me of
10 the negligent and gross mismanagement of related
11 investigations prior to the murder of Bai ba Saul ite and
12 whether in that context referenced any/all of the
13 following incidents..."

14:06

14 And then there's four incidents:

14:06

15
16
17 "Child abduction investigation.
18 The arson attack on Mr. Hennessy's home.
19 The arson of Bai ba Saul ite's vehicle.
20 Threat to the life of Mr. Hennessy.

14:07

21
22 You say:

23
24 "Firstly, in respect of my meeting with Sergeant Hughes
25 in April of 2007, from my memory I recall that a
26 meeting occurred, in the first two weeks of April..."

14:07

27 A. Yeah.

28 353 Q. I thought you said a moment ago that you hadn't met
29 him?

1 A. No, I don't think -- the point I was making there, when
2 I was putting this together I was trying hard to think
3 if there was anything at all. I don't think I met him
4 at any time prior to the 23rd but I wasn't sure. I
5 certainly didn't have an in- person meeting with him. 14:07
6 If I had phone contact with him, I can't recall. But
7 the meeting was the 23rd April. That was the first
8 meeting. So that's not correct.

9 354 Q. Okay. I mean, the statement says "I recall that a
10 meeting occurred" but you are now saying that's 14:07
11 incorrect?

12 A. No, what I'm saying is that April -- that meeting on
13 April 23rd was the first meeting I had with him.

14 355 Q. I don't want to labour this, but this statement says
15 "from my memory I recall that a meeting occurred in the 14:08
16 first two weeks of April..."

17 A. Yes, that's not correct.

18 356 Q. That's not correct?

19 A. No, it is not. No. And this is done because I am
20 trying hard. 14:08

21 357 Q. I accept that.

22 A. I know this was in 2020 I was writing the statement and
23 I said I have no recollection, so I was trying hard for
24 this questionnaire to try and see if there is any
25 additional information that I can recall. 14:08

26 358 Q. And then it says:
27
28 "I may also have met him on the 23rd April, but this
29 was not my first meeting with him. I do recall that in

1 preparation of the report dated the 24th April, I spoke
2 to Sergeant Hughes on the phone several times on the
3 23rd April 2007. In respect of the above four
4 incidents, I believe that Sergeant Hughes gave me an
5 outline of each one." 14:08

6 A. So, what I should have said there was I believe it's
7 possible. I really don't know. So I know that comes
8 across as if I have a recollection; I don't have a
9 recollection. So, what I'm saying in that is I believe
10 it's possible that I talked about those, and after 14:09
11 that, I can't give any more information.

12 359 Q. Well it's -- I mean it clearly says --
13 A. I know, I accept that. I accept that.

14 360 Q. Then it goes on:
15 14:09
16 "Sergeant Hughes told me directly that all of his
17 concerns in respect of these matters had been reported
18 by him to Detective Inspector Christy Mangan."
19

20 Then you say: 14:09
21

22 "Sergeant Hughes at no stage ever told me that he had
23 made a protected disclosure."
24

25 This is the meeting of the 23rd April? 14:09
26 A. Mmm.

27 361 Q. But this account here suggests, chief superintendent,
28 that Sergeant Hughes mentioned these four matters to
29 you?

1 A. Yeah, as I said, all I can say is I have no
2 recollection of anything. So what I'm saying here is,
3 I believe it's possible he mentioned this. We were in
4 the meeting for, as Sergeant Hughes says, 20 or 30
5 minutes, so I expect -- and my memory is, I'll go back, 14:10
6 the only memory I have is of him sitting across the
7 table from me in a state of fear, and I reckon that
8 those issues were discussed by him at some stage in
9 that meeting.

10 362 Q. Look, again, you don't say I believe that it's 14:10
11 possible.

12 A. No, I don't. I am saying that -- when I put that
13 together, that's the mistake that I made, I didn't put
14 in it's possible because I don't have a recollection
15 and that's consistent with my statement earlier. And 14:10
16 that's genuine. I just can't remember. I have just
17 one image in my mind, that's it!

18 363 Q. Well, I mean it's very important to the reliability of
19 your evidence generally, and I mean this respectfully,
20 that if you can't remember, you say you can't remember, 14:11
21 rather than misreporting your recollection. Do you
22 agree with me?

23 A. Well, if you accept that I say it's possible, it's not
24 a misreport. And that's the wording that was missing
25 from that. 14:11

26 364 Q. Well, I don't accept it's possible because it doesn't
27 say it, with respect, chief superintendent.

28 A. Yeah...

29 365 Q. And there was reference to the phrase, when Sergeant

1 Fitzpatrick phoned you, "stay out of the loop".

2 A. Mmm.

3 366 Q. Can you explain again please, the context in which you
4 -- to the best of your recollection, that phrase was
5 used? 14:11

6 A. Eh, my recollection is, the term "stay out of the loop"
7 would have referenced something that I was not party
8 to. Sergeant Hughes wasn't party to -- or Sergeant
9 Fitzpatrick, rather, wasn't party to and it was
10 something being conducted by someone external to the 14:12
11 division. So I'm not in the loop in any way. I am not
12 part of the reporting mechanism on that. That's what I
13 would have meant.

14 367 Q. So, Sergeant Hughes's recollection -- his evidence --
15 is that he distinctly recalls saying to you at that 14:12
16 meeting on the 23rd that there had been a systems
17 failure. And your evidence is that you don't
18 recollect?

19 A. No.

20 368 Q. And you made a statement to the Tribunal that he 14:12
21 referred to four matters which would be consistent with
22 raising systems issues, but you are now saying that in
23 fact your statement isn't accurate to the Tribunal in
24 respect of those --

25 A. My statement is correct. The questionnaire piece there 14:13
26 was done -- probably I should have reviewed it more, I
27 believe it's possible, it doesn't -- my statement says
28 from the outset that I have no memory of the meeting.
29 And I don't. So this questionnaire, when I did it, the

1 wording was wrong. I should have put in 'possible' in
2 it because I don't recall.

3 369 Q. Well look, Sergeant Hughes says he distinctly recalls
4 saying it --

5 A. No, I accept what he said. And I can't -- all I can 14:13
6 say is I can't remember. But here is what I would say:
7 is that if he did say it to me in the way he said that
8 he said it, in those words, those pronounced words
9 here, I would have taken a different action. Either I
10 would have included it in the document -- he said I 14:13
11 wrote it down, it would have been in the document. He
12 had this document, he had total editorial control of
13 that document as far as I was concerned. And if it
14 wasn't within that document, I would imagine I would
15 have reported it differently. 14:14

16 370 Q. You see, in the Q&A, again these four items that you
17 say in the Q&A -- now, I know you are taking perhaps a
18 different position now -- but that if they had been
19 said, then one would have expected those to be recorded
20 in the document? 14:14

21 A. It's his document. That's the way I saw it. The way I
22 saw it is that whatever was in there was something
23 Mangan was looking into. He wanted something back from
24 Mangan. And I never knew what was in the Mangan's.

25 371 Q. No, I accept that, and I want to ask you, Chief 14:14
26 Superintendent Curran, when you used the phrase "out of
27 the loop" --

28 A. Yeah.

29 372 Q. -- and what you have just said there, the Mangan/Feehan

1 inquiry, that was something, am I right, that you kept
2 apart from --

3 A. It wasn't an act of -- I wasn't actively keeping apart
4 from. It had nothing to do with me at all. No one had
5 ever come near me in relation to it. Someone had told 14:15
6 me that there was an engagement between Sergeant Hughes
7 and Inspector Mangan. That's the extent of it. I
8 never knew what way that went, to be honest with you.
9 If who was doing what or what was said.

10 373 Q. And if it had nothing to do with you -- and I am not in 14:15
11 any way suggesting otherwise -- but if it had nothing
12 to do with you, then that would be another reason why
13 it would not be recorded in your report the following
14 day; it was nothing to do with you?

15 A. I wouldn't regard -- I mean the fact that I'm sending 14:15
16 it off looking for -- like, this is Sergeant Hughes --
17 if I'm picking you upright, the fact it has nothing to
18 do with me is the reason that I am reporting it and
19 that communication is sought. So, from someone else
20 who can actually supply the information. 14:16

21 374 Q. What I'm saying is, the issue of a systems failure, and
22 Sergeant Hughes outlines the four --

23 A. Oh sorry, if you are talking about those words, yes.

24 375 Q. Yes.

25 A. Oh I accept what you are saying. If it was something 14:16
26 that I had, listen, I would have put it down, there is
27 no reason for me not to put it down.

28 376 Q. No, but sorry, I haven't been clear here, my fault.

29 A. Maybe --

1 377 Q. what I'm saying is: the fact that the Mangan/Feehan
2 systems failures issue --
3 A. Yeah.
4 378 Q. -- wasn't your responsibility, it was nothing to do
5 with you in that sense. 14:16
6 A. No. And you say systems failure, I had no knowledge of
7 the content of that report.
8 379 Q. And what I'm saying is, as a subject matter that wasn't
9 related to your duties and your responsibilities, that
10 is a possible reason why it wouldn't have been referred 14:16
11 to in your report?
12 A. Well it's -- if the statement that Sergeant Hughes made
13 to me at the end of his evidence here, if that had
14 actually -- on day 4 I think of it -- if that had been
15 said to me, I would have put it into the document. 14:17
16 There was no reason for me not to put it in.
17 Secondly, if it had been done, and I didn't put it into
18 the document, I felt I had to do something with it, I
19 would have reported it up separately
20 380 Q. I didn't hear -- 14:17
21 A. Sorry, I would have reported it up separately.
22 381 Q. Well --
23 A. There is no reason for me. I'm not invested here. I
24 have nothing to do with this investigation. I am
25 coming in four -- what is it, five months after the 14:17
26 murder.
27 382 Q. I'll move on, Chief Superintendent Feehan [sic],
28 because I am only going over old ground. But in your
29 Q&A you refer to four matters being outlined by

1 Sergeant Hughes, they would be consistent with some
2 kind of grievance or complaint about systems, and they
3 are not recorded.

4 A. Yes, but it's also consistent -- all I can say is, my
5 memory coming away from that is that Sergeant Hughes is 14:18
6 in fear for him and his family, and my first actions
7 were to go off and see what I could do to give him
8 comfort on that. That's my abiding memory of the whole
9 thing. I can remember him sitting across from me with
10 some type of state of, I don't know, shock is the wrong 14:18
11 word, fear is probably even too strong, but certainly
12 real concern.

13 383 Q. Well as I have said, Sergeant Hughes says he distinctly
14 recalls saying it --

15 A. No, I accept that. And I can't remember. I genuinely 14:18
16 can't remember. And I have really tried hard to do
17 that.

18 384 Q. Just to finish with this passage from the question and
19 answer. You actually say that he didn't use the phrase
20 "protected disclosure". Why would you have introduced 14:19
21 that to the conversation of the 23rd April 2007?

22 A. Sorry, is this the line here, line 168, is that what
23 you are referring to?

24 385 Q. Yes.

25 A. Sorry -- I am saying, in the context of the 14:19
26 questionnaire, something is mentioned about a protected
27 disclosure. So that's where I'm -- it's in the context
28 of the questionnaire document that word is being
29 produced.

1 386 Q. You were being asked about your meeting with him in
2 April?
3 A. Yeah.

4 387 Q. And you said you met him in the first two weeks of
5 April, but that's an error? 14:19
6 A. I think so. I mean --

7 388 Q. And then you meet him on the 23rd April and you are
8 asked about the four incidents...
9 A. Yeah.

10 389 Q. And you comment: "Sergeant Hughes at no stage ever told 14:20
11 me that he had made a protected disclosure."
12 A. I think that's the inference of the questionnaire.
13 Somewhere in there there is an inference. It's like in
14 the broader context of the questionnaire that subject
15 is being introduced. 14:20

16 390 Q. All right. Now, on foot of this meeting, there was a
17 report, or document, from Chief Superintendent Phillips
18 at page 1070 -- one, zero, seven, zero, Mr. Kavanagh,
19 sorry. And this is a minute from Chief Superintendent
20 Hughes, and the final paragraph: 14:20
21
22 "Superintendent Curran should review the current duties
23 being performed by Sergeant Hughes to ascertain are his
24 current responsibilities, particularly in the area of
25 community policing, suitable and can he be facilitated 14:21
26 in his district or in the division accordingly to avoid
27 such stressful responsibilities. A report will be
28 submitted to this office within one week in relation to
29 this matter."

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was that done?

A. I don't know if it was. I would suspect not actually to be honest with you. I don't see it in the documentation.

14:21

391 Q. Is there a good reason for that?

A. Em, perhaps I spoke to Chief Phillips afterwards and, you know -- I think actually, the 24th, so I think it's possible the document came in about the loss of allowances as well, you know, the document, Sergeant Hughes is raising the matter.

14:21

392 Q. Right. And just the phrase "systems failure", you recall Sergeant Hughes using that at some point, do you?

A. I don't recall that use. I mean he may have used it before the end of '07 or '08. That is my first -- if I was to recollect I'd say it was way beyond the summer of that year when I heard that term.

14:22

393 Q. Sorry, can we just be clear. You started off by saying you don't recall him using the term?

14:22

A. No, I am saying if I don't recall him -- if you are talking about at any time, I'd say the first time I heard him say that, I am only speculating because again I don't remember it that well, it's 15 years ago, is sometime towards late '07, '08 is the first time I heard the term. I am not even sure it was him said it to me, someone else may have said it to me.

14:22

394 Q. All right. If we just have document at page 1172. I think this is July of 2007. And you do refer, in the

1 middle paragraph there, to his concerns around the
2 Baiba Saulite murder?

3 A. Yeah.

4 395 Q. That he initially had fears about his and his family's
5 safety, but this has abated somewhat in recent times. 14:23
6 And this is in July 2007. So, Chief Superintendent
7 Curran, what I am suggesting is that it was way back in
8 November 2006 that Sergeant Hughes raised with
9 Inspector Cryan coordination failures, and at this
10 point, in 2007, he is talking about this and raising 14:23
11 this with members?

12 A. Well, this document relates to my identification of the
13 source of his stress, and in that document I am
14 referring to the April 24 document, plus subsequent
15 conversations. But the April 24 document said his 14:24
16 concerns would arise out of his engagement with Mangan
17 and the investigation he seemed to want arising out of
18 that.

19 396 Q. And of course you raised it in communications with
20 Inspector Della Murray in June of 2007? 14:24

21 A. I had no contact with Inspector Murray around that
22 whatsoever.

23 397 Q. Now, it was in June of 2007 that disciplinary papers
24 were served on Sergeant Hughes. Now I know you did --
25 you were asked about this this morning, but if you 14:24
26 don't mind me going over it again briefly.

27 A. Sure.

28 398 Q. You weren't involved in that process?

29 A. No way. I had no involvement whatsoever. It was done

1 by an Assistant Commissioner. So in the Garda
2 organisation, that's way above the superintendent
3 layer, to naturally, I can say there is a big barrier
4 or a moat between the two. It's a hierarchical
5 organisation, there is no -- unless you communicate 14:25
6 down the line directly in the line of communication you
7 don't get access. And I had no communication, I had no
8 part to play in the decision, I had no knowledge of it
9 until I knew there was papers to be served on Sergeant
10 Hughes. 14:25

11 399 Q. Sorry, you had no knowledge until?
12 A. Until, I think it was papers to be served on Sergeant
13 Hughes, and I think -- I don't know if there was an
14 inquiry locally was he working or whatever, that's all
15 -- but it wasn't with me. 14:25

16 400 Q. So, did you become aware then in June when the papers
17 were served, of it?
18 A. At some stage I must have, yes, because especially when
19 Sergeant Hughes went sick, then we knew that he went
20 sick as a result -- after the service of documents -- 14:26
21 shortly afterwards.

22 401 Q. And I know you had no involvement in it but did you
23 keep abreast of --
24 A. No.

25 402 Q. -- its progress? 14:26
26 A. None of my business. I don't have -- like, it's
27 outside of my control and being coordinated by an
28 assistant commissioner and another chief superintendent
29 who I'd have no contact with.

1 403 Q. So I think you said there none of your business, is
2 that it?

3 A. Well, the investigation itself, no. I probably would
4 have been aware that -- I think I may have been aware
5 about the CMO and not available, you know, the fact 14:26
6 that he wasn't available for interview and stuff like
7 that. Something may have come down through the
8 channels along those lines, but I had no involvement
9 with those people in that investigation.

10 404 Q. But you knew it was something that was causing Sergeant 14:26
11 Hughes considerable stress?

12 A. I accept that, yes.

13 405 Q. And as his local manager, you had some responsibility
14 towards him and his wellbeing?

15 A. Yeah. So, I know Inspector Waters spoke to him and he 14:27
16 was very happy with the support he was getting from the
17 Garda welfare service. And in relation to the
18 discipline, unfortunately it's a fact of life in the
19 Garda organisation, discipline is the tool that's used.
20 Nobody likes it, but it's just a fact of like. 14:27

21 406 Q. But did it concern you how long it was taking?

22 A. It surprised me it took so long.

23 407 Q. It only surprised you. It didn't concern you for
24 Sergeant Hughes's welfare?

25 A. Well, you know, the discipline regulations are -- you 14:27
26 know, I think there was a transition that year,
27 actually different regs, but this is the process.
28 There is a process there. So, I mean -- if that -- as
29 far as we know now Sergeant Hughes wasn't available

1 because the CMO was saying he wasn't available to
2 interview, that's fine. That's a medical decision
3 that's guiding him.

4 408 Q. Because it's -- I think your evidence is clear that it
5 was a factor in his work related stress and his absence 14:28
6 from work?

7 A. Well, it appears it compounded the issues for him. It
8 was a concern. If you look at the April 24 document,
9 one of his concerns was he was in fear of being
10 disciplined over that whole issue. So that was hanging 14:28
11 over him until such time as the papers then confirmed
12 that a discipline was being pursued against him, you
13 know, in terms of just an inquiry.

14 409 Q. So -- yes, in April, almost immediately on taking your
15 position, you're aware of the importance of that? 14:29

16 A. I can see why it's foremost in his mind, yes.

17 410 Q. And in July -- and I am moving to the area of injury at
18 work, a document page 7198, please. This is a letter
19 -- not to you, Sergeant Curran -- forgive me, Chief
20 Superintendent Curran, it's not to you, it's to -- -- 14:29

21 A. Feehan.

22 411 Q. -- Chief Superintendent Feehan.

23 A. Mmm.

24 412 Q. And in fact I think it postdates a letter from Mr.
25 Costello, Sergeant Hughes's solicitor, to Assistant 14:29
26 Commissioner Clancy. But as early as July, 31st July,
27 Sergeant Hughes is asking for a report to be furnished
28 in respect of his illness and sickness at work. And if
29 we could move --

1 CHAIRMAN: Is there a question there, Mr. Lynn?
2 MR. LYNN: Sorry?
3 CHAIRMAN: What's the question?
4 MR. LYNN: I am making the point that --
5 CHAIRMAN: Sorry, Mr. Lynn, there is a question -- if 14:30
6 you produce something, there is a question. What you
7 have produced is a document that was not sent or
8 received by this witness, and you simply said it. And
9 you leave it there. So, I am assuming there is a
10 question: did he know about it? Did he hear about it? 14:31
11 Had he anything to do with it? I mean it's not
12 addressed to him but you can't just simply read a
13 document and then say well now I'll move on. At least
14 -- sorry -- am I missing something here?
15 MR. LYNN: No, you're not, no. 14:31
16 CHAIRMAN: Thanks.
17 A. I don't know. That document, I have no knowledge of
18 it.
19 413 Q. MR. LYNN: You don't know about that document?
20 A. No. 14:31
21 414 Q. Okay. Can we move to page 1235. Now, again this isn't
22 addressed to you, Chief Superintendent Curran. This is
23 to, I think, Chief Superintendent Phillips, but it's
24 from Assistant Commissioner Clancy, and it's requesting
25 Form D5, medical certificates, Form 2 and a full report 14:32
26 and certificate in accordance with Code 11.37.
27 Now, it's not addressed to you but is that a matter
28 that would have been passed on to you?
29 A. Can you tell me the date of that document?

1 415 Q. Yeah. It's the 12th June 2007.

2 A. Yeah, I see it comes down. It comes down through the
3 channels. I don't know if that was the type of form
4 part of the response that came it. It was probably
5 brought into the file with the CMO, and, you know, the 14:32
6 file that was generated by Sergeant Hughes in respect
7 of his loss of allowances, and this -- so I think it
8 would have ended up as being an identification of the
9 source of stress. Sorry, I don't know if you can hear
10 me properly. So identification of the source of 14:33
11 stress, which I gave later on in July.

12 416 Q. Which you gave on?

13 A. In July I think sometime was the date of that.

14 417 Q. The source of the stress?

15 A. Well my identification -- my response to the chief 14:33
16 superintendent at the time posed the question. You
17 read it out earlier on, you know the piece, the threats
18 to the life and the concerns and then the discipline.
19 So I'm saying this would have formed -- I can only
20 imagine, I mean I have no recollection -- if you are 14:33
21 asking me, I have absolutely no recollection of this
22 document whatsoever. But I'm saying it's likely that
23 it could end up in the consideration around that time
24 about identifying the source of the stress. Remember,
25 the 11.37 doesn't prescribe for any matter relating to 14:33
26 a psychological injury.

27 418 Q. No. I mean a lot of this was covered this morning --

28 A. Yes.

29 419 Q. -- and I don't propose to go through a lot of the

1 documentation that Mr. McGuinness went through. Is it
2 correct of me to say that your position was that you
3 weren't qualified to adjudicate on the issue?

4 A. Yes. If you look at the document that Sergeant Hughes
5 sent up, he mentions traumatic incidents, so there was 14:34
6 trauma involved. And also, combined with that he is
7 looking for an 11.37 certificate. In 11.37 it says if
8 there is any doubt the Assistant Commissioner HRM
9 decides on it. And then the source of the stress, once
10 that -- if we can do our best to identify what we 14:34
11 believe the cause of the stress is, and that's
12 identified, then off it goes for medical people to
13 decide on the trauma and what the injury on duty is.

14 420 Q. But, as Mr. McGuinness put to you, this went on for
15 four years, chief superintendent? 14:34

16 A. No, I accept -- and by the way, some of my recent cases
17 have been of that length of time before I got a
18 document that was conclusive for an 11.37 to be should.

19 421 Q. I'm sorry?

20 A. Some of the documents I have dealt with recently, some 14:35
21 of the cases, have taken some years afterwards before a
22 document has been produced where I can rely on, as a
23 chief superintendent, to issue a cert under 11.37 where
24 there has been a psychological injury. We covered that
25 this morning. So in effect, what happens now is that 14:35
26 there would be a document produced by the CMO giving
27 some determination that there was an injury, and that
28 the probable cause of the injury is the event, which in
29 this case would be -- often might be attending an

1 incident, you know, there is some trauma in response to
2 that, and will take several years afterwards. That's
3 the way of it unfortunately. Compounded by the fact
4 that the 11.37 doesn't have any -- is silent on stress
5 injuries and there is no operating procedures in
6 relation to it, or process at that time. 14:35

7 422 Q. Was there any real doubt in your mind that this was
8 work related stress that Sergeant Hughes was suffering
9 from?

10 A. It's work related stress. No doubt in my mind it's 14:36
11 work related stress. Whether it was an injury on duty
12 is another he matter and that's for the medical
13 professionals to determine.

14 423 Q. That's your position?

15 A. It is, yes. Still, even now. 14:36

16 424 Q. Just -- I'm not going to dwell on this for long, but
17 just to -- at page 4480 -- this is a request, again
18 it's not -- it's to the chief superintendent, but a
19 request from Assistant Commissioner Fanning, and he
20 refers to previous correspondence in 2011, in the 14:36
21 earlier part of 2011 and 2010.

22
23 "Please be advised a reply from your office is still
24 outstanding."

25
26 would this have gone to you, as the local manager,
27 albeit it's addressed to the chief superintendent?

28 A. I have no recollection, but I know at some of those
29 periods -- some of these minutes were defaulting down 14:37

1 to Inspector Lacey. So, I know he has responded to
2 some of them. And I know there is a minute came to me
3 sometime around June, which I know I definitely became
4 aware of it, and at which point it ended up -- I think
5 I looked for some extra time to produce the report. 14:37
6 There was also a meeting with Sergeant Hughes on the
7 14th July, and I delayed the report for that reason
8 until we got whatever document Inspector Lacey was
9 produce to -- or sorry, Sergeant Hughes was to produce
10 to Inspector Lacey. And that then formed a response by 14:37
11 way of the document that was dated the 29th July.

12 425 Q. Yes, but this had gone on now for four years without a
13 correct --

14 A. Yeah, but I think in this, you'll find I have reported
15 -- I have reported sometime in October '10 that he is 14:38
16 saying his concerns are related to the previous
17 longstanding concerns. Inspector Lacey has reported in
18 there that the issues are non-medical issues. What's
19 happening is, as far as I am concerned, in 2011 he is
20 telling me that the issues are longstanding, he is 14:38
21 telling Lacey they are longstanding issues but then he
22 is going to the CMO saying that he is being isolated
23 and bullied at work. That hadn't been brought to my
24 attention, and I had met him on the 4th January in
25 person, and I spoke to him that afternoon on the -- and 14:38
26 subsequently on the 14th February. So I had that
27 engagement, but I can't remember that document. And I
28 was away for much -- for fairly protracted periods in
29 around March, April and May, myself personally.

1 426 Q. There is no doubt but that the reports requested by HRM
2 were not being produced?

3 A. Some of them were. I think there might have been
4 confusion, because I think the -- if my memory serves
5 me right, there is a mention in the October '10 14:39
6 document that covers the fact that his injuries are
7 longstanding. And that may have not -- there might
8 have been confusion around that between HRM and
9 ourselves. But I'm not denying the fact that there's
10 been a lot of delays. I'm the not denying that. I 14:39
11 mean, it's unfortunate.

12 427 Q. And there was a case conference to try and bring this
13 to a head on the 12th November 2010?

14 A. Yes.

15 428 Q. And I think you attended that, did you? 14:39

16 A. Yes, I believe I did.

17 429 Q. And can you recall what was discussed at that?

18 A. I just remember the doctor speaking. I don't think --
19 I can't remember any other conversation. And even then
20 I can't remember what he was saying. I just remember 14:39
21 him sitting there across from Dr. Quigley and something
22 came down afterwards by way of a minute. I can't
23 remember who said what. I saw Superintendent Nyhan --
24 or Inspector Nyhan was at it, I had no recollection of
25 that until I saw the mention of him in a minute. 14:40

26 430 Q. Was local management's position that they weren't in a
27 position to make a proper assessment in cases of this
28 nature, was that not the case, was that not the core of
29 the meeting?

1 A. Well, no, I can't recall that being discussed. All I
2 remember is Dr. Quigley talking, and I can't remember
3 what he said. I don't have any notes.

4 431 Q. Were you not concerned for Sergeant Hughes that this
5 had gone on for so long? 14:40

6 A. Of course. But I'm also -- like, I'm also there as
7 part of the organisation, and other people have
8 responsibility for this.

9 432 Q. But Sergeant Hughes was off sick. An interview at home
10 should have been carried out as well, isn't that right? 14:41
11 Code 11.39?

12 A. 11.39 says that, yeah. But my understanding is, you
13 see the way it works is, if someone like me gives it
14 out to an inspector to look after, that's a line
15 manager. And I know Inspector Cryan had been engaging 14:41
16 with him. I'm not sure if I ever had a conversation
17 that I should visit him at home, but I know he had been
18 there. And then Inspector Hanrahan had plenty of
19 interaction with him. And I know Chief Superintendent
20 Phillips had said something to Inspector Hanrahan as 14:41
21 well about looking after the welfare of Sergeant
22 Hughes. And then Inspector Lacey, when he came in
23 April '09, I spoke to him specifically about looking
24 after Sergeant Hughes's welfare. But I understand the
25 visit to home, my understanding at times, that when the 14:41
26 suggestion was to go to his house, he wasn't -- he
27 didn't welcome it.

28 433 Q. I mean, you are not in a position directly to give that
29 evidence, are you?

1 A. No, I am relying on what other people are saying to me,
2 yeah. I know Inspector Hanrahan said the same. I
3 think it's understandable. I mean, I understand why
4 someone wouldn't want to be visited at home.

5 434 Q. Well there was no interview in accordance with Code 14:42
6 11.39, is that correct?

7 A. I wouldn't say that, no. There was a lot of
8 engagement. I had a quick take -- and I'm not saying
9 they were all welfare -- but in April '07 to the end of
10 '08 it's in the region of 40 interactions with Sergeant 14:42
11 Hughes. I don't think there was any visit to his
12 house. I know Inspector Hanrahan met him in the
13 Carnegie Court Hotel in around the end of December '07.
14 I know Inspector Lacey, and again my understanding is
15 that when an offer was made to visit him in his house, 14:42
16 or when an opportunity came to -- he didn't want it
17 either. So, that's my understanding. And that's in
18 hindsight. I mean, when I hear the engagement is
19 happening, I'm taking that any issues then are likely
20 to be raised. He is getting support from those 14:43
21 inspectors and they are all reasonable people.

22 435 Q. Well, I want to turn now to the meeting you had on the
23 17th December 2008.

24 A. Yes.

25 436 Q. And that's one of the issues in the Issue Paper. And 14:43
26 if we could just get up 1096, please. And in fact this
27 was opened to you this morning, chief superintendent,
28 and the first -- the second paragraph there. This
29 issue about an assertion that Sergeant Hughes had

1 refused to attend meetings, I think it's been
2 acknowledged by An Garda Síochána as an error?

3 A. Yeah. And that was a surprise to me, by the way, when
4 I heard that happened, I had no knowledge that this
5 happening and as soon as we knew and Bill Hanrahan 14:44
6 knew, we sorted it out and I sent up that report as you
7 know in November, as did Bill to me.

8 437 Q. Then the next paragraph refers to, if we could just
9 click down a bit -- this was referred to you this
10 morning -- "a number of work related issues outstanding 14:44
11 which I believe have caused my illness." And then it
12 refers to workplace concerns. You'll see:

13
14 "Garda management has failed to properly and
15 professionally address these serious issues..." 14:44
16

17 These are issues between November '06 and '07.

18
19 "The fact that these issues have not been properly
20 addressed by Garda management has led to a situation 14:45
21 whereby my general welfare, from a health and financial
22 perspective, has deteriorated over the last two years.
23 I believe that Garda management has failed in the
24 extreme to properly and professionally address the
25 serious issues pertaining to my situation." 14:45
26

27 Now, what did you take that to mean -- to refer to?
28 A. I suppose the discipline and maybe the issues I had
29 reported up. And Feehan and Mangan. Because I was

1 never party -- I never knew what happened in Feeney and
2 Mangan, even though we know now the discipline arose
3 out of it. I wasn't aware that that was the only part
4 of it.

5 438 Q. And systems issues as well that had been raised by 14:45
6 Sergeant Hughes?

7 A. Well again, I never knew the content of Mangan, ever,
8 until I saw the Tribunal documentation.

9 439 Q. And the next paragraph:

10 14:45

11 "From a welfare point of view, I believe that Garda
12 management has failed to properly conduct a proper
13 investigation into the reason for my absence from work.

14 I have not been formally interviewed to date in that
15 regard by Garda management. I am aware that certain 14:46

16 reports have been submitted to Commissioner HRM by
17 Garda management concerning my absence from work. I
18 find it difficult to understand how such reports can be
19 formulated without sight of any official report in
20 regard taken from or submitted by the member affected." 14:46

21

22 So that's a complaint about the reporting.

23 A. Yes.

24 440 Q. And I think you are accepting that you were in a 14:46
25 position where you couldn't adjudicate on the injury at
26 work issue?

27 A. No. No. For me, it's clearly not an issue for me, on
28 the injury at duty. It's a CMO issue.

29 441 Q. No, no, we have -- then the next paragraph:

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"I believe that Garda management have failed to properly and professionally tackle issues of workplace bullying, harassment and intimidation which I have been subjected to and which were reported and I believe that this failure is a continuance of such bullying and harassment of me." 14:46

Then it refers to the official regulations which cater for Garda management action to be taken in the case of protracted absences of members on sick leave, and the assertion that these regulations were not adhered to. 14:46

Then the next paragraph refers to the pay cut in September 2007. 14:47

Did you have any role in that, or --

A. No.

442 Q. -- you said that was an automatic --

A. No. I remember, like, we're probably in a faster world now but in '07 that was way off somewhere else. I have no control over that. 14:47

443 Q. But if there had been a determination that Sergeant Hughes was injured at work, then that pay cut would not have occurred? 14:47

A. Yes. Then it would automatically -- and it says it actually in the Code there. Retrospectively a payment is given if it is determined it's an injury on duty.

444 Q. Forgive me if this is obvious, but the failure for

1 whatever reason, Chief Superintendent Curran, not to
2 have made that determination, had a very serious impact
3 on Sergeant Hughes?

4 A. I accept it's difficult, yes. But I think -- am I
5 right in 2007, Dr. Quigley said there wasn't an injury 14:48
6 on duty.

7 445 Q. No, but you accept that the impact --

8 A. I have no doubt about it, yeah.

9 446 Q. And then the next paragraph refers to the prompt
10 furnishing by Sergeant Hughes of his -- of the 14:48
11 necessary medical certificates. And if we can just
12 click down a bit, please. Then there is reference to
13 the disciplinary process. And then:

14
15 "Due to Garda management's failure to properly and 14:48
16 professionally investigate the reason for my absence on
17 sick leave and the fact that the issues which I have
18 raised with Garda management of workplace bullying,
19 harassment and intimidation remain unresolved, I
20 consider my workplace to be unsafe and not in keeping 14:48
21 with obligatory health and safety, contractual and
22 employer/employee statutory workplace requirements. "

23
24 And then Sergeant Hughes says he wishes to state he is
25 available to try to bring resolution to the above 14:49
26 matters, and he intends to return to duties. And
27 towards the end he asks for a full investigation and a
28 restoration to full pay and allowances due.

29

1 So that was his written report. And he has also raised
2 issues of the systems failures at this meeting.

3 A. Is the word systems failure used in it?

4 447 Q. I don't know whether the phrase systems failure is used
5 but his --

14:49

6 A. He mentions matters he has reported up, which I have
7 reported anything he has done to me, plus whatever else
8 he has done to Mangan or -- in the discipline
9 investigation.

10 448 Q. Sergeant Hughes feels that in this particular meeting
11 the issues he raised with you -- and I'll come to a
12 note that he made in order to allow you to reply to it
13 -- but his position is, is that at this meeting you
14 didn't really engage with what he believes were the
15 serious issues to do with systems coordination failures
16 relating to Ms. Saulite's death?

14:49

17 A. Well, you know, just going back, as I said earlier on,
18 I had reported up in April '07, I had also reported up
19 the issues he raise with me in July '08 and -- or was
20 it June '08 and the July report. And also just the
21 previous month, the contact I had with him, 8th
22 October, where he mentioned issues of a similar nature.
23 And all of those had gone up previously. So when that
24 meeting came along, I had done my bit and I also sent
25 this report upwards. That report was produced with no
26 advance notice. It was a welfare meeting and I was
27 doing my very best to try and meet Sergeant Hughes and
28 understand how I could help him from a welfare
29 perspective, and where that, in my mind, would have

14:50

14:50

14:50

1 been to try and get him back and integrate him back
2 into the workforce in any way I could. And in that
3 meeting I offered him a position -- I asked him to try
4 and come back and try and draw a line in the sand and
5 try and support him in his journey back into the
6 organisation.

14:51

7 449 Q. You are saying you reported these matters up?

8 A. That document was reported up on the 23rd January.

9 450 Q. Yes, that's at page 1094, I think. And this is the
10 report:

14:51

11
12 "Wi th reference to the above I attach the report..."

13
14 So, you furnished Sergeants Hughes's report. And then,
15 in the second paragraph:

14:52

16
17 "A number of issues are raised by Sergeant Hughes in
18 the attached communication. Regular contact has been
19 made with Sergeant Hughes and he continues to assert
20 that he is suffering from work related stress. To this
21 end he outlines a number of points where he believes
22 that Garda management has not responded to his
23 satisfaction. He refers to his injury on duty which he
24 states was never investigated along with previous
25 allegations relating to bullying and harassment. He
26 further states that he intends to return to work at the
27 earliest opportunity should some of the issues raised
28 in this letter be addressed."
29

14:52

14:52

1 Now that, with respect, is a very short précis. It
2 doesn't refer to the serious issues that Sergeant
3 Hughes contends he was raising with you.

4 A. Well, you know, I was doing my best in the meeting,
5 just to try and engage with Sergeant Hughes. That 14:52
6 report, I accept, it's short in nature, but the
7 document was sent up, I suppose, to join the other
8 documents that I had sent up.

9 451 Q. Well, at page 506, there is -- I think you'll have seen
10 this, Chief Superintendent Curran -- but Sergeant 14:53
11 Hughes actually recorded the issues he had with the
12 meeting. And I want to give you an opportunity to
13 comment on them.

14 The first italicised part there was that first issue
15 about refusing to attend meetings. And I should say I 14:53
16 think it's accepted by everybody that that was an
17 error.

18 A. Yes.

19 452 Q. But Sergeant Hughes's recall of the meeting is that you
20 said that you were sure that he had informed you that 14:53
21 all communication should be by telephone. Now, do you
22 recall adopting that position?

23 A. No, I never said -- no, in my report, dated the, I
24 think it was the 7th November, I am bringing clarity to
25 that point. I said that the issue of communication by 14:54
26 telephone is not an issue for us. There is an open
27 line of communication.

28 453 Q. All right. The next paragraph is really more germane
29 to Sergeant Hughes's complaint, and I think it's issue

1 10 in the list of issues -- or 9.

2
3 "On several occasions throughout the meeting
4 Superintendent Curran emphasised that an investigation
5 is now under way by the Garda whistleblower into 14:54
6 aspects of the conduct of the various investigations
7 surrounding the death of Baiba Saulite and that the
8 investigation should deal with the serious concerns I
9 have been raising in the past.

10
11 I pressed on him why my concerns were not addressed by 14:54
12 Garda management prior to the intervention of the Garda
13 whistleblower but I could not elicit an adequate
14 response from him other than that he had reported my
15 concerns to the authorities and that the matters 14:55
16 referred to were now the subject of inquiry by the
17 whistleblower. "

18
19 So, no adequate response to the serious issues that
20 Sergeant Hughes is raising with you. 14:55

21 A. I don't know. That's not too inadequate, to be honest
22 with you, what I'm saying here. Remember, this is on
23 the cuff, at a meeting without notice and I'm doing my
24 best to answer those questions to him directly. And
25 also in the knowledge that I have sent up reports 14:55
26 myself in relation to any issue he raised with me.

27 454 Q. And the next paragraph, he says he continually pressed
28 you, to summarise it, as to whether there was any
29 mechanism within the organisation that would look at

1 his concerns apart from the Garda whistleblower
2 mechanism, and that you said you didn't know.

3 A. No, I don't think there is -- was actually. So, that
4 was just my -- and again this is -- he is throwing
5 questions at me just on the fly more or less, so I'm in 14:56
6 a meeting here and my intention is to try and support
7 him back into the workforce here, and I am answering
8 the questions, I'm trying to do my best here.

9 455 Q. And he records that you did say that others were
10 rebutting his position -- this is the next paragraph 14:56
11 just to be fair to you --

12 A. Yeah.

13 456 Q. -- Chief Superintendent Curran, in the document --
14 A. I was probably reminding him of the conversation I had
15 with him and he would have been aware of around with 14:56
16 Walter O'Sullivan.

17 457 Q. And then the issue of the absences from work. And --
18 A. Well the Garda Code doesn't provide for investigation
19 properly in relation to the psychological injury is the
20 answer to that next paragraph. 14:56

21 458 Q. I think we have dealt with that.

22 A. Yeah.

23 459 Q. One thing Sergeant Hughes contends is that there was
24 this hiatus because the uncertainty as to who would
25 make the determination in terms of injury at work, and 14:57
26 that he wasn't in fact ever given a proper explanation
27 as to what was going on.

28 A. I'm not really sure what engagement we had with the
29 medical people. So, I don't know, but I understand he

1 didn't get anything from me reporting back what the CMO
2 was saying other than the CMO said he was fit to come
3 back to work in '09.

4 460 Q. But local management's position, which is, as I
5 understand it, is that you couldn't make the kind of 14:57
6 adjudication that was required; that was never
7 explained to Sergeant Hughes?

8 A. The adjudication is a matter for the chief
9 superintendent. But as I said, the current practice is
10 now to supply a report from the medical professional, 14:58
11 the CMO actually, who has based his reports on medical
12 professionals aligning, or assigning probable cause of
13 an incident or a work incident as being the cause of an
14 injury on duty. And then that gives a sufficient
15 qualification to a chief superintendent to make a 14:58
16 determination. So, it's not the superintendent's role.

17 461 Q. Sorry, it's not the superintendent's role to?

18 A. To make the 11.37 certification is the chief
19 superintendent in the Code of that day, and still is.

20 462 Q. Well, I mean I am recapping what now, but Sergeant 14:58
21 Hughes's position is that no timely investigation --
22 and I don't think there is any dispute in this -- or
23 determination was made of the injury at work issue,
24 would you agree with that?

25 A. I would say timely suggests that it can be done timely. 14:59
26 Again it's a quick way, I'm not sure. Again I go to
27 the point: my experience now is, I'm getting documents
28 that relate to incidents several years, three to four
29 years prior, and I'm now getting that from the CMO to

1 give me authority to do an 11.37 in the one or two
2 cases that I have had in recent years.

3 463 Q. well, it was unduly protracted?
4 A. It is protracted. I accept it's very protracted. You
5 know, you'd like to think it would be done quicker but, 14:59
6 you know, between it's appointments with medical
7 professionals and consultations, I don't really know
8 exactly why it takes that length of time, but it's a
9 medical issue.

10 464 Q. It was unfairly protracted in Sergeant Hughes's case? 14:59
11 A. I don't know if it was unfairly protracted. I think
12 the confusion around the Garda Code didn't help.

13 465 Q. Pardon?
14 A. The confusion around the Garda Code didn't help.

15 466 Q. And -- sorry, do you think that justifies that this 15:00
16 took four years?
17 A. It's probably part of the reason. The medical inquiry
18 also took time.

19 467 Q. Because --
20 A. I don't feel that I'm actually well qualified to answer 15:00
21 these questions to be honest with you, other than say
22 we left it in the hands of the medical professionals.

23 468 Q. I'm asking you, chief superintendent, just as a senior
24 member, whether that four-year delay was justifiable or
25 not, and you seem to be suggesting that it may have 15:00
26 been justified?
27 A. well, if you look at it, he went sick in July '07 and
28 then in early '09 there was a determination being made
29 that he was fit to return to work. Am I right?

1 469 Q. Yes.

2 A. So, like, there was a determination, a medical
3 determination that within two years, that he was fit to
4 come back to work. And then later on, in '09 he did
5 come back to work. 15:01

6 470 Q. He had sought, in July 2007, that there would be early
7 certification of the injury at work issue.

8 A. Yeah.

9 471 Q. And still, in 2011 -- we're going over old ground here
10 -- but still in 2011 that hadn't been done. 15:01

11 A. Well, I had only -- my only comment to that is that a
12 lot of stuff seemed to happen in the meantime. It
13 wasn't just related to what happened in '06 any more.
14 Other matters. Discipline came along.

15 472 Q. Well let me suggest to you that the effect on Sergeant 15:01
16 Hughes -- this was a targeting and discrediting of
17 him --

18 A. I don't think -- but certainly not by me.

19 CHAIRMAN: Are you suggesting that he targeted him,
20 Mr. Lynn? I just want to be clear on this. 15:02

21 MR. LYNN: The failure to --

22 CHAIRMAN: Yeah, but no, are you suggesting that this
23 witness targeted Sergeant Hughes?

24 473 Q. MR. LYNN: By facilitating to carry out the necessary 15:02
25 adjudication or in a situation where you couldn't do
26 that, by expediting it in a way that established who
27 should do it and get them to do it, yes, there was a
28 targeting and discrediting of Sergeant Hughes.

29 A. I reject that entirely.

1 CHAIRMAN: Okay. And you are saying it was his job to
2 do that?

3 MR. LYNN: well, it fell within Chief Superintendent
4 Feehan's remit to pursue the matter as best he could.

5 CHAIRMAN: If the CMO said it wasn't an injury on duty, 15:03
6 is he to blame for that?

7 MR. LYNN: But there was no clear determination, chair.

8 CHAIRMAN: No, no, no, just my question: if the CMO
9 said this is not an injury on duty, or it's my opinion
10 that it's not an injury on duty, is he to blame for 15:03
11 that?

12 MR. LYNN: No.

13 CHAIRMAN: And where do you put that? Am I not correct
14 that the CMO -- the assistant CMO made that, gave that
15 opinion? 15:03

16 MR. LYNN: well, there was no clear determination of
17 the issue.

18 CHAIRMAN: Now would you -- anyway, there it is. You
19 say, nevertheless, it's his responsibility and he
20 targeted Sergeant Hughes because it didn't happen, 15:03
21 because the 11.37 -- sorry, injury on duty was not
22 declared.

23 MR. LYNN: Yes.

24 CHAIRMAN: That's his fault. And not only that, but he
25 deliberately did it because he was targeting Sergeant 15:04
26 Hughes. It didn't happen because of incompetence, he
27 deliberately did it. would you like to be more
28 specific about that?

29 MR. LYNN: I mean that, Chair, will be -- I mean I

1 think a matter ultimately of legal submission as to --
2 CHAIRMAN: Okay. That's fair.
3 MR. LYNN: -- no, no -- as to whether it was
4 deliberate.
5 CHAIRMAN: Or you might say it could happen because of 15:04
6 such, you might say because of such gross neglect that
7 it is tantamount to targeting, even if not specifically
8 focussed. That's presumably what you'll be saying.
9 MR. LYNN: Yes.
10 CHAIRMAN: Okay. what do you say to that? 15:04
11 A. Well, I am a superintendent here, a local district
12 officer, and I don't have control over the whole
13 system. I am just answering up.
14 CHAIRMAN: Okay.
15 MR. LYNN: Chief Superintendent Curran, no further 15:05
16 questions. Thanks very much.
17 CHAIRMAN: Thanks Mr. Lynn. Yes, Ms. Egan?
18
19 THE WITNESS WAS CROSS-EXAMINED BY MS. EGAN AS FOLLOWS:
20 474 Q. MS. EGAN: Good afternoon, Chief Superintendent Curran. 15:05
21 I have a few questions for you. My name is Kate Egan
22 on behalf of An Garda Síochána, I want to ask you a few
23 things.
24 Just returning to your note taking that you described,
25 you described you had a number of meetings with 15:05
26 Sergeant Hughes, and what you described is that your
27 practice generally was to reduce those into some form
28 of a note, is that right?
29 A. Yes, and then commit them into, in typed form.

1 475 Q. And then commit them. So you described I think you
2 write things down in long hand, is that right?

3 A. Well in those days I would have.

4 476 Q. In those days.

5 A. If it was today, it would be different. So, long hand. 15:06

6 477 Q. And then reduce it to a typed report which you then
7 send to your superiors, is that right?

8 A. Yes.

9 478 Q. Just in respect of that, the query -- it was suggested
10 to you that Sergeant Hughes mentioned the issue of 15:06
11 systems failure in one of those meetings, and I think
12 what you told the Chairman was that if those terms were
13 used, or if something of that magnitude came up, that
14 you would have reduced that into your notes?

15 A. Em, well, he says I did commit it to my notes. They 15:06
16 weren't produced in the document and I am standing over
17 that document as being a true reflection.

18 479 Q. Okay. And did you make -- can you say, from memory,
19 did you make a note of every meeting that you had with
20 Sergeant Hughes, every formal meeting? 15:06

21 A. No. That meeting -- I had a number of discussions with
22 him afterwards on the phone, I don't have a note of
23 those. But in relation to subsequent meetings, or
24 telephone conversations of, say, a more formal nature,
25 in July '08, being one -- or I think it was June '08 15:07
26 rather, and the October '08, yes, I did.

27 480 Q. Okay. And we have seen some of the minutes that you
28 have produced, and you sent up to your superior Chief
29 Superintendent Phillips, isn't that right?

1 A. Yes, yes, Chairman.

2 481 Q. And in respect of the document that we had on the
3 screen earlier entitled "Matters Raised" by Sergeant
4 Hughes, there were five matters on that document; you
5 know the document I'm talking about? 15:07

6 A. That's correct, Chairman, yeah.

7 482 Q. And there was nothing in that obviously regarding a
8 systems failure?

9 A. No.

10 483 Q. Or words to that effect anyway? 15:07

11 A. No, Chairman.

12 484 Q. Sergeant Hughes said that he heard no more from you
13 after that meeting?

14 A. That's incorrect. I had quite a few phone calls with
15 him to come back to him, particularly in relation to 15:07
16 his fears around the safety of his life, I would have
17 made a lot of phone calls and research, the locals,
18 Walter O'Sullivan in particular, we had very good
19 information at the time, plus our Crime and Security,
20 plus any of the people in the investigation, to have an 15:08
21 authoritative response to him, which I provided to him.
22 And also, my conversations sometimes were with Sergeant
23 Hughes were -- they were very cordial, there was never
24 any friction in them in any way, shape or form. But
25 those other issues that were raised in that minute that 15:08
26 I could respond to, I did. And I think the minute of
27 Chief Phillips down to me, that that minute, the
28 contents of that were communicated to him more or less.

29 485 Q. Thank you chief superintendent. And in respect of

1 those cordial conversations, presumably you had some
2 informal conversations with Sergeant Hughes as well,
3 did you?

4 A. Oh, I would have -- I think somewhere, I remember
5 having a conversation with him for at least an hour one 15:08
6 night. I don't know when that year was, but, you know,
7 there was a type of -- like, Liam Hughes is someone I
8 knew over my career.

9 486 Q. Okay. And I think you said you knew him in the
10 Bridewell station? 15:09

11 A. As a guard we would have crossed paths and then as a
12 sergeant, I was his sergeant in Swords for a couple of
13 years and then the Bridewell, while I was an inspector,
14 he was a sergeant back -- that was in 1996 he was
15 there. 15:09

16 487 Q. What role did he fulfil in the Bridewell?

17 A. He was a district clerk, and a very good one actually,
18 in the Bridewell.

19 488 Q. Would that have been similar to the role, the
20 administrative role he then came to fill in Swords? 15:09

21 A. Similar? Probably, I don't know, the pace is probably
22 a bit faster in the Bridewell, you know, for that role
23 in terms of administration.

24 489 Q. And when you say regarding your notes, just returning
25 to that, when you say you used term "editorial 15:09
26 control" --

27 A. Yeah.

28 490 Q. -- in respect of you sort of reading through what you
29 proposed to report to Sergeant Hughes --

1 A. Yes.

2 491 Q. -- did you do that every time you generated a formal
3 note of your meetings?

4 A. No, that note, that particular note was the only one I
5 read over to him, and so he had -- it was his -- the 15:09
6 way I saw it, it was his communication, even though I
7 was sending it up, I wanted it to be right and for him
8 to be satisfied with the content so that's what
9 happened on that occasion.

10 492 Q. And in your informal interactions, if something big 15:10
11 came up, do you think you then would have reduced that
12 to a formal note?

13 A. If he had said something that I had to report, I would
14 have, yes.

15 493 Q. For instance, you told us this morning that you never 15:10
16 heard anything about the conversation with Walter
17 O'Sullivan until July 2008, I'm talking about the
18 utterance -- alleged utterance by Walter O'Sullivan
19 regarding protection having been sought and refused.

20 A. Yes. As soon as I heard that I went off and sought a 15:10
21 report from Inspector O'Sullivan to see what his
22 response would be and then I communicated directly back
23 to Liam.

24 494 Q. And this was in July 2008?

25 A. Yes. Like, I received Walter's response in July '08, I 15:10
26 think it was, yeah.

27 495 Q. Okay. As regards the threats to Sergeant Hughes and
28 his family, are you happy that you dealt with that
29 issue appropriately?

1 A. Yes, I did. And I know -- my sense is around June, he
2 was comfortable enough, and I know I heard him in
3 evidence here say that he agreed that the sense of a
4 threat had abated, that he agreed with that comment,
5 and now we're seven months on and there was good 15:11
6 reasons why we were confident that the threat wasn't
7 there.

8 496 Q. Were you aware of inquiries made by other people around
9 you in that regard also?

10 A. Oh that's what I would have inquired of them, you know. 15:11
11 So the Walter O'Sullivan, the people who were leading
12 the murder investigation, and this was a massive
13 investigation at the time, it was extraordinary, there
14 was a huge effort going into that and also I would have
15 checked -- because I was also the CHIS controller for 15:11
16 the Dublin region at that time, and I took that
17 full-time from '08 onwards I think. So, I was familiar
18 with the intelligence world, and the people up in Garda
19 Headquarters, and so I had easy access to anything
20 there. So I was very confident going back to him when 15:11
21 I did have it.

22 497 Q. Did you have any personal animus against Sergeant
23 Hughes?

24 A. No. Even now, I still don't know why I'm here, but
25 even now I don't. 15:12

26 498 Q. Did you genuinely want him to return to the workplace?
27 A. Absolutely.

28 499 Q. You said that you made efforts around Christmas and so
29 on, were there any other reasons why -- I mean you said

1 you were short two inspectors, do you want to comment
2 on resourcing issues otherwise, in terms of sergeants
3 or any other members in the station?

4 A. well, I suppose, primarily my concern would have been
5 for his personal welfare. There's obviously the long 15:12
6 term benefit to the organisation to get someone back
7 into who is fully -- back into the frontline duties.
8 So in the back of my mind that would have been the goal
9 and I think that was what the goal of the CMO was. But
10 I was happy to do what ever. I gave my personal 15:12
11 undertaking I'd support him in any way I could, he
12 could come to me at any time he wanted to. And I felt
13 we had a good relationship actually, all throughout
14 that time.

15 500 Q. Did you ever then deliberately target Sergeant Hughes? 15:12

16 A. Never ever, ever.

17 501 Q. Were you ever instructed by anyone else?

18 A. Never, ever.

19 502 Q. Thanks, chief superintendent.

20 CHAIRMAN: Anything, Mr. McGuinness? 15:13

21 MR. MCGUINNESS: Yes, just all couple of matters,
22 Chairman.

23
24 THE WITNESS WAS RE-EXAMINED BY MR. MCGUINNESS AS
25 FOLLOWS: 15:13

26 MR. MCGUINNESS: I am going to ask the registrar to
27 bring up Day 161 of the transcript. Chief
28 superintendent, I'm not sure if you were here for
29 Sergeant Hughes's evidence or any of it?

1 A. Yes, I was here for most of it, yes.

2 503 Q. You may recall Mr. Marrinan was examining Sergeant
3 Hughes in chief and was asking him to give an account
4 of precisely what he said to you in his evidence about
5 that meeting in April 2007. And the Chairman was very 15:13
6 anxious himself to be absolutely clear about what he
7 should be writing down, and therefore what he had said
8 to you --

9 A. Yes.

10 504 Q. -- according to his own evidence. And at page 79 of 15:14
11 this, there is a couple of exchanges there. Now he
12 said, over the previous pages, that he had used the
13 word "systems failure" to you. Do you recollect him
14 using the phrase "systems failure" at that meeting?

15 A. No, I have no recollection of anything and I don't 15:14
16 recollect that and I don't recollect him reporting
17 anything to me.

18 505 Q. Page 79 here. It's Question 190 being asked by the
19 Chairman there. And the answer is:
20
21 "Superintendent, I believe that there was a systems
22 failure in relation to the handling of the
23 investigations surrounding Bai ba Saulite and John
24 Hennessy prior to her murder and I am of the belief
25 that if these matters are not investigated, we will 15:14
26 face problems with regard to the successful murder
27 investigation and also have problems in relation to the
28 coroner's inquest."
29

1 Now do you recall that being said?

2 A. No.

3 506 Q. Okay. At the bottom there, he adds:

4

5 "And on reflection, I don't think I -- I did not 15:15
6 mention at that time the conversation I had with Walter
7 O'Sullivan, Detective Inspector Walter O'Sullivan at
8 Swords station on the 20th November 2006."

9

10 And he is asked again by the Chairman at Question 195. 15:15

11

12 "CHAIRMAN: Okay. Thanks very much. Now, sorry, thank
13 you. That's the only thing that you can remember you
14 said those words?

15 A. I said those -- I used those precise words, systems
16 failure."

17

18 Is it possible, having regard to your lack of
19 recollection and to your note, that he did say
20 precisely what he has said there? 15:15

21 A. I can only say this: if he said something as formal as
22 that to me, he said I wrote it down and yet it didn't
23 appear in the document, and I would have felt obliged
24 to do something and report it up, as I did with all the
25 other documents. 15:16

26 507 Q. Yes. Mr. Lynn asked you about a document which was a
27 separate issue now, and he referred you to a letter
28 from Mr. Costello, at page 7198. And the Chairman
29 pointed out that it wasn't apparently directed to you,

1 but Mr. Lynn seemed to be contemplating that it was
2 written in relation to the injury on duty issue. It
3 seems to relate to the discipline investigation, are
4 you in a position to say?

5 A. That's what it looks like to me, I never saw that 15:16
6 document --

7 CHAIRMAN: Mr. McGuinness, if I'm criticising Mr. Lynn
8 for dealing with a letter and, so to speak, introducing
9 it when the witness has nothing to do with it -- I can
10 see -- I mean it's a matter of submission and argument 15:17
11 in the context, and anybody can say what they like
12 about what it means.

13 MR. MCGUINNESS: I thought, Chairman, you criticised
14 him for not asking a question, and I have asked a
15 question, and he then asked a question, but if we're to 15:17
16 be lashed, we can be lashed equally for it.

17 CHAIRMAN: Right.

18 MR. MCGUINNESS: If I can putt it that way.

19 CHAIRMAN: Thanks very much.

20 MR. MCGUINNESS: Could I ask you to look at document 15:17
21 1235, and this was a document put to you, and I may
22 have misunderstood your answer. You were being asked
23 whether this had ever been sent down to you, and if we
24 could just scroll down to the bottom of the screen,
25 because it appears to have been endorsed to you for 15:17
26 attention as required by the chief superintendent, and
27 you refer to this and the document on the next page,
28 which appears to be the 19th June, in your statement at
29 page 1050. Again, that seems to be similarly endorsed

1 to you -- if we just look at the bottom of that page --
2 is that correct?

3 A. It's endorsed to Superintendent Coolock.

4 508 Q. Pardon?

5 A. It comes to me in my position but I may not have 15:18
6 received it, but I think I did, and that then becomes a
7 matter of --

8 509 Q. I asked you about a series of correspondence earlier
9 this morning on foot of which it would appear that you
10 had dealt with those inquiries. You may recall that 15:18
11 Sergeant Fitzpatrick sent you a memo saying it was a
12 matter for the CMO?

13 A. Yes.

14 510 Q. You sent that to Superintendent Curran?

15 A. To Chief Superintendent Feehan. 15:18

16 511 Q. Chief Superintendent Phillips.

17 A. Phillips, sorry, I beg your pardon.

18 512 Q. He then asked you for your personal view. You referred
19 it back to Inspector Walters who endorsed, in
20 handwriting, a report on it. We went through all of 15:19
21 those this morning?

22 A. That's correct.

23 513 Q. So it does appear that you did deal with it?

24 A. Okay, yes, I accept that, yes.

25 514 Q. And just finally, in respect of the case conference 15:19
26 that you attended with the CMO, or the assistant CMO,
27 you have no recollection of the thrust of the
28 discussion at that about why it was being concluded
29 that it was not an injury on duty?

1 A. No, I can't remember, no. I just remember the doctor
2 talking, obviously being at a table; a lot of my
3 meetings I have a memory of the image but I don't have
4 the content.

5 515 Q. All right. Thank you very much, chief superintendent. 15:19

6 A. Thank you very much.

7 CHAIRMAN: All right. Thank you very much, chief
8 superintendent. You are free to go. Thank you very
9 much.

10 15:19

11 THE WITNESS THEN WITHDREW.

12

13 CHAIRMAN: Now, Mr. McGuinness, where do we stand?

14 MR. MC GUINNESS: well, Chairman, we have accelerated
15 through the evidence of the chief superintendent today 15:20
16 and as of this moment there are no witnesses scheduled
17 for tomorrow. The Tribunal is not sitting on the
18 wednesday for another different reason, other reason,
19 and we're due to resume then on Thursday morning,
20 Chairman. 15:20

21 CHAIRMAN: Very good. Thank you very much. All right
22 everybody, you understand that. Thank you very much.
23 Thank you.

24

25 THE HEARING ADJOURNED UNTIL THURSDAY, THE 24TH FEBRUARY 15:20
26 2022 AT 10:30 A.M.

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