

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 THURSDAY, 26TH MAY 2022 - DAY 180

180

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

GWEN MALONE STENOGRAPHY  
SERVICES

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FORMER PRESIDENT OF THE COURT OF  
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I N D E X

W I T N E S S

P A G E

MR. PAUL BARRY

CROSS-EXAMINED BY MR. HARTY ..... 5

1 THE HEARING, RESUMED, AS FOLLOWS, ON THURSDAY, 26TH MAY  
2 2022:

3  
4 CHAIRMAN: Good morning, Mr. Barry.

5 THE WITNESS: Good morning, Mr. Chairman. 11:00

6 CHAIRMAN: Now, Mr. Harty, I think you're next, are  
7 you?

8 MR. HARTY: I understand so. Thank you, Chairman.

9 CHAIRMAN: In the order, thanks very much.

10 MR. HARTY: Thank you. 11:00

11 CHAIRMAN: And Mr. Harty you're for?

12 MR. HARTY: I am for superintendent Michael Comyns.

13 CHAIRMAN: Very good, just so everybody knows where  
14 they are. Thanks very much.

15 11:01  
16 MR. PAUL BARRY WAS CROSS-EXAMINED BY MR. HARTY, AS  
17 FOLLOWS:

18  
19 1 Q. MR. HARTY: Morning, Mr. Barry.

20 A. Morning. 11:01

21 2 Q. Mr. Barry, can you help me in terms of the role of a  
22 unit sergeant, what are your general duties?

23 A. My general duties would have been as outlined by  
24 Mr. Murphy previously.

25 3 Q. Well, could you answer them for me, please? 11:01

26 A. I'd have to see them back up again.

27 4 Q. I just want the general impression of what a unit  
28 sergeant has to do?

29 A. The basic duty for a duty sergeant is to supervise the

1 members under his control and to report upwards to the  
2 authorities, if there's anything wrong or needs  
3 attention.

4 5 Q. Okay. And how is that done on a practical level on a  
5 day-to-day basis? 11:01

6 A. By communication.

7 6 Q. And how do you arrange that communication?

8 A. It can be done on the Pulse system or through  
9 correspondence or through meetings.

10 7 Q. And if you were, say, starting a shift in Mitchelstown 11:02  
11 Garda Station with one unit, does that involve everyone  
12 being in one room to begin with, talk through the  
13 roster for the day and what's going to be happening?

14 A. In Mitchelstown, yes.

15 8 Q. Yes. So you would gather in your unit at the start of 11:02  
16 the shift?

17 A. That's correct.

18 9 Q. And you would give them all the various directions and,  
19 I take it, review what might have arisen from the  
20 previous shift? 11:02

21 A. Yes, but that would take place half an hour after the  
22 commencement of the tour of duty.

23 10 Q. And in order to be an effective unit sergeant, you'd  
24 have to do that, wouldn't that be correct?

25 A. That's correct. 11:02

26 11 Q. Now, I am also correct in saying then that those who  
27 were managing unit sergeants up the line also need that  
28 level of interaction with those sergeants, isn't that  
29 correct?

1 A. In normal times, yes.

2 12 Q. And that it is not possible to effectively manage units  
3 as a superintendent if you can't interact and have  
4 meetings with the unit sergeants, isn't that correct?

5 A. Under normal circumstances that would be correct. 11:03

6 13 Q. So you accept that it is simply a matter of management  
7 when a superintendent requires unit sergeants to attend  
8 PAF meetings, for example?

9 A. Yes, like I said, under normal circumstances that's how  
10 the system works. 11:04

11 14 Q. How does the system work when the sergeant refuses to  
12 attend those meetings?

13 A. The sergeant complied with his doctor's certificate.

14 15 Q. We will come to that, but I am asking you how the  
15 system can work when the sergeant refuses those 11:04  
16 systems?

17 A. By the system implementing temporary workplace  
18 accommodations, as directed or instructed.

19 16 Q. What are temporary workplace arrangements?

20 A. The temporary workplace arrangements offered at the 11:04  
21 time was for Inspector O'Sullivan to take charge of my  
22 dealings.

23 17 Q. So can you tell me now Inspector O'Sullivan can know in  
24 respect of a unit in Mitchelstown what the  
25 superintendent in Fermoy requires? How does that work 11:05  
26 in terms of information being fed up and down the  
27 ladder?

28 A. The information could be fed the same as if the  
29 superintendent was off, the inspector would be in

1 charge of the district.

2 18 Q. When the superintendent is off, the inspector is in  
3 charge, that's correct, but when the superintendent is  
4 on, how does that work, because you are saying  
5 temporary workplace arrangements and I am asking you, 11:05  
6 are you honestly saying to this Tribunal that that is  
7 an effective way of managing An Garda Síochána?

8 A. That was the exact management procedure that  
9 Superintendent Comyns stated that he implemented on 4th  
10 April 2014. 11:05

11 19 Q. I am asking you, is it a satisfactory way to manage  
12 Garda Síochána?

13 A. Not when there is not normal circumstances, as I have  
14 stated, these were not normal circumstances.

15 20 Q. You had issues with one member on your unit, isn't that 11:06  
16 correct? I don't want to go into the details of it,  
17 but there was one member on your unit whereby there was  
18 a difficulty working with a female member on your unit  
19 and as a result people were reassigned, isn't that  
20 correct. 11:06

21 A. That's correct.

22 21 Q. Because that was a practical way of dealing with it,  
23 isn't that correct?

24 A. No, if I had a problem with, shall we say, yourself, I  
25 wouldn't expect the two people to your left to be 11:06  
26 removed, I would expect us to be separated.

27 22 Q. So in circumstances following your complaint against  
28 Superintendent Comyns it would be suggested that you  
29 would be reassigned to a different station, that was a



1 reasonable way of managing the situation, isn't that  
2 correct?

3 A. I disagree.

4 23 Q. Is it your view that temporary workplace arrangements  
5 should be maintained forever? 11:07

6 A. No, that is why they are called temporary.

7 24 Q. So how would the situation be solved? what was the  
8 long-term solution?

9 A. I didn't know what the long-term solution was at the  
10 time. I was looking for temporary workplace 11:07  
11 accommodations so that I could return to work. I had  
12 written on numerous occasions to HRM, and in one  
13 correspondence I said, for the fourth time I am asking,  
14 what temporary accommodations will HRM provide for me  
15 so that I can return to work. 11:07

16 25 Q. But you did return to work without any temporary  
17 workplace accommodations?

18 A. Yes, and that is what caused me great stress, because I  
19 was going into the unknown, I had no protection, no  
20 temporary accommodations and that is why I did not want 11:08  
21 to return to work and why my doctor didn't want me to  
22 return.

23 26 Q. Really?

24 A. Yes.

25 27 Q. Can you show me in any record that your doctor told you 11:08  
26 on the day that you returned to work, that you  
27 shouldn't return to work?

28 A. The fact I went to my doctor looking for a cert to  
29 return and she didn't issue me one.

1 28 Q. And yet you did return, isn't that correct?  
2 A. Yes. Because I was out of work for eight months, it  
3 was due to financial reasons I returned.  
4 29 Q. Without a cert?  
5 A. Without a cert. Without any protection in place for 11:08  
6 me, temporary accommodations or otherwise.  
7 30 Q. And how did that work out?  
8 A. It worked out as outlined previously. Inspector  
9 O'Sullivan called to me on the 6th April, I believe,  
10 and he requested that I supply a certificate. I told 11:09  
11 him my doctor wouldn't issue me a certificate when I  
12 called to her on the 28th and he asked me why and I  
13 told him why, that she was concerned, that she didn't  
14 want me coming in contact with what was the cause of my  
15 stress. He said get her put whatever conditions, but 11:09  
16 you'll have to submit a cert.  
17 31 Q. And you then contacted your doctor, isn't that correct?  
18 A. That's correct.  
19 32 Q. And you had a discussion with her, as to what  
20 conditions should be on the certificate? 11:09  
21 A. Negative.  
22 33 Q. Negative? You didn't have a discussion with her as to  
23 what conditions should be on the certificate?  
24 A. I had a discussion with the doctor, I told her I needed  
25 a cert to return to work, and she said, I'm not letting 11:09  
26 you go back unless there are conditions on the cert.  
27 34 Q. Right. And you didn't discuss those conditions?  
28 A. She knew I was stationed in Mitchelstown, she knew  
29 Superintendent Comyns was stationed in Fermoy. She was

1 aware of the circumstances that were involved.

2 35 Q. Can we go please, Mr. Murphy, to page 4773 of the book.  
3 If you scroll down to the date entry of 4/4/2013. And  
4 there you see the note from Dr. Kiely:  
5  
6 "Patient phoned. Had planned to return to work for  
7 financial reasons. While told by inspector today he  
8 cannot return without a letter from me stating he is  
9 fit for work. Mr. Barry told inspector that I had said  
10 I could not provide same as in my opinion he was not 11:10  
11 fit to return to the same position. Inspector said to  
12 put conditions on the letter. Discussed with patient  
13 and happy with wording."  
14  
15 So do you accept that the wording that she put on the 11:11  
16 letter was following a discussion with you?  
17 A. The inspector said to put the conditions on the letter,  
18 discussed with patient and happy with wording.  
19 36 Q. Ing it's a separate sentence. There is a full stop  
20 after letter, "Discussed with patient and happy with 11:11  
21 wording"?.  
22 A. Dr. Kiely said she would not allow me back to work if I  
23 was to have contact with the superintendent or to work  
24 in his station. She discussed that when she proposed  
25 those conditions and I was happy with that to protect 11:11  
26 my mental health.  
27 37 Q. All right. You see, on the entry on 23/8/2013, she  
28 doesn't say you should return to work, she says you  
29 don't want to return to work but have to for financial

1 reasons?

2 A. I called to the doctor on the 28th looking for a cert,  
3 to inform her that I wished to return to work.

4 38 Q. She doesn't say anywhere in that entry that she advised  
5 you you shouldn't return to work? 11:12

6 A. The doctor has stated that she did not think I was fit  
7 to return to work.

8 39 Q. why was it put on the certificate that you weren't to  
9 attend Fermoy?

10 A. That would be a question best put to Dr. Kiely. 11:12

11 40 Q. why would Dr. Kiely have even thought you ever attended  
12 Fermoy?

13 A. Pardon?

14 41 Q. why would Dr. Kiely have thought you even attended  
15 Fermoy? 11:13

16 A. Dr. Kiely knew that Superintendent Comyns was in  
17 Fermoy, that was my district headquarters.

18 42 Q. But why would she think -- I mean, are you telling the  
19 Tribunal that Dr. Kiely knows that Mitchelstown gardaí  
20 are required to attend Fermoy Garda Station? 11:13

21 A. I would have -- as I said, I brought with me at the  
22 time a letter from Assistant Commissioner Fanning and I  
23 had explained to the doctor that I was trying to get  
24 temporary workplace accommodations put in place so that  
25 I wouldn't have to attend at Fermoy to have contact 11:13  
26 with Superintendent Comyns.

27 43 Q. But that's you told her that you weren't to attend at  
28 Fermoy?

29 A. No. I told her that I was looking for accommodations

1 put in place so that I wouldn't have to.

2 44 Q. You said, so I wouldn't have to attend at Fermoy. So  
3 that's how it ended up in her letter, because you said  
4 that to her?

5 A. No, I told her what I was seeking from HRM. 11:14

6 45 Q. Yes.

7 A. The doctor made up her own mind from consultations with  
8 me and she was getting reports from my consultant.

9 46 Q. And could you not have been in Fermoy?

10 A. Not at that time. 11:14

11 47 Q. Why not?

12 A. Because I was under immense stress. I had reported  
13 someone for what I believed was the cover up of the  
14 sexual abuse of a child and I did not want to work with  
15 that person as I considered that person not to be fit 11:14  
16 to hold office.

17 48 Q. Right. And was that your principal concern?

18 A. And my mental health. As I said, I was on a lot of  
19 medication, it was affecting me, I was not sleeping, I  
20 was in no fit condition to return. 11:14

21 49 Q. In 2004, you described in your evidence to the Tribunal  
22 that there was an attempt to transfer you to Fermoy?

23 A. That's correct.

24 50 Q. Can you explain to me why you call it an attempt to  
25 transfer you to Fermoy? 11:15

26 A. Because the superintendent at the time, I believe it  
27 was Flor Horan, told me that the chief wanted me in  
28 Fermoy station. That's why I believed it was an  
29 attempt to transfer me. I had to submit a list of my

1 relations to HRM so that that transfer wouldn't take  
2 effect.

3 51 Q. why did you object to the idea in 2004 being  
4 transferred to Fermoy?

5 A. Because Inspector O'Sullivan met with me in 11:15  
6 Watergrasshill when this transfer was proposed and he  
7 begged me not to go to Fermoy because I was doing all  
8 Pulse computer work in Mitchelstown at the time. And  
9 he said to me he didn't want me to go and because of  
10 that I appealed it. 11:16

11 52 Q. well you submitted --

12 A. I submitted the list of my relations.

13 53 Q. Yes.

14 A. But it was the inspector who did not want me to leave  
15 Mitchelstown, Inspector Tony O'Sullivan. We had a 11:16  
16 private meeting in the Fir Tree in Watergrasshill,, and  
17 he told me not to go, I said I would do my best.

18 54 Q. And would you have been happy to go to Fermoy?

19 A. No.

20 55 Q. No? why not? 11:16

21 A. Because I had relations living in Fermoy subdistrict, I  
22 did not want to be working near my relations or my  
23 place of work. I was happy to go beyond Fermoy. I had  
24 no problem driving 20 miles extra every day.

25 56 Q. I think the relations that you identify in Fermoy are 11:17  
26 in fact the Glanmire area, Watergrasshill, Glanmire,  
27 isn't that correct?

28 A. That's correct. And I had a sister living in Tallow,  
29 who would be carrying out a lot of contact in -- which

1            isn't far from Fermoy, it wouldn't have been her local  
2            shopping town.

3    57    Q.    Tallow?

4            A.    Tallow, County Waterford.

5    58    Q.    Yes. It's not in the district in fact? 11:17

6            A.    A different division.

7            CHAIRMAN: How far is Tallow from Fermoy? What do you  
8            say, Mr. Barry. How far Tallow is in --

9            A.    County Waterford.

10           CHAIRMAN: Is it west Waterford? 11:17

11           MR. HARTY: Yes.

12           CHAIRMAN: I should be able to remember from my circuit  
13           days where Tallow is, but I wouldn't have associated  
14           Tallow with Fermoy. How far are they?

15           A.    It would be approximately 12 miles from Youghal, which 11:17  
16           is east Cork, or west Cork, and Tallow would be more  
17           west Waterford then.

18           MR. HARTY: Slightly north, up towards Lismore.

19           CHAIRMAN: How far is Tallow from Fermoy?

20           THE WITNESS: I don't know exactly, approximately 12 11:18  
21           miles.

22           MR. HARTY: I would have thought further than that but  
23           I could be wrong.

24    59    Q.    CHAIRMAN: So it's that close? Tallow and Fermoy are  
25           that close? 11:18

26           A.    I stand corrected, that's off the best of my head.  
27           It's not much further.

28           MR. COSTELLOE: 20 kilometres.

29           MR. HARTY: 20 kilometres.

1 CHAIRMAN: Somebody has said --

2 MR. HARTY: Mr. Costelloe has said 20 kilometres.

3 MR. COSTELLOE: The age of Google Maps, Chairman,

4 apparently it's 20 kilometres.

5 CHAIRMAN: Apparently Google says -- 11:18

6 THE WITNESS: About 14 miles.

7 CHAIRMAN: Even I can work out what 20 kilometres is,

8 thank you very much.

9 60 Q. MR. HARTY: But it wasn't because of any actual  
10 objection on your part on the move to Fermoy, it was 11:18  
11 because Inspector O'Sullivan wanted you to move to  
12 Fermoy?

13 A. Oh I was happy working in Mitchelstown with Sergeant  
14 O'Sullivan, as he was at the time.

15 61 Q. Oh he was a sergeant at the time, I see? 11:19

16 A. Yes.

17 62 Q. Then you say that your superintendent at the time took  
18 an issue with that, the fact that you identified  
19 relations living in the area?

20 A. Back in 2004? 11:19

21 63 Q. Yes.

22 A. Yes, that would be correct.

23 64 Q. And how long did that superintendent remain your  
24 superintendent?

25 A. I am not sure, I can't say exactly. It was definitely 11:19  
26 years.

27 65 Q. Years?

28 A. A few years, yes.

29 66 Q. So how were things after that?



1 A. Fine. No problems.

2 67 Q. No problems. And yet your evidence to the Tribunal is  
3 that because my client was friendly or, in fact,  
4 somebody told you that because my client was friendly  
5 with that superintendent, that he took a dislike to you 11:20  
6 from the start?

7 A. No, sorry, you're mistaken there. You're talking about  
8 the superintendent at the time of the transfer, the  
9 person you're referring to was the chief.

10 68 Q. Oh sorry. Oh so you say the chief took a dislike to 11:20  
11 you?

12 A. Exactly.

13 69 Q. How did that represent itself from 2004 to 2010?

14 A. I'd no more problems with the chief that I can recall.

15 70 Q. But he was harbouring a grudge against you, apparently? 11:20  
16 A. I believe that was the reason for the transfer attempt.

17 71 Q. The reason for the transfer attempt in 2004?  
18 A. Yes.

19 72 Q. Because he a grudge against you?  
20 A. Yes. 11:20

21 73 Q. Can you assist me: when you're managing a division or  
22 a district and you're trying to work out where the  
23 resources are best placed, you accept that that's  
24 normal, ordinary management?

25 A. Yes. 11:21

26 74 Q. But your view is not the question of objecting to your  
27 objection but, in fact, the attempt to move you to  
28 Fermoy in 2004 was because the then chief had it in for  
29 you, is that correct?

1 A. That was my perception at the time. I couldn't see why  
2 he would go against the code to try and transfer me to  
3 Fermoy or otherwise.

4 75 Q. How would he know he was going against the code?  
5 A. Because I told the superintendent that I had relations 11:22  
6 living -- when he proposed it to me initially, I told  
7 him I had relations living within the sub-district.

8 76 Q. And you identified those and you weren't transferred?  
9 A. That's correct.

10 77 Q. But he had a grudge against you? 11:22  
11 A. I am saying that that is what I perceived.

12 78 Q. Do you accept that that's scant evidence for that  
13 perception?  
14 A. Yes.

15 79 Q. The fact that he suggested you for a transfer, was 11:22  
16 itself a reason for believing that he had it in for  
17 you?  
18 A. When I had outlined to the superintendent that I had  
19 relations and that it would be in breach of the code to  
20 do so, then I felt that there was something more to it 11:23  
21 than just reallocating on a management basis.

22 80 Q. Moving a man 12 miles down the road or, sorry, is it 20  
23 kilometres down the road from Mitchelstown to Fermoy?  
24 A. It's 10 miles, yes.

25 81 Q. Closer to his own home? 11:23  
26 A. Closer to his relations, yes.

27 82 Q. Closer to your own home?  
28 A. That would be a side issue of it. I did not want to be  
29 closer to my home. It was of no advantage to me.

1           Actually, I would consider it a disadvantage.

2   83   Q.    why?

3           A.    Because I did not want to be dealing with relations in

4           the course of my duty.

5   84   Q.    Was there a serious risk of that? 11:23

6           A.    I wouldn't call it a serious risk, but it could occur.

7   85   Q.    But in any event, your evidence was that the attempt to

8           move you in 2004 is one which you believed to have been

9           as a result of a grudge or taking a dislike to you?

10          A.    Well, I can't see any other reason for it. As I said, 11:24

11          it would have been in breach of the code so there had

12          to be something more to it than just a mere management

13          beginning.

14   86   Q.    Right. But in any event, he forgot about the grudge

15          then, isn't that correct? 11:24

16          A.    Well, he didn't show to me that he had a continuous

17          grudge. He didn't continually target me, so...

18   87   Q.    Did anything happen between 2004 and 2010 which would

19          indicate that he was targeting you?

20          A.    I never said he was targeting me. 11:24

21   88   Q.    Well, you said the suggestion that you be moved to

22          Fermoy was evidence of him targeting you?

23          A.    No, I never said that man targeted me. I said he may

24          have had a grudge against me.

25   89   Q.    Well, you said the evidence of the grudge against you 11:25

26          was that he tried to move you to Fermoy?

27          A.    That was what I perceived, yes.

28   90   Q.    And I am asking you, was there any other evidence

29          between 2004 to 2010 of him targeting you because of

1 his grudge?

2 A. And I have said no.

3 91 Q. Right. And yet you say that in 2010 my client had it  
4 in for you because you had objected to being  
5 transferred in 2004? 11:25

6 A. Because I was made aware that the two men were close  
7 friends.

8 92 Q. So the first man has apparently put the issue to bed  
9 for six years, but then it is revived with the arrival  
10 of his friend? 11:26

11 A. The case was put to bed for six years because he would  
12 not have been in Fermoy divisional headquarters until  
13 2010.

14 93 Q. No, but see, the man who tried to transfer you was in  
15 Fermoy divisional headquarters, isn't that correct? 11:26

16 A. At the time, yes.

17 94 Q. Until when?

18 A. I don't know. But I know it wasn't until 2010.

19 95 Q. My client arrived in 2010?

20 A. That's correct, but he was a superintendent. The 11:26  
21 person you're talking about is a chief.

22 96 Q. Right?

23 A. He was not the chief in Fermoy in 2010.

24 97 Q. Where was he the chief?

25 A. I don't know. 11:26

26 98 Q. But he was the chief in Fermoy from 2004?

27 A. In 2004, he was.

28 99 Q. For how many years after that?

29 A. As I said, I don't know.

1 100 Q. A number of years?  
2 A. It could be. It might be less.  
3 101 Q. Well, surely you knew, if there was a man who was out  
4 to get you --  
5 A. No, I didn't say he was out to get me. 11:27  
6 102 Q. He wanted to transfer you to Fermoy out of spite,  
7 apparently?  
8 A. Who said that?  
9 103 Q. You said that.  
10 A. I didn't say spite. 11:27  
11 104 Q. Okay. Can you explain to me why exactly you're saying,  
12 because you came to the conclusion that the suggestion  
13 that you transfer to Fermoy was out of badness, isn't  
14 that correct? Would that be a fairway to put it?  
15 A. Well, it wasn't normal, it wasn't in compliance with 11:27  
16 the code at the time. So that's why I believed there  
17 could have been something else behind it.  
18 105 Q. Well, what was the something else behind it?  
19 A. Well, I can't say what that was. I perceived that it  
20 was the contact between... 11:28  
21 106 Q. You obviously spent a lot of time thinking about it,  
22 what conclusion did you come to?  
23 A. The conclusion I came to was that he wanted me in  
24 Fermoy for some nefarious reason that I was not aware  
25 of at the time. 11:28  
26 107 Q. A nefarious reason?  
27 A. Well, I didn't know the reason. I wasn't told why I  
28 was wanted in Fermoy.  
29 108 Q. And you scuppered that plan?

1 A. I didn't scupper it, I updated the list of relations I  
2 had living in the sub-district. And they hadn't been  
3 an issue prior to that.

4 109 Q. And are you satisfied then that he forgot his nefarious  
5 plan? 11:28

6 A. I don't know what the person did, I can't say he forgot  
7 it. He may have. He may have not.

8 110 Q. But certainly he was still your chief for a number of  
9 years after that?

10 A. I don't believe that, it may have been a number -- I 11:28  
11 don't know how long he was there.

12 111 Q. Ah but sure, if somebody is trying to use you for some  
13 nefarious plan, you'd certainly be alert to the fact as  
14 to whether or not they're still your chief?

15 A. That was a one-off transfer attempt. 11:29

16 112 Q. But it was a nefarious plan?

17 A. No, nefarious motive behind it, not a plan.

18 113 Q. So somebody has got some nefarious thoughts in their  
19 mind about you and they're your chief. Do you remember  
20 the day you went out to dinner to celebrate with your 11:29  
21 wife because the chief had changed?

22 A. How could I?

23 114 Q. This man was up to something nefarious with you?

24 A. I've said the transfer attempt may have been nefarious,  
25 not that he was targeting me or anything else. It was 11:29  
26 a one-off attempt.

27 115 Q. And you don't remember how many more years you worked  
28 under him?

29 A. No, because he did not cause me any more bother. He

1 did not do any other transfer attempt. He had one  
2 attempt and that was it.

3 116 Q. And in relation to that, when you say he did not cause  
4 me any other bother, there was one transfer attempt and  
5 that was that? 11:30

6 A. That's correct.

7 117 Q. Is that the principal bother, the question of being  
8 transferred?

9 A. In 2004?

10 118 Q. Yes. 11:30

11 A. That was the principal interaction I had with him.

12 119 Q. Did you get requests every once in a while wondering  
13 why reports weren't done up?

14 A. From?

15 120 Q. In the period from 2004 to 2010? 11:30

16 A. I don't recall.

17 121 Q. It would be normal, would it not, for the district  
18 office to be checking in in relation to various things  
19 as to whether or not they were done?

20 A. That would be normal, yes. 11:30

21 122 Q. And some of the things wouldn't be done, for whatever  
22 reason?

23 A. By me?

24 123 Q. By anybody.

25 A. Possibly, yes. 11:31

26 124 Q. I appear to be causing a glitch in the sound machine  
27 there. We will see if this works. I hadn't intend to  
28 break the entire system. The situation, Mr. Barry, is  
29 that all of those other requests, queries, directives,

1           were all entirely normal, isn't that correct?

2           A.    Which directives?

3 125 Q.    Directives, requests, enquiries as to why reports had  
4           not been filed, they're all entirely normal and  
5           commonplace? 11:32

6           A.    For the entire service or a particular period?

7 126 Q.    From that period, 2004 to 2010, there was nothing  
8           else -- I'm afraid I am still creating an echo?

9           CHAIRMAN: Is it your microphone, Mr. Harty.

10          MR. HARTY: Apparently it is my microphone. Maybe if I 11:32  
11          try sitting a bit closer to it, it might help.

12 127 Q.    But there was nothing untoward, isn't that correct?

13          A.    There may have been, but I do not recall, it's going  
14          back 20 years.

15 128 Q.    Untoward, a better word is notable or memorable? 11:32

16          A.    There may have been. I don't recall.

17 129 Q.    The one memorable incident that you have with the then  
18          chief was that he had tried to transfer you to Fermoy?

19          A.    That's -- well, there was another incident I remember  
20          when we successfully got a conviction for a rape, that 11:33  
21          he sent the investigation team out for a meal.

22 130 Q.    Okay.

23          A.    That I recall.

24 131 Q.    Okay. But negative incident, I was saying?

25          A.    Sorry, no, I don't recall any. I'm not saying that one 11:33  
26          didn't occur, I'm saying one didn't recall.

27 132 Q.    No, no, and I think that is fair because on a  
28          day-to-day basis there are up and down the line issues  
29          that arise.



1 A. Of course.

2 133 Q. They're not necessarily pleasant, but they're in the  
3 ordinary course?

4 A. It's normal, yes.

5 134 Q. But then in 2010 my client arrived and did things go 11:33  
6 badly from the start?

7 A. From the initial bullying complaint, yes.

8 135 Q. No, no, I'm talking about 2010?

9 A. No.

10 136 Q. When my client arrived, did things go bad? 11:34

11 A. No, if they had I would have reported it in my bullying  
12 complaint, but I don't recall any adverse interaction  
13 in between that and then.

14 137 Q. If we go to page 5161, which is your original bullying  
15 complaint. You set out you're a member of An Garda 11:34  
16 Síochána in the first full paragraph. And at the  
17 bottom of the paragraph: "His behaviour generally is  
18 not pleasant towards me, but for the sake of the job I  
19 would be willing to overlook it, were it not for the  
20 fact that it's now reached this point." 11:35

21

22 CHAIRMAN: Just wait until Mr. Murphy gets it up on the  
23 screen, so we can see what you are --

24 MR. HARTY: 5161, apologies, Mr. Murphy.

25 CHAIRMAN: Now, where do you want to go? 11:35

26 MR. HARTY: The first paragraph that you can read  
27 there. The last sentence of that first paragraph:  
28  
29 "His behaviour generally is not pleasant towards me but

1 for but for the sake of the job I would be willing to  
2 overlook it were it not for the fact that it has now  
3 reached this point."  
4

5 So his behaviour generally is not pleasant towards me, 11:35  
6 was that the case from the start?

7 A. Yes, I would have considered him unpleasant towards me.

8 138 Q. Right. And directed personally towards you, is that  
9 right?

10 A. Yes. 11:35

11 139 Q. Can you explain that to me?

12 A. That's just the attitude and the perception I got from  
13 the way, the manner in which he dealt with me, that I  
14 perceived from the outset that he didn't like me for  
15 some reason. 11:36

16 140 Q. And when did you uncover the reason for that?

17 A. Pardon?

18 141 Q. When did you uncover the reason for that?

19 A. When I was told that he was a close friend of the  
20 previous chief. 11:36

21 142 Q. Who told you that?

22 A. I don't recall.

23 143 Q. When did they tell you that?

24 A. I don't recall.

25 144 Q. Well, did you start enquiring as to why this man is 11:36  
26 unpleasant towards me, did you start enquiring about  
27 that in 2010 or in 2011?

28 A. No.

29 145 Q. No. Because the first incident that you relate in that

1 complaint is from 10th December 2010, a refusal to pay  
2 expenses in Cork City Circuit Court?

3 A. That's correct.

4 146 Q. And you say that that was personal towards you?

5 A. I believe so, because I was instructed by the inspector 11:37  
6 to attend that court. The case had nothing to do with  
7 me, I had no reason to be at that court other than I  
8 was instructed to go there. It wasn't a case I was  
9 involved in. I believe at the time it was a case that  
10 a garda in Mitchelstown was in charge of, but I was not 11:37  
11 on his unit and I was not supervising the case. It  
12 didn't have anything -- I didn't have any reason to be  
13 at the case, other than that I was instructed to go  
14 there, at short notice.

15 147 Q. 2010 was the time, isn't that correct, when every 11:38  
16 single cent was being counted out of the public  
17 coffers?

18 A. Exactly.

19 148 Q. The country was at the very bottom at that stage, isn't  
20 that right? 11:38

21 A. That's correct.

22 149 Q. And your evidence to this Tribunal is that when a  
23 superintendent is querying public expenditure in  
24 respect of his district, that that was personal to you?

25 A. I would, yes, because the person who had instructed me 11:38  
26 to attend was an inspector, who would also be aware of  
27 the constraints, budgetary and otherwise, and he  
28 directed me to attend at that case and I believed he  
29 had authority to do so.

1 150 Q. And are you saying that you were the only person who  
2 was targeted like this?

3 A. I never said that.

4 151 Q. Okay.

5 A. I may be the only one that reported it, but I am not 11:39  
6 saying that anyone else was.

7 152 Q. In any event, you set out your first eight complaints,  
8 isn't that correct?

9 A. That's correct.

10 153 Q. They relate effectively to financial considerations, 11:39  
11 isn't that correct?

12 A. I'd have to go through the eight again now. On the  
13 whole, probably, yes. Annual leave wouldn't be a  
14 financial matter.

15 154 Q. Well, it is a resources issue, shall we say? 11:39  
16 A. Sorry, but it wouldn't be financial for me.

17 155 Q. Okay. And in relation to the annual leave question,  
18 are you saying that you were the only person who was  
19 refused leave days?

20 A. No, I didn't say that. I made a complaint about the 11:40  
21 reason why I was refused the leave on the date. I am  
22 fully aware that other people have been refused.

23 156 Q. Right. So by 10th December 2010, you're certain you're  
24 being targeted?

25 A. No, I didn't say that. I am saying this is the first 11:40  
26 incident. To be targeted I would believe you would  
27 have to be constantly -- or there would have to be more  
28 than one incident, as in bullying.

29 157 Q. Okay. Well, then the second incident was 23rd and 24th

1 March, when you were refused leave for those dates?

2 A. That's correct.

3 158 Q. Was that when you decided you were being targeted?

4 A. No, I never decided I was targeted, I never reported  
5 any of these matters until 2012. 11:41

6 159 Q. By 19th January 2012, when you were questioned in  
7 relation to overtime for the drive from Limerick to  
8 Kilkenny, or --

9 A. Mitchelstown to Kilkenny and then Kilkenny to Limerick.

10 160 Q. Yes, sorry, apologies. Was that the stage that you 11:41  
11 knew you were being targeted?

12 A. That was the stage where I knew that there had been a  
13 number of incidents, unfavourable incidents that I had  
14 had with the superintendent, but I didn't say I was  
15 targeted or report any of them otherwise, they were 11:41  
16 just matters that happened in the course of my duty. I  
17 didn't decide to make a bullying complaint or -- I  
18 dealt with them as best I could at the time by  
19 correspondence and communication.

20 161 Q. And can you explain how in your belief, why it is that 11:42  
21 no issue arose between 23rd March 2011, and a claim in  
22 respect of 19th January 2012?

23 A. Sorry, could you repeat that?

24 162 Q. Well, this is a man who is apparently, you're asking  
25 this Tribunal to believe, was out to get you and yet 11:42  
26 nothing has happened at all between 23rd March 2011 and  
27 19th January 2012?

28 A. Nothing that I've reported.

29 163 Q. Well, what was it, was there anything that you'd like

1 to report?

2 A. There may have been incidents but I didn't have  
3 paperwork to back up any complaint I was making, I  
4 wasn't going to submit it.

5 164 Q. And in relation to the paperwork, surely your diary 11:43  
6 would relate these incidents?

7 A. I didn't record these matters in my diary at the time.

8 165 Q. The diary that you have been referring to here?

9 A. That was after I went sick, when I was on medication, I  
10 needed an aide memoire. 11:43

11 166 Q. I see. So there's no -- you didn't keep that sort of  
12 diary before 2013?

13 A. Not to the best of my recollection, no, I would not  
14 have included matters like that in my diary, that I  
15 would have had in my correspondence. 11:43

16 167 Q. But in relation to the period from 2011 to 2012, there  
17 were also moves afoot, isn't that correct, to  
18 reallocate resources within the district?

19 A. I believe so, yes.

20 168 Q. And what did you understand were to be part of those 11:44  
21 moves?

22 A. I don't recall.

23 169 Q. Well, anything that might have been played on your  
24 mind?

25 A. Not that I can recall at this stage. 11:44

26 170 Q. Nothing that might have concerned you?

27 A. Something may have concerned me, but I don't recall it.

28 171 Q. You don't recall, for example, movement, suggestion  
29 that people would be moved back to divisional

1           headquarters rather than in Mitchelstown?

2           A.    I don't recall specifically, no.

3 172 Q.    When you went to your GP in relation to your  
4           work-related stress, can you tell the Tribunal now what  
5           your first and principal concern was as you laid out           11:45  
6           the situation to her?

7           A.    To give me something to help me sleep.

8 173 Q.    As you narrated what was causing your problems?

9           A.    I had to told the doctor what had happened in relation  
10          to the sexual abuse case.   11:46

11 174 Q.   And you say that that was the first thing you mentioned  
12          to her?

13          A.    That was the trigger.

14 175 Q.   Can you go to page 4771, please, Mr. Murphy. And if  
15          you see the entry for 10th August 2012, and can you           11:46  
16          read, or I'll read, I won't do that trick." Has new  
17          superintendent at station in Mitchelstown", in fact  
18          that's not entirely accurate, the superintendent had  
19          been there for well over a year at that stage, almost  
20          two years, isn't that correct?                                   11:47

21          A.    That's correct.

22 176 Q.    "He wants one of the sergeants to move to Fermoy and  
23          Paul feels he often picks on little things to try to  
24          encourage the move." That's the first thing you  
25          reported to Dr. Kiely.   11:47

26          A.    Yes, if that's in the doctor's notes, I don't dispute  
27          it.

28 177 Q.    Can you tell me why that's the first thing that you  
29          reported to Dr. Kiely?

1 A. Because I wanted her to know who the superintendent was  
2 and the previous dealings I've had with him.

3 178 Q. "He wants one of the sergeants to move to Fermoy and  
4 Paul feels he often picks on little things to try to  
5 encourage the move." 11:48

6 A. They would be the previous dealings I'd had with him.

7 179 Q. That wasn't to bully you, isn't that correct?

8 A. I didn't say that.

9 180 Q. No, but you did actually, because you set out those  
10 previous things and you said they are evidence of 11:48  
11 bullying?

12 A. When you put them all together, yes, they are.

13 181 Q. You made that statement less than two months after this  
14 consultation, and in this consultation you're saying,  
15 he's picking on little things to encourage you to move 11:48  
16 to Fermoy?

17 A. Well, that would have shown that I had believed that he  
18 was picking on me because of his previous chief,  
19 mentioned earlier.

20 182 Q. It would show that he was picking on because of his 11:49  
21 previous chief?

22 A. That he had the same motive as his friend who had been  
23 previous chief in the division.

24 183 Q. Same motive?

25 A. Motive was to move me. 11:49

26 184 Q. Ah! So he was bullying you to get you closer to him?

27 A. That would be my belief, yeah.

28 185 Q. They're just referred to as little things here, they're  
29 not referred to as bullying?



1 A. Because I had dealt with them as best I could  
2 through correspondence, as I previously said. I didn't  
3 make a bullying complaint. I never made a complaint.  
4 I dealt with them through the normal course of my duty.

5 186 Q. But do you think he had a motive in all of that? 11:49

6 A. Yes.

7 187 Q. And that motive was to make you move to Fermoy?

8 A. That's what I relayed to my doctor, yes.

9 188 Q. Is that what you believed?

10 A. Yes, I believed. 11:50

11 189 Q. Do you have any shred of paper or evidence to connect  
12 the queries being sent to you from the district office  
13 with a motive to move you to Fermoy?

14 A. Well, if my claims, et cetera, are being continuously  
15 questioned, then it could be motive to have or an 11:50  
16 excuse to have me moved for closer supervision. That  
17 was my belief of what was behind all the incidents that  
18 I had to deal with.

19 190 Q. Was it Fermoy or closer supervision that you objected  
20 to? 11:51

21 A. Fermoy and the closer supervision, because I did not  
22 require, in my belief, closer supervision. And I did  
23 not want to be in Fermoy, as I have stated, because of  
24 my relations, et cetera. And the other sergeant who --  
25 there was two sergeants, I was the sergeant there from 11:51  
26 2000, the other sergeant came after I was in  
27 Mitchelstown. So he wasn't even considered for a move  
28 to Fermoy.

29 191 Q. The other sergeant wasn't being considered?

1 A. That's my belief, yes.

2 192 Q. And is that evidence of bullying?

3 A. I didn't make a complaint in relation to this.

4 193 Q. No, no, I'm not asking what you made a complaint --

5 A. I didn't say it was evidence of bullying either. 11:52

6 194 Q. Maybe you need to help me actually: was the bullying

7 the actions taken to try to move you to Fermoy, or

8 would it have been bullying to move you to Fermoy?

9 A. Combined with the actions and to move me, as I say

10 again, contrary to code regulations, then that would 11:52

11 have been bullying, yes.

12 195 Q. That would have been bullying?

13 A. Yes. But there was no official attempt at the time.

14 196 Q. No official attempt? So where did you get this from?

15 A. It was my perception of why he had a nasty attitude 11:52

16 towards me, that is why I believed that going back to

17 the previous chief's attempt in 2004, and from what I

18 had been told about the connection between the two

19 persons.

20 197 Q. So, from December of 2010, my client had in place a 11:53

21 plan to somehow force you to Fermoy, is that correct?

22 A. I cannot say what he -- I cannot say he had a plan to

23 move me to Fermoy.

24 198 Q. You are very good at forming beliefs as to what people

25 are doing. Can you tell me, is it your belief that 11:53

26 from 2010, December we can date it at, because that's

27 the first of the things which was deliberately picked

28 on, to try to encourage the move to Fermoy?

29 A. Possibly to establish a reason to move me, yes.

1 199 Q. So your evidence is that my client set in place a plan  
2 from at the latest December 2010 to pick on little  
3 things as a way to get you to move to Fermoy?  
4 A. That would have been my belief, yes.

5 200 Q. And that was done because you had previously 11:54  
6 successfully prevented an attempt to get you to move to  
7 Fermoy?  
8 A. Yes.

9 201 Q. So the plan in effect to move you to Fermoy was hatched  
10 in 2004, left dormant from 2004 until 2010, and then 11:54  
11 resurrected in 2010, leading to, shall we say, the high  
12 point, a Reg 10 notice in August 2012, that's your  
13 evidence to the Tribunal?  
14 A. That the Reg 10 notice was served on me because he  
15 couldn't transfer me? 11:55

16 202 Q. Well, it was part of the things to try to transfer you  
17 to Fermoy?  
18 A. No, sorry, the Reg 10 notice I said was served on me  
19 because I wouldn't cover up the sexual abuse of a  
20 child. 11:55

21 203 Q. But see all of this was -- the principal concerned, the  
22 first thing you tell your GP is that the sergeant wants  
23 one of the sergeants to move to Fermoy and Paul feels  
24 he often picks on little things to encourage the move.  
25 Now, the Reg 10 notice, if we come to that, was set out 11:56  
26 in circumstances where the superintendent arrives and  
27 none of the unit were there when he arrived, at the  
28 time that the unit were supposed to start, and you  
29 arrived 20 minutes late, isn't that correct?

1 A. I believe it was 15 minutes I was late at the time.  
2 204 Q. Fifteen or 20 minutes?  
3 A. Yeah.  
4 205 Q. How does An Garda Síochána work if entire units aren't  
5 there - 11:56  
6 A. Well --  
7 206 Q. - when their shift starts?  
8 A. Well, if I was coming in and I had found the same  
9 situation as the superintendent, I would have asked  
10 each member to account for the reason that they were 11:57  
11 late. I gave my reason, as did Garda Wall. But I  
12 don't believe any of the other persons were asked why  
13 they were late.  
14 207 Q. And?  
15 A. Or disciplined for same. 11:57  
16 208 Q. You were the latest, weren't you?  
17 A. And I was singled out.  
18 209 Q. You were the latest, weren't you?  
19 A. I was, because of car problem. It was a legitimate  
20 reason why I was late. 11:57  
21 210 Q. Well, it wasn't a car problem, what you said at the  
22 time was that the car was being dropped in for a  
23 service --  
24 A. No, no, sorry, you're wrong. It wasn't a service. It  
25 wasn't a routine service. Garda Wall had trouble with 11:57  
26 his car, he could not drive to Mitchelstown, so he took  
27 it into the garage on the morning that we were to  
28 travel to work. It wasn't a routine service or a  
29 planned service or scheduled.

1 211 Q. why didn't you collect Garda wall and go with him?  
2 A. Because Garda wall didn't ring me until he'd dropped  
3 his car to the garage and he said that he had been in  
4 touch with my patrol car, who were in Fermoy picking up  
5 another member. 11:58

6 212 Q. why didn't you take your own car from your own home?  
7 A. Because he said that the patrol car was picking him up  
8 and they'd meet me at the station, at the petrol  
9 station. At this stage when he notified me, it would  
10 have been the same time constraint. 11:58

11 213 Q. No, it wouldn't. The car had to come?  
12 A. The car was already in Fermoy, which was approximately  
13 five minutes, there'd be five minutes in the  
14 difference.

15 214 Q. Were you at your home? 11:58  
16 A. No, I was in Fermoy. At the Mitchelstown side of  
17 Fermoy.

18 215 Q. How did you get to Fermoy?  
19 A. I drove there.

20 216 Q. So you had your car? 11:58  
21 A. I had my car, parked up and I was waiting for Garda  
22 wall to pick me up. We used to take turns in commuting  
23 to Mitchelstown.

24 217 Q. Did you continue to do that for the time you were  
25 there? 11:58  
26 A. Until I retired, I shared a lift with Garda Clifford,  
27 who was on my unit, that was normal practice.

28 218 Q. So you'd drive to Fermoy, you'd park up in Fermoy,  
29 where, at the garda station?

1 A. No, petrol station.

2 219 Q. Petrol station. And then you'd share the drive from  
3 Fermoy to Mitchelstown. And you live? I don't need to  
4 know the exact address, but where do you live?

5 A. Ten miles at the other side of Fermoy. 11:59

6 220 Q. At the --

7 A. Opposite side, towards Glanmire.

8 221 Q. Towards Glanmire. I will give you a little bit of  
9 background knowledge, I grew up in Glanmire, so you can  
10 be as specific as you like. So you would get onto the 11:59  
11 motorway on the Glanmire slipway, is that where you'd  
12 enter onto the motor way?

13 A. I'd normally use the back road.

14 222 Q. Use the back road. You'd drive to Fermoy and then the  
15 garage in Fermoy, that's I take it, on the other side 12:00  
16 of the motorway as well, is it?

17 A. No, it's on the Fermoy side of the motorway.

18 223 Q. Fermoy side of the motorway. So in Fermoy town as such  
19 itself?

20 A. Yeah, on the outskirts of Fermoy town. 12:00

21 224 Q. And then you'd go from there to Mitchelstown, yet again  
22 I take it not using the motorway?

23 A. Yeah, when you leave Fermoy, you come onto the motorway  
24 then. From Fermoy to Mitchelstown would be motorway.

25 225 Q. Yes, and that's a 14-minute drive, a 15 minute drive? 12:00  
26 A. Ten minute.

27 226 Q. I am pretending I am more law abiding than I perhaps  
28 am?

29 A. It's 10 minutes.

1 227 Q. And --  
2 CHAIRMAN: why wouldn't you drive straight to  
3 Mitchelstown?  
4 A. Because we share a lift there.  
5 228 Q. CHAIRMAN: I know but why bother sharing a lift? why 12:00  
6 park the car, wait around? why don't you just drive  
7 straight from home to Mitchelstown? I mean was there  
8 any advantage?  
9 A. There was mileage advantage, fuel saving and you could  
10 save the planet. 12:01  
11 229 Q. CHAIRMAN: Can you just help me on something,  
12 Mr. Barry, that I am not sure about. The Garda wall  
13 car problem, what was the problem he had with his car?  
14 A. He said an engine management light came on.  
15 230 Q. CHAIRMAN: All right. 12:01  
16 A. That's what he relayed to me.  
17 231 Q. CHAIRMAN: An engine management light came on and he  
18 wanted to get that checked out?  
19 A. Yes.  
20 232 Q. CHAIRMAN: Is that right? 12:01  
21 A. Yes.  
22 233 Q. CHAIRMAN: when did he tell you that?  
23 A. when he met me -- well, on a phone call he said -- he  
24 rang me.  
25 234 Q. CHAIRMAN: Now this is the morning we're talking about, 12:01  
26 is that right?  
27 A. Yes.  
28 235 Q. CHAIRMAN: Early in the morning.  
29 A. For a 12 o'clock shift.

1 236 Q. CHAIRMAN: which?  
2 A. We were to be on duty at 12pm.  
3 237 Q. CHAIRMAN: You were going to be on duty at 12 noon?  
4 A. Yes.  
5 238 Q. CHAIRMAN: Okay. So he phones you and says, I have a 12:01  
6 problem. I'm sorry, Mr. Harty, I just want to get  
7 this. He said, I have a problem with the management  
8 light and I want to get it into the garage to get it  
9 checked out; is that right?  
10 A. He had left it in at that stage. 12:02  
11 239 Q. CHAIRMAN: He had left it in and he had gone home, is  
12 that right?  
13 A. No, no, he hadn't gone home.  
14 240 Q. CHAIRMAN: Where was he at this point?  
15 A. He was, I believe, in the Mitchelstown patrol car, 12:02  
16 which had been in Fermoy.  
17 241 Q. CHAIRMAN: So he had left his car into the -- where was  
18 the garage he left it into? Was it in Fermoy?  
19 A. In Fermoy, yes.  
20 242 Q. CHAIRMAN: In Fermoy. So he had left his car into the 12:02  
21 garage in Fermoy to get the light checked out. And  
22 then did he get the patrol car to collect him and bring  
23 him to Fermoy station?  
24 A. No, it'd be my understanding that he -- - the patrol  
25 car was already in Fermoy to pick up another Garda 12:02  
26 member.  
27 243 Q. CHAIRMAN: How did Garda wall -- Garda wall's car is  
28 now in the garage, okay?  
29 A. Yes.



1 244 Q. CHAIRMAN: Now, what happens next?  
2 A. From what he told me at the time, he said that he was  
3 getting a lift over in the Mitchelstown patrol car,  
4 which had been in Fermoy to collect a member who was on  
5 duty in Fermoy that morning. 12:03  
6 245 Q. CHAIRMAN: A Mitchelstown car was there and he was  
7 going to get it to collect him as well as whatever else  
8 it had to do and bring him over to Mitchelstown?  
9 A. Yes. And he said he was on the way and that he  
10 would -- 12:03  
11 246 Q. CHAIRMAN: I'm not understanding, he said he was on his  
12 way. You said that was his plan, that is what he was  
13 going to do?  
14 A. Sorry, he said he was with the Mitchelstown patrol car,  
15 he was on his -- 12:03  
16 247 Q. CHAIRMAN: I am in the Mitchelstown patrol car, is that  
17 right?  
18 A. That's -- from what I recollect, he --  
19 248 Q. CHAIRMAN: Sorry, the first thing he told you, I'm not  
20 going to be driving you from Fermoy to Mitchelstown? 12:03  
21 A. Correct.  
22 249 Q. CHAIRMAN: Is that the first thing he told you?  
23 A. He had a problem.  
24 250 Q. CHAIRMAN: Because my car is going in to have the light  
25 checked out? 12:03  
26 A. That's correct.  
27 251 Q. CHAIRMAN: Let's keep it very simple.  
28 A. Yes.  
29 252 Q. CHAIRMAN: Okay. So that left you with the option,

1           that lift was not there, of driving straight to  
2           Mitchelstown?

3           A.    Yes.

4   253   Q.    CHAIRMAN:  why didn't do you that?

5           A.    Because he said he was on route to Mitchelstown, he was 12:04  
6           coming out of Fermoy in the patrol car.

7   254   Q.    CHAIRMAN:  He was actually between Fermoy and  
8           Mitchelstown in the patrol car?

9           A.    No, sorry, he was between Fermoy and the service  
10          station.  He had left the -- 12:04

11   255   Q.    CHAIRMAN:  Okay.  Okay, very good.  He's between the  
12          service station and Fermoy town?

13          A.    Yes.  And he said, I'll pick you up on the way.

14   256   Q.    CHAIRMAN:  Okay.  So why was there a problem with the  
15          delay then? 12:04

16          A.    I --

17   257   Q.    CHAIRMAN:  why was there a problem?

18          A.    Because the time, I believe I rang --

19   258   Q.    CHAIRMAN:  Sorry, you get to -- I hope you can  
20          understand I didn't am having difficulty with this. 12:04  
21          You get to Fermoy?

22          A.    Yes.

23   259   Q.    CHAIRMAN:  To the appointed location, the filling  
24          station where you would normally park your car?

25          A.    Correct. 12:05

26   260   Q.    CHAIRMAN:  only there's no Garda wall?

27          A.    Yes.

28   261   Q.    CHAIRMAN:  And there's no patrol car?

29          A.    well, I wouldn't be expecting a patrol car.

1 262 Q. CHAIRMAN: But you would have been expecting a patrol  
2 car because he told you he was going to collect you?  
3 A. Yes, but that is after I rang him to see why he wasn't  
4 arriving.

5 263 Q. CHAIRMAN: Ah okay. You got to the point. I'm sorry 12:05  
6 to be tedious about this. I'm not understanding this,,  
7 you got to the place, you parked your car and you're  
8 saying, no Garda wall and no patrol car, so you phone  
9 him?

10 A. Yes. 12:05

11 264 Q. CHAIRMAN: And?  
12 A. He tells me he has a problem with his car, he's after  
13 leaving it into the service station or to the garage  
14 for repair.

15 265 Q. CHAIRMAN: So the first time there was any 12:05  
16 communication between you and Garda wall was when you  
17 got to your normal place to park, that was the first  
18 time, there was no earlier conversation?

19 A. No.

20 266 Q. CHAIRMAN: He didn't tell you, I'm going to leave it 12:05  
21 in?  
22 A. No. And I'm waiting for him and because it's  
23 running --

24 267 Q. CHAIRMAN: You're waiting for him, and you ring him,  
25 where are you, he says, I am on my way? 12:06  
26 A. Yes.

27 268 Q. CHAIRMAN: Is that correct?  
28 A. That is correct.

29 269 Q. CHAIRMAN: And how long after that did it take him to

1 arrive in the patrol car?

2 A. He didn't arrive until 12 midday, I believe. He was  
3 ten minutes --

4 270 Q. CHAIRMAN: How long after your phone call,  
5 approximately how long were you delayed there, waiting 12:06  
6 for the patrol car to arrive?

7 A. Approximately ten minutes.

8 271 Q. CHAIRMAN: And it would have taken ten minutes to drive  
9 from Fermoy to Mitchelstown?

10 A. Yes. 12:06

11 272 Q. CHAIRMAN: So you could have told him, don't bother,  
12 I'll drive myself?

13 A. I could have, but he said he was on his way.

14 273 Q. CHAIRMAN: I'm on the way, which should have meant that  
15 he'd be there in a minute or two? 12:06

16 A. That's what I understood.

17 274 Q. CHAIRMAN: So what happened to him?

18 A. Well, Chairman, I don't know why he was held up or  
19 whatever, whether they were waiting for the member who  
20 was on duty in Fermoy to come out to get in the car or 12:06  
21 whatever.

22 275 Q. CHAIRMAN: Oh because of the other party for whom the  
23 car had originally gone from Mitchelstown?

24 A. Yes.

25 276 Q. CHAIRMAN: So they had two things to do, okay. So 12:07  
26 anyway, there it is. You're waiting and he comes up  
27 and he comes along. And that's why you're late?

28 A. Yes, that's why I was delayed, because of his putting  
29 the car in the garage.

1 277 Q. CHAIRMAN: Do you think you were in the wrong?  
2 A. Under the circumstances, Mr. Chairman, there was  
3 nothing I could do about it.  
4 278 Q. CHAIRMAN: well there was a lot of things you could  
5 have done about it. You could have driven yourself. 12:07  
6 A. I could have, but he said he was on his way so I --  
7 279 Q. CHAIRMAN: I understand. Sorry, simple question: Do  
8 you think you were in the right or do you think you  
9 were in the wrong?  
10 A. Under the circumstances I thought I was in the right. 12:07  
11 280 Q. CHAIRMAN: I mean, you were late in fact?  
12 A. I know I was late.  
13 281 Q. CHAIRMAN: That is fact?  
14 A. But I believe I had a genuine excuse for being late.  
15 282 Q. CHAIRMAN: You were late but you thought had you a good 12:07  
16 excuse?  
17 A. Yes.  
18 CHAIRMAN: I'm sorry, Mr. Harty, I should have made it  
19 clear at an earlier point that I was confused about the  
20 trip and what happened and I should have admitted it 12:08  
21 earlier. Thank you very much.  
22 MR. HARTY: Certainly, it's cleared up.  
23 CHAIRMAN: Thank you very much Mr. Barry for clearing  
24 that up.  
25 THE WITNESS: Thank you. 12:08  
26 283 Q. MR. HARTY: So, Mr. Barry, you're the unit sergeant,  
27 isn't that correct?  
28 A. That's correct.  
29 284 Q. And one of your duties is ensuring that the members of

1 the unit are where they're supposed to be when they're  
2 supposed to be?

3 A. That's correct.

4 285 Q. So what did you say to Garda wall about what had  
5 occurred? 12:08

6 A. I told him in no uncertain terms that the reason I am  
7 late is because of you.

8 286 Q. Well, let's worry about why he's late, so the reason  
9 why he's late, what did you say to him about that?

10 A. I did not say anything to him in a negative -- I just 12:09  
11 said, why aren't you here? That would have been in the  
12 phone call and he said the engine management light had  
13 come on in his car and I felt that was a legitimate  
14 excuse.

15 287 Q. Right. As a result -- and there was another member, 12:09  
16 was that member who was in the car coming from Fermoy,  
17 was that a member who was part of your unit?

18 A. No, it would have been the earlier unit.

19 288 Q. The earlier unit. And just so you can help me, Garda  
20 wall knew that you were driving -- 12:09

21 A. No, sorry, it was Garda wall was due to drive to  
22 Mitchelstown.

23 289 Q. Garda wall knew that you would drive from your home to  
24 Fermoy, isn't that correct?

25 A. That's correct. 12:09

26 290 Q. Garda wall, on the morning, notices a problem with his  
27 car, goes to have it serviced, or checked out, but he  
28 doesn't contact you?

29 A. No, he didn't.

1 291 Q. And it appears that he contacts a member of the other  
2 unit, is that correct?

3 A. I don't know who he contacted but he relayed the  
4 information to me that he was getting a lift from the  
5 Mitchelstown patrol car that was in Fermoy to pick 12:10  
6 someone up. How he knew that, I don't know.

7 292 Q. Did you not say, why didn't you just call me, I would  
8 have collected you from the service garage?

9 A. I did ask him why he didn't tell me in advance but --

10 293 Q. why did you not tell him, I would have collected you 12:10  
11 from the service garage?

12 A. Because he hadn't informed me.

13 294 Q. why didn't you ask him why he didn't inform you?

14 A. I probably did at the time.

15 295 Q. You were both running -- was it ten to 12 when he 12:11  
16 contacted you?

17 A. It was approximately ten to 12 when I rang him to know  
18 where was he.

19 296 Q. All right. So he had ten minutes to get to work?

20 A. That's correct. 12:11

21 297 Q. You were sitting in a car ten minutes from work?

22 A. My car was parked up and I was waiting on the side of  
23 the road for Garda wall to pick me up when I made the  
24 phone call.

25 298 Q. I am guessing the garage that you pick to park up in is 12:11  
26 one where it's easy to park and I am guessing it's not  
27 a long walk from where you park the car to the side of  
28 the road?

29 A. No.

1 299 Q. So I will add a minute to that. You were at a place at  
2 ten to 12, where you know that your arrangements to get  
3 there on time have now collapsed, and you have the  
4 ability to get there at one minute past 12?

5 A. No, that's not correct, because Garda Wall said to me 12:12  
6 in the phone conversation that he was on the way, I'll  
7 collect you there, we'll pick you up. He took longer  
8 than I anticipated. If I'd known he would be ten  
9 minutes later I would have driven to Mitchelstown. But  
10 I believed he would have been there within a minute. 12:12

11 300 Q. It appears that there was a very lax attitude to the  
12 need to be in work for 12 o'clock?

13 A. Not on my behalf, because I can assure you, I was at  
14 the service station at approximately 20 to 12, in ample  
15 time to make it to Mitchelstown in time for work, as I 12:12  
16 always did when we were arranging lifts together.

17 301 Q. There appears to have been a very lax attitude on the  
18 part of Garda Wall?

19 A. No, I wouldn't agree to that. That was the one and  
20 only day that Garda Wall had a problem with his car. 12:13

21 302 Q. But no one seemed to be concerned about getting to  
22 Mitchelstown Garda Station for 12 o'clock?

23 A. I was concerned. That's why I rang him.

24 303 Q. And you didn't say, listen, I'm in my car, I'll see you  
25 there? 12:13

26 A. No. Garda Wall said, wait there, I'm on my way, I'll  
27 pick you up on the way.

28 304 Q. Right. Just to help me because it's something that  
29 does -- it's just a question that unfortunately I can't



1 help myself asking, how did you get back to Fermoy that  
2 evening?

3 A. I don't recall. I may have got a lift to the service  
4 station to pick up my car.

5 305 Q. From the patrol car? 12:13

6 A. Possibly, yes.

7 306 Q. You could understand how a superintendent would be very  
8 concerned on arriving at a garda station to find that  
9 at least three members of the unit are not there 15  
10 minutes later? 12:14

11 A. I don't think it was 15 minutes later for all members.

12 307 Q. I think his time was that one was 15 minutes late and  
13 that you were later again. But in any event, if you're  
14 managing a unit you'd expect the unit to be there for  
15 what time, if the unit shift starts at 12? 12:14

16 A. That's correct, and I believe the sergeant in charge  
17 would have been on duty in the station from 9am to 5pm  
18 or 8pm to 4pm that day, Sergeant Aidan Dunne.

19 308 Q. And?

20 A. That he would have been there to inspect these members 12:14  
21 coming on duty, as would I, had I not been delayed.

22 309 Q. But they weren't and they were your unit?

23 A. That's what I am led to believe. I was not there when  
24 they had turned up for duty.

25 310 Q. Because you weren't there? 12:15

26 A. Not of my own volition.

27 311 Q. But it was of your own volition, because you didn't  
28 just hop in your car at ten to 12 and drive to  
29 Mitchelstown?

1 A. And I would have had Garda wall told me the exact time.  
2 He had told me he was on route, I wouldn't have waited  
3 ten minutes for him, I would have --

4 312 Q. CHAIRMAN: were you planning to arrive bang on the dot  
5 of midday? 12:15

6 A. No, Mr. Chairman. I would arrive at the service  
7 station at approximately --

8 313 Q. CHAIRMAN: Go on?

9 A. I would arrive at the service station at approximately  
10 20 to 12. 12:15

11 314 Q. CHAIRMAN: And when were you expecting Garda wall in  
12 the normal course of events, assuming no problem had  
13 arisen?

14 A. Quarter to.

15 315 Q. CHAIRMAN: Okay? 12:16

16 A. Twenty to.

17 316 Q. CHAIRMAN: That could have given you time to get there?

18 A. Yes.

19 317 Q. CHAIRMAN: You weren't planning to be there bang on the  
20 dot? 12:16

21 A. No, no.

22 318 Q. CHAIRMAN: You were intending to be there a bit early?

23 A. Yes.

24 CHAIRMAN: Okay.

25 319 Q. MR. HARTY: Garda wall accepted his Reg 10, isn't that  
26 correct? 12:16

27 A. Yes.

28 320 Q. There was no issue?

29 A. Pardon?

1 321 Q. There was no issue with Garda wall on his Reg 10; isn't  
2 that correct?

3 A. There was, he questioned it.

4 322 Q. Did he appeal it?

5 A. No, but I know he questioned the superintendent at the 12:16  
6 time. He told the superintendent he didn't want to  
7 sign it and asked him what would happen.

8 323 Q. Okay. And you?

9 A. Pardon?

10 324 Q. You signed it, didn't you? 12:16

11 A. I signed it just to get out of there.

12 325 Q. Just to get out of there?

13 A. Yes.

14 326 Q. In circumstances -- what the effect of a Reg 10?

15 A. It is a minor discipline. 12:16

16 327 Q. It's not even a minor discipline, it's an informal  
17 resolution?

18 A. Informal resolution, I don't know, I'd never been  
19 served with one.

20 328 Q. Did you check when you got it? 12:17

21 A. I did, afterwards, yes.

22 329 Q. Did you contact AGSI?

23 A. I did.

24 330 Q. It doesn't appear on your personnel file, isn't that  
25 right? 12:17

26 A. That's correct.

27 331 Q. It's not discipline as such, isn't that right?

28 A. It's under the discipline regulations.

29 332 Q. It's contained, so is suspension, which is not

1 discipline, there's quite a number of things in the  
2 discipline regulations which aren't discipline and Reg  
3 10 isn't discipline, isn't that correct, it's an  
4 informal warning?

5 A. Under the discipline regulations, yes. 12:17

6 333 Q. There is no impact on your record of service, isn't  
7 that right?

8 A. That's correct.

9 334 Q. It doesn't go on your personnel file?

10 A. That's correct. 12:18

11 335 Q. It's filed entirely separately, out of the way. But  
12 you received a Reg 10 and did you think that that was  
13 related to the attempt to move you to Fermoy?

14 A. No. I thought it was in relation to the sexual abuse  
15 case that was under investigation. 12:18

16 336 Q. Oh, I see. So between 2004 and 2012, these things were  
17 all being done, these picking on little things, were  
18 all being done to encourage you to move to Fermoy but  
19 this was for a different reason?

20 A. This was combined with the investigation file that I 12:18  
21 had submitted in relation to the sexual abuse, they  
22 were both served on me together.

23 337 Q. Well they weren't served on you?

24 A. Well effectively. I was handed the Reg 10 and the  
25 discipline file at the same time and I was told to make 12:19  
26 four copies of the investigation file.

27 338 Q. There was no discipline file. There was a Reg 10  
28 notice?

29 A. Or the Reg 10.

1 339 Q. You were handed the investigation file. It would be  
2 normal enough for you to make copies of it, wouldn't  
3 it?  
4 A. Not without a response to the report I had submitted.  
5 340 Q. And you determined that following the service of that 12:19  
6 Reg 10 notice, that you were suffering from so much  
7 work, stress that you couldn't stay?  
8 A. That I couldn't --  
9 341 Q. That you couldn't return to work?  
10 A. In August of 1993 I had two guns put to my head during 12:19  
11 the course of a robbery, and that incident had the  
12 exact same effect on me as this had. I couldn't sleep  
13 for a week and I had to go on medication because of it.  
14 342 Q. Did you do counselling after that?  
15 A. Yes, I did. 12:20  
16 343 Q. Did you do counselling after this?  
17 A. Pardon?  
18 344 Q. Did you do counselling from 2012 onwards?  
19 A. Yes, I did.  
20 345 Q. Why is there no reference to it in your medical 12:20  
21 reports?  
22 A. Sorry?  
23 346 Q. Why is there no reference to any counselling being  
24 attended from 2012?  
25 A. From 2012? 12:20  
26 347 Q. In your medical records.  
27 A. I believe Dr. Dennehy submitted a report.  
28 348 Q. Dr. Dennehy is a psychiatrist, he's not a counsellor?  
29 A. And my own doctor.

1 349 Q. Yes. And in fact your own doctor said that she  
2 recommended that you go to a Dr. Walsh shall, who I am  
3 assuming is a psychologist?  
4 A. No, sorry that was a different matter. This was  
5 Dr. Dennehy I attended in relation to this. 12:20  
6 350 Q. Dr. Walsh is a psychologist, is that correct?  
7 A. He was not my treating psychologist for this matter.  
8 There was a previous incident.  
9 351 Q. Dr. Dennehy is not a psychologist, he's a psychiatrist?  
10 A. Well, it was Dr. Dennehy I was attending and others 12:21  
11 attached to the health clinic.  
12 352 Q. And you received counselling?  
13 A. Yes, I did.  
14 353 Q. And you have no report from any counsellor, isn't that  
15 correct? 12:21  
16 A. I don't know whether I have or not, I don't -- I  
17 believe it was Dr. Dennehy submitted a report and  
18 Dr. Kiely.  
19 354 Q. Dr. Dennehy is the man who prescribed you with  
20 medication, which means he's a psychiatrist. A 12:21  
21 counsellor is somebody who uses therapeutic counselling  
22 to deal with psychological trauma. You do know the  
23 difference?  
24 A. I do.  
25 355 Q. And you received trauma counselling in 2003, isn't that 12:22  
26 correct?  
27 A. That's correct.  
28 356 Q. And that would have been -- and I am terrible at  
29 knowing the difference between all of these things, but

1           there are various different techniques used which  
2           invariably involve dealing with the cause of the trauma  
3           and trying to neutralise the impact on you?  
4           A.    That's correct.  
5   357   Q.    Are you telling this Tribunal that you attended with a   12:22  
6           counsellor to talk through the causes and impacts of  
7           the trauma which caused to you be unable to attend work  
8           from 2012?  
9           A.    I was referred to, I don't recall their name, by  
10          Dr. Dennehy who was attached to Sarsfield Court, you   12:22  
11          will be aware of it.  
12   358   Q.    Yes.  
13          A.    I attended with that person and went through what had  
14          happened with her.  
15   359   Q.    And we have no report from them.   Because that strikes   12:22  
16          me as very unusual whereby following a phone  
17          conversation with --  
18          MR. COSTELLOE:   Excuse me for interrupting.  
19          CHAIRMAN:    Sorry, yes, Mr. Costelloe.  
20          MR. COSTELLOE:   I wonder is this line of enquiry fair   12:23  
21          to the witness in circumstances where he has handed  
22          over all material that he's been requested to hand over  
23          and there's an implicit criticism here by Mr. Harty on  
24          behalf of his client that somehow because the Tribunal  
25          doesn't have counselling notes, that my client has   12:23  
26          somehow acted improperly.   It is hard to see how there  
27          could be any other construction in relation to the  
28          questions that have just been put by Mr. Harty to the  
29          witness.   And I'd submit, Chairman, that that's unfair

1 and improper.

2 CHAIRMAN: what do you say to that, Mr. Harty?

3 MR. HARTY: I intend to make it entirely fair with my  
4 next question.

5 CHAIRMAN: Okay. 12:24

6 360 Q. MR. HARTY: which is: when you went to your GP and  
7 sought conditions on your medical cert --

8 A. That's not correct.

9 361 Q. When you went to your GP and sought a medical  
10 certificate and discussed the nature of the conditions 12:24  
11 with her, were you seeing a counsellor at that time?

12 A. I don't believe I was. It was too early in the  
13 process.

14 362 Q. Do you recall when up commenced seeing a counsellor?

15 A. It would be in Dr. Kiely's notes, where I was referred 12:24  
16 for assessment and I believe Dr. Dennehy made reference  
17 to having me sent to the person in Sarsfield Court.

18 363 Q. Because I've looked through Dr. Kiely's notes and I can  
19 see a reference to you not wishing to attend Dr. Walsh,  
20 because of financial reasons, to be fair to you, and I 12:25  
21 can see references to attendances with Dr. Dennehy but  
22 I can't see references for attendances with a  
23 counsellor. And the reason why I ask you this, and to  
24 be fair in light of the question that has been asked by  
25 Mr. Costelloe, when did you ask your counsellor as to 12:25  
26 what certification they would give to your ability to  
27 work in Fermoy Garda Station or with my client?

28 MR. COSTELLOE: Excuse me, Chairman, before my client  
29 answers that question, I am repeating my objection.



1 CHAIRMAN: Yes, I understand that.

2 MR. COSTELLOE: And I am also referring the Tribunal to  
3 page 4772. 4772.

4 CHAIRMAN: Thanks very much.

5 MR. COSTELLOE: And I only do so because I believe 12:26  
6 Mr. Harty may not have seen that or it may be glossed  
7 over.

8 CHAIRMAN: Thank you very much.

9 MR. COSTELLOE: Sorry, excuse me, Chairman, I just want  
10 to make it clear for the record, I am not suggesting 12:26  
11 for a moment that Mr. Harty has --

12 CHAIRMAN: I understand, you're not suggesting any  
13 improper motive.

14 MR. COSTELLOE: Exactly.

15 CHAIRMAN: Let's check 4772 to see. 12:26

16 MR. COSTELLOE: If you go to the entry at 12/12/12.

17 CHAIRMAN: Let's go down to 12/12/12, thanks very much,  
18 Mr. Murphy.

19 MR. HARTY: Sorry, thank you.

20 CHAIRMAN: Let's just find it for a moment, so I can 12:26  
21 see it. "...saw a lady last week for stress  
22 management..."

23 MR. HARTY: That's actually very helpful. Thank you,  
24 Mr. Costelloe.

25 CHAIRMAN: Thank you very much. Sorry, the other 12:27  
26 thing, Mr. Costelloe, I am not understanding how the  
27 line of questioning is unfair. Can you help me on  
28 that.

29 MR. COSTELLOE: well, I think to be fair, Mr. Harty is

1 about to deal with that entry and in those  
2 circumstances I have no difficulty with that question.  
3 CHAIRMAN: Thank you very much. That is all resolved.  
4 Thank you.

5 364 Q. MR. HARTY: So you saw a lady, in fact, some time in 12:27  
6 early December 2012?  
7 A. That's correct.

8 365 Q. And that would have been to discuss the stressors, the  
9 psychological stressors, isn't that correct?  
10 A. Yes. 12:27

11 366 Q. That meant that you were suffering from the psychiatric  
12 effects?  
13 A. That's probably correct.

14 367 Q. And that was three months before Dr. Kiely moved  
15 outside the medical and into the question of the 12:28  
16 stressors?  
17 A. In relation to those appointments, I would have with  
18 Dr. Dennehy or the lady in Sarsfield Court, I believe  
19 they communicated with Dr. Kiely and that's what helped  
20 her issue her certificate. 12:28

21 368 Q. Well, Dr. Dennehy is a psychiatrist based in the Mercy  
22 Hospital in the centre of Cork City. Just to assist  
23 the Tribunal, you will agree with me that Sarsfield  
24 Court was a hospital probably less than 5 miles from  
25 your own home - 12:29  
26 A. Correct.

27 369 Q. - between Glanmire and Watergrasshill?  
28 A. Correct.

29 370 Q. How many times did you visit that lady?

1 A. Two or three I think would be the max. I didn't visit  
2 her very often.

3 371 Q. Can you tell me how many times did you receive  
4 counselling with her from December 2012 to March 2013?  
5 A. I don't recall. I know I did meet with her, I cannot 12:29  
6 say how many times. I can't remember but I know it  
7 wasn't very often.

8 372 Q. Do you know what type of therapy she used?  
9 A. It wasn't ongoing. I don't know.

10 373 Q. Do you understand what she was attempting to do? 12:29  
11 A. Yes.

12 374 Q. what?  
13 A. She was attempting to talk me through what was causing  
14 my stress.

15 375 Q. And what was the intension of that therapy? 12:29  
16 A. what was the...?

17 376 Q. what was the purpose of that therapy?  
18 A. I don't know, it was Dr. Dennehy sent me for it.

19 377 Q. And the purpose of that therapy? well what did you  
20 understand you were there for? 12:30  
21 A. To help me.

22 378 Q. Exactly. To reduce your stress, wouldn't that be fair?  
23 A. That would be fair.

24 379 Q. To reduce your response to the stressors, wouldn't that  
25 be fair? 12:30  
26 A. Yes.

27 380 Q. So the medication would deal with the physiological  
28 response to the stressors and the counselling would  
29 deal with the psychological response to the stressors,

1 and they go hand in hand, wouldn't that be correct?

2 A. Correct.

3 381 Q. So when did you ask this lady about when you would be  
4 in a position to engage with my client or to attend  
5 Fermoy Garda Station? 12:31

6 A. I don't believe -- I don't recall the conversation I  
7 had with her from so long ago, I don't have a record of  
8 it.

9 382 Q. I'm talking about any time in the last -- until the  
10 last of your retirement? 12:31

11 A. Pardon?

12 383 Q. I'm talking about any time until the date of your  
13 retirement. When did you ask Dr. Kiely, Dr. Dennehy  
14 and probably more importantly, this lady as to when you  
15 would be psychologically able to attend Fermoy Garda 12:31  
16 Station?

17 A. I never asked them when I would be able to attend.  
18 They were treating me for my problem. I believed they  
19 would instruct me as to when I would be fit to attend.

20 384 Q. Surely it came up in conversation? 12:31

21 A. Not that I recall.

22 385 Q. When did you seek an updated cert from Dr. Kiely, from  
23 Dr. Dennehy or from this lady?

24 A. I did not seek an updated cert from this lady.

25 386 Q. Or from Dr. Kiely? 12:32

26 A. There was an updated cert from Dr. Kiely and  
27 Dr. Dennehy supplied.

28 387 Q. No, when did you seek one?

29 A. I don't recall the date I sought it. I believe I

1 sought a couple of reports from Dr. Dennehy over the  
2 course of the time and the same with Dr. Kiely, I had  
3 to supply them to the CMO, who then organised that I be  
4 independently assessed by Dr. Tobin and I was assessed  
5 by somebody from the CMH, I think it was a 12:32  
6 Dr. O'Connell.

7 388 Q. Where did you see the end game?  
8 A. Pardon?

9 389 Q. Where did you get the end game?  
10 A. There is no end game. 12:32

11 390 Q. No, no, where did you see this all ending up, because  
12 this was only a temporary workplace accommodation?  
13 A. Sorry, I thought we were talking about my medical  
14 condition.

15 391 Q. We are? 12:33  
16 A. That wasn't a temporary workplace accommodation.

17 392 Q. No, no, but it's all got to do with the temporary  
18 workplace accommodation. You've complained that you  
19 were targeted by this failure to provide you with what  
20 you believed to be appropriate temporary workplace 12:33  
21 accommodations. So I am asking you, when did you see  
22 the temporary workplace accommodations coming to an  
23 end?

24 A. There were no temporary workplace accommodations put in  
25 place, but I did refer to the appeal board, prior to my 12:33  
26 retirement, and I told them that as far as I was  
27 concerned my certificate became null and void when  
28 Superintendent Comyns left the district.

29 393 Q. Your certificate became null and void when

1 Superintendent Comyns left the district?

2 A. That was my belief at the time, yes.

3 394 Q. Did you check that with Dr. Kiely?

4 A. I did not.

5 395 Q. Did you check that with Dr. Dennehy? 12:34

6 A. No.

7 396 Q. Did you check that with the lady in Sarsfield Court?

8 A. No.

9 397 Q. But you, shall we say, decided that it became null and  
10 void. And could all of it really have become null and 12:34  
11 void? Fermoy Garda Station was still there, isn't that  
12 correct?

13 A. That's correct. That was the place of work of the then  
14 superintendent.

15 398 Q. Yes. But it doesn't say that you're not to be in work 12:34  
16 with Superintendent Comyns, it says you're not to be in  
17 Fermoy?

18 A. That is for the doctor to account for. That was the  
19 doctor's wording, not mine.

20 399 Q. Did you ever get back to her and say -- well, she's 12:34  
21 happy -- you're happy with the wording, she discussed  
22 that with you?

23 A. Yes, I was happy with the wording -

24 400 Q. Yes.

25 A. - because it gave me comfort to know that I did not 12:35  
26 have to come in contact with this person.

27 401 Q. But you could have arranged it, all you had to say on  
28 the certificate was that he should not come in contact  
29 with Superintendent Comyns. Why is Fermoy even

1 mentioned?

2 A. Because the doctor was aware that Superintendent Comyns  
3 was in Fermoy Garda Station. She asked me was he  
4 stationed in Mitchelstown. I said no, he was in  
5 Fermoy. 12:35

6 402 Q. And if he had been stationed in Mitchelstown, what  
7 would she have said?

8 A. I don't know what she would have said.

9 403 Q. She would have said, he should not come in contact with  
10 Superintendent Comyns? 12:35

11 A. That would have been impossible.

12 404 Q. But she put Fermoy in following discussion with you, so  
13 she believed that Fermoy Garda Station was part of your  
14 stressors?

15 A. No, from my first conversation with the doctor, she 12:36  
16 believed that the superintendent was based in  
17 Mitchelstown and I pointed out to her that he's not in  
18 Mitchelstown, he's in Fermoy. She misunderstood where  
19 he was stationed. And I clarified that with her. I  
20 said, he's not stationed in Mitchelstown, he's 12:36  
21 stationed in Fermoy.

22 405 Q. So, she didn't have any idea as to how the district  
23 worked, only what you told her?

24 A. No, she asked me where the superintendent was  
25 stationed. She believed he was stationed in 12:36  
26 Mitchelstown. I told her he wasn't, he was stationed  
27 in Fermoy.

28 406 Q. But she found it necessary, in her medical report to  
29 say that you should not be required to attend Fermoy

1           Garda Station, isn't that correct?

2           A.    That's what Dr. Kiely put in her report.

3 407    Q.    And you thought that you would second guess that, when  
4           it came to the appeal board, because when  
5           Superintendent Comyns had moved you had no difficulty    12:37  
6           being in the Fermoy district?

7           A.    No.

8 408    Q.    You told me that that certificate became null and void,  
9           redundant, but there's two parts to the certificate;  
10          there geography and personality. The geography never    12:37  
11          changed but it is expressly set out in the certificate.

12          A.    I am not responsible for that.

13 409    Q.    Did you think it would be a good idea to discuss it  
14          with Dr. Dennehy, Dr. Kiely or the lady in Sarsfield  
15          Court?    12:38

16          A.    Garda management were aware that I was attending the  
17          PAF meetings in Fermoy following the departure of  
18          Superintendent Comyns.

19 410    Q.    You told us that certificate became redundant and I am  
20          asking you how you reached that decision?                12:38

21          A.    Because I started attending at Fermoy Garda Station  
22          when Superintendent Maguire took over and he told me he  
23          had no problem with my dealings with him, he had no  
24          problem with how I was working.

25 411    Q.    He told you he had no problems with you, so that was    12:38  
26          fine. And how were you working?

27          A.    I was working on the instructions of Superintendent  
28          Maguire at the time.

29 412    Q.    And over those years how were you working, from 2013 to



1 2015, before Superintendent Maguire commenced?

2 A. I was working in compliance with my doctor's  
3 certificate.

4 413 Q. And yet you decided not to comply with your doctor's  
5 certificate the minute Superintendent Comyns was gone 12:39  
6 from Fermoy?

7 A. The stressor in my life was gone when he departed, yes.

8 414 Q. And wouldn't it be fair to say that the question of  
9 moving you to Fermoy from Mitchelstown also evaporated?

10 A. That's what I believed, yes. 12:39

11 415 Q. And by the time you came to 2015 and Superintendent  
12 Comyns had moved, you had no difficulty because there  
13 was no real prospect of anyone moving to you Fermoy,  
14 isn't that correct?

15 A. No, the transfer was ongoing. There was a transfer to 12:39  
16 Anglesea Street was still active, yes.

17 416 Q. Which you appealed?

18 A. That transfer didn't stop me attending at Fermoy.

19 417 Q. You appealed that transfer to Anglesea Street; isn't  
20 that right? 12:40

21 A. Yes, I did.

22 418 Q. To stop yourself being transferred out of Mitchelstown?

23 A. To stop me being put in contact with Superintendent  
24 Comyns again.

25 419 Q. Are you seriously going to tell me that the risk of 12:40  
26 being in contact with Superintendent Comyns is greater  
27 when he is in Mayfield and you are in Anglesea Street  
28 than when you were in Mitchelstown and he was in  
29 Fermoy?

1 A. When Superintendent Comyns, as he is now, he is in  
2 charge of crime for the Cork City division, so any  
3 crime I would have to deal with in Cork City, I would  
4 have had to have contact with Superintendent Comyns.

5 420 Q. That happened in 2019. How many years were you retired 12:40  
6 by 2019, Mr. Barry?

7 A. Three years.

8 421 Q. So, let's deal with what the risk was in 2015. You're  
9 telling me that you had a greater risk of being in  
10 contact with Superintendent Comyns when he was in 12:41  
11 Mayfield and you were in Anglesea Street than you did  
12 when he was your actual divisional officer -- district  
13 officer, I should say, in Fermoy?

14 A. Sorry, I didn't say that it was a greater risk. I  
15 never said that. You have said -- 12:41

16 422 Q. Will you please agree with me, that the superintendent  
17 in Mayfield has no involvement in the day-to-day  
18 operations of Anglesea Street?

19 A. The superintendent has to attend meetings in Anglesea  
20 Street, as I would have had to attend Fermoy under 12:41  
21 normal circumstances. He has to report to his  
22 headquarters as well for meetings, briefings, et  
23 cetera, and that could put me in contact with him.

24 423 Q. I see. And on a day-to-day basis, when you were  
25 supposed to be under his supervision in Mitchelstown, 12:42  
26 you were able to manage that, weren't you?

27 A. I was able to work.

28 424 Q. Yes.

29 A. Yes, I was able to perform my duties.

1 425 Q. How was that? If the possibility of him showing up in  
2 your station from another district is somehow too great  
3 to allow a move, how was it you were able to work in  
4 the same district as him?

5 A. Sorry, I don't know what you're -- I don't know what 12:42  
6 you want me to say.

7 426 Q. Please don't tell me what you think I want to hear.  
8 Just --

9 A. I don't understand the question, sorry, if you could --

10 427 Q. Okay. On a day-to-day basis you were operating under 12:43  
11 the direction of Superintendent Comyns, right until he  
12 left the Fermoy --

13 A. That's not what Superintendent Comyns said. He said, I  
14 was not complying with his directions.

15 428 Q. Right. You're working under the directions of 12:43  
16 Superintendent Comyns from 2013 to 2015, now whether  
17 there was an intermediary or not, by way of Inspector  
18 O'Sullivan --

19 A. There was not.

20 429 Q. He was not an intermediately? 12:43

21 A. No, he never approached me to say he was an  
22 intermediary and he did not deal with all my matters  
23 after 2014. They were dealt with by Superintendent  
24 Comyns.

25 430 Q. You were working away fine? 12:44

26 A. Through correspondence, yes.

27 431 Q. And that is when he was actually your divisional  
28 officer?

29 A. That's correct.

1 432 Q. But you couldn't be moved to Anglesea Street, to an  
2 entirely different division from him, because there was  
3 a risk you'd come into contact with him?  
4 A. Garda management wanted me transferred out of the same  
5 division that Superintendent Comyns was in to preclude 12:44  
6 obligatory interactions. When that failed, they then  
7 wanted know go to Anglesea Street, to be in the same  
8 division again, which couldn't preclude obligatory  
9 interactions.  
10 433 Q. Couldn't preclude obligatory... you've just worked for 12:44  
11 three years under the man's direction with barely any  
12 interactions, in the same division?  
13 A. In the same division?  
14 434 Q. Same district, excuse me, sorry. And how much  
15 counselling did you attend in those three years? 12:45  
16 A. My counselling was ongoing and still is.  
17 435 Q. Counselling is ongoing and still is. I thought you  
18 only saw that counsellor three times?  
19 A. Pardon?.  
20 436 Q. I thought you only saw that counsellor three times? 12:45  
21 A. Oh sorry, I thought you meant medical treatment.  
22 437 Q. Counselling?  
23 A. Yeah, the counselling was brief.  
24 438 Q. So you were quite resilient?  
25 A. Pardon? 12:45  
26 439 Q. You were quite resilient. Your medication was being  
27 reduced, isn't that correct?  
28 A. No, my medication was increased after I saw Dr. Paul  
29 O'Connell on behalf of the State. He increased my

1 medication or recommended it be increased. And I am  
2 still on that increased dosage.

3 440 Q. But you're not at work now, so it's not really relevant  
4 as to what that's -- I am dealing with how it is you  
5 had three sessions of counselling over a relatively 12:46  
6 short period of time and you went to work, and you were  
7 able to do it on the basis of three short sessions of  
8 counselling?

9 A. I was not in a fit position to return to work, I can  
10 assure you. I did not want to go back until all this 12:46  
11 was sorted.

12 441 Q. Until all this was sorted?

13 A. The complaint that I had made and having to come into  
14 contact with the superintendent.

15 442 Q. This is the man that you couldn't be in the same room 12:46  
16 as without getting physically ill?

17 A. That's correct.

18 443 Q. When did that result?

19 A. When Superintendent Comyns left Fermoy, I gradually  
20 recovered. 12:46

21 444 Q. You gradually recovered?

22 A. Yeah, I started feel better all the time. In fact,  
23 when I made my statement to the Tribunal I was in worse  
24 condition than I am now. So I have improved over time.

25 445 Q. Because you have been sitting for the last four days 12  
26 metres from him -- or 12 feet from him? 12:47

27 A. And I don't want to be. It caused me upset to come  
28 from over there to here, to have him on my right.

29 446 Q. Right. But no physical reaction?

1 A. Well, I am upset.

2 447 Q. No, I am not asking if you are upset.

3 A. I'm not getting physically sick.

4 448 Q. No, that's what I am asking?

5 A. No. 12:47

6 449 Q. You're not?

7 A. But I am still upset. It is causing me stress.

8 450 Q. When did he first have that effect on you?

9 A. When he disciplined -- well he served me with the

10 Regulation 10 and the file. 12:47

11 451 Q. That was the high point of his campaign to encourage

12 your move to Fermoy?

13 A. That was the highlight of his campaign to instruct me

14 to pervert the of justice, which I would not do.

15 452 Q. Tell me something, if he had tried to move you to 12:48

16 Fermoy in 2012, what would you have done?

17 A. 2012?

18 453 Q. Yes.

19 A. Before or after I made my complaint?

20 454 Q. Well, before? 12:48

21 A. In either case I would have appealed it, because I have

22 relations living in the district.

23 455 Q. And if he had tried to move you to another station,

24 what would you have done?

25 A. I would have appealed it. 12:48

26 456 Q. If he had suggested Mallow, what would you have done?

27 A. I would have told him, I will go at public expense.

28 457 Q. In 2012?

29 A. But I won't apply for it.

1 458 Q. You told us on day one that your home is equidistant  
2 from Mallow and Mitchelstown?  
3 A. I said it's approximately the same distance.  
4 459 Q. What is the difference?  
5 A. I don't know. 12:49  
6 460 Q. Why would there be transfer expenses?  
7 A. Pardon?  
8 461 Q. Why would there be transfer expenses.  
9 A. If you are transferred at public expense you can apply  
10 for 15 months of lodging allowance. 12:49  
11 462 Q. But sure why you would need lodging?  
12 A. Because I moved, I could be moved -- I might decide to  
13 move to Mallow area. I have the option. It's like  
14 when I transferred from Dublin, I could have stayed in  
15 Dublin and wait out my time and look to go back to 12:49  
16 Dublin but I decided to move.  
17 463 Q. But that was before you had two children in, I presume,  
18 at this stage, secondary school and one in university,  
19 I think.  
20 A. Three children. 12:49  
21 464 Q. Three children, excuse me, apologies. And you were  
22 settled?  
23 A. Pardon?  
24 465 Q. You were settled in the area and you were saying if you  
25 had been offered the move or directed to move to 12:50  
26 Mallow --  
27 A. Not before the complaint now.  
28 466 Q. Well see, I was asking about before the complaint?  
29 A. No, I would have appealed any transfer before the

1 complaint.

2 467 Q. You wouldn't have appealed?

3 A. I would have appealed.

4 468 Q. Any transfer?

5 A. I would have appealed, yes. Because there was no 12:50

6 reason to move me, justified reason.

7 469 Q. I see. I think you told the Tribunal in your

8 statement, would you have considered it an offence or

9 an offensive thing to do for somebody to try to

10 transfer you before 2012? 12:50

11 A. If there was no just cause for it, yes, or if it was in

12 contravention of the code.

13 470 Q. Can we go, please, Mr. Murphy, to 5161. Sorry, excuse

14 me, I am going to the wrong document. I want to go to

15 page 33. 12:51

16

17 "Ever since Superintendent Comyns came to Fermoy

18 district in around 2010, we have had differences of

19 opinion on various matters. It didn't affect our

20 working relationship although I wouldn't take it lying 12:51

21 down if I felt I was wronged."

22

23 when my client was engaging in a plan to move you to

24 Fermoy, was he wronging you?

25 A. Sorry, what transfer, when was that transfer you are 12:52

26 referring to?

27 471 Q. The plan that you told your GP about --

28 A. I didn't say -- I never referenced a plan to my GP.

29 472 Q. If we can go back to Dr. Kiely's notes. Sorry, just



1 for the record, that is your statement to the Tribunal,  
2 isn't that right?

3 A. That's correct, but I didn't mention a plan in it,  
4 that's why I am saying.

5 473 Q. We will go back to Dr. Kiely's records, 4771. "Has a 12:52  
6 new superintendent in Mitchelstown. He wants one of  
7 the sergeants to move to Fermoy and Paul feels he often  
8 picks on little things to try to encourage the move."  
9 That's the plan.

10 A. Move one of the sergeants. 12:53

11 474 Q. You said it was you?

12 A. But then this said --

13 475 Q. Oh no, but you told us already this morning, Mr. Barry,  
14 that it was you that they intended to move and not the  
15 plan who had come later than you? 12:53

16 A. That's correct.

17 476 Q. So can we stick with what you are saying?

18 A. Yes.

19 477 Q. And the answer is, you told Dr. Kiely that my client  
20 had a plan to move you? 12:53

21 A. I did not say that he had a plan to move me. I said he  
22 picks on me for little things to encourage the move.

23 478 Q. To encourage the move?

24 A. Yes.

25 479 Q. To where? 12:53

26 A. To Fermoy.

27 480 Q. And that was because he had it in for you because his  
28 pal in 2004 had tried to move to you Fermoy?

29 A. Yes. That was my perception.

1 481 Q. And that man had tried to move you to Fermoy for a  
2 nefarious purpose?  
3 A. Well, it was contrary to the code.  
4 482 Q. For a nefarious purpose. They were the words you used.  
5 A. Yes. I didn't -- there was no reason given for it. 12:54  
6 483 Q. And we can talk about language, but nefarious is wrong,  
7 evil, bad intentioned, that's nefarious, isn't it?  
8 A. Well, I was mainly reflecting that it was contrary to  
9 the code that he should have been abiding by.  
10 484 Q. But you said the reason why you knew it was nefarious 12:54  
11 was because it was contrary to the code?  
12 A. Yes.  
13 485 Q. Now tell me, when my client picking on little things to  
14 make sure -- to get you to move to Fermoy, because he,  
15 I think you told us earlier, knew, wanted to generate a 12:54  
16 situation -- I will start the question again, I lost  
17 the train. When my client picked on little things to  
18 create the impression that you required greater  
19 supervision so as to move you to Fermoy, that's what  
20 you told us, were you going to take that lying down? 12:55  
21 A. No, had he made it official, I wouldn't have taken it  
22 lying down, I would have appealed it.  
23 486 Q. You see, you didn't say that I wouldn't have taken it  
24 lying down if somebody had mentioned something official  
25 to me? 12:55  
26 A. Well, that's what I meant when I spoke to the doctor.  
27 487 Q. Well, let's look at it again, page 33 please,  
28 Mr. Murphy. And if you scroll down slightly. "I  
29 wouldn't take it lying down if I felt I was wronged".

1           It's line 489 and 490.

2           A.    And you can see that from the various correspondence  
3           that was put forward by me in relation to the bullying  
4           complaints that I fought.

5 488 Q.    The first man who tried to move you to Fermoy was           12:56  
6           engaged in a nefarious plan. My client was picking on  
7           little things as part of a plan to isolate you to be  
8           moved to Fermoy. I take it that is also a nefarious  
9           plan?

10          A.    I didn't say it was a plan. I said to try and move me   12:56  
11          under those circumstances, there had to be a motive  
12          behind it.

13 489 Q.    There was a motive, okay. And you didn't take it lying  
14          down in 2004, isn't that right?

15          A.    I appealed, yes. Well, I submitted a list of           12:56  
16          relatives, that was it. I didn't have to appeal or  
17          formally appeal.

18 490 Q.    And you didn't take it lying down in 2012?

19          A.    Before or after I made the complaint?

20 491 Q.    Oh at any stage?   12:57

21          A.    The bullying incidents prior to the complaint I didn't  
22          take lying down, I fought my corner via correspondence,  
23          as is attached to each complaint.

24 492 Q.    I have to put it to you that when you had determined by  
25          8th August 2012 that my client was intending to move   12:57  
26          you to Fermoy, you weren't going to take it lying down,  
27          do you agree with that?

28          A.    I do not agree. I am on about the differences of  
29          opinion over various matters.

1 493 Q. You had formed the view that my client was determined  
2 to move you to Fermoy, isn't that correct?  
3 A. No, I was not a hundred percent sure why he was doing  
4 what he was doing to me. I believed it was in relation  
5 to the 2004 attempt that I was receiving this special 12:58  
6 attention.  
7 494 Q. And you believed that he had a plan to move you to  
8 Fermoy?  
9 A. I didn't say he had a plan to move me to Fermoy.  
10 495 Q. If we go back to Dr. Kiely's notes, 4771. Thank you, 12:58  
11 Mr. Murphy "Has new sergeant stationed in Fermoy, he  
12 wants one of the sergeants to move to Fermoy and Paul  
13 feels he often picks on little things to try to  
14 encourage the move". You told us today that as far as  
15 you were concerned that picking on the little things 12:59  
16 was a way of justifying the argument that you required  
17 greater supervision, and you took offence at that  
18 because you have never required supervision?  
19 A. I do require supervision, and I did require  
20 supervision. That's supervised. 12:59  
21 496 Q. And what you are telling me is that when you told your  
22 GP that, that wasn't a part of a plan to make you move  
23 to Fermoy?  
24 A. No, that was not part of the plan, as you put it.  
25 497 Q. But you're the one who told us today that there was a 12:59  
26 plan?  
27 A. No, I didn't ever say there was a plan. I never said  
28 it, and I have corrected you on it. I did not say  
29 there was a plan.

1 498 Q. There was a plan in 2004, isn't that correct?  
2 A. No.

3 499 Q. So there was no plan? And there was no plan in 2012?  
4 A. There's no plan that I refer to.

5 500 Q. Did you believe in 2012 that my client or, indeed, 13:00  
6 Chief Superintendent Dillane intended to move one of  
7 the Mitchelstown gardaí to Fermoy?  
8 A. Prior to my making the complaint?

9 501 Q. Yes.  
10 A. I believe that the bullying incidents I referred to 13:00  
11 were to facilitate such an event occurring, yes.

12 502 Q. So there was a plan?  
13 A. I didn't say there was a plan. I said those events  
14 could facilitate a move.

15 503 Q. Are you saying that the purpose of the bullying was to 13:00  
16 make you move?  
17 A. That is what I took from it, having been told the  
18 relationship between Superintendent Comyns and the  
19 other chief.

20 504 Q. Can you help us at one o'clock, so I take it from that 13:01  
21 then, that you're not saying this is organic, but that  
22 this was intentional?  
23 A. Well, I believe that I was singled out for special  
24 treatment, yes.

25 505 Q. And it was a number of separate, distinct events? 13:01  
26 A. Yes.

27 506 Q. And on each case it was motivated by the desire to make  
28 you move to Fermoy?  
29 A. I believe it was motivated to make me look like I

1 should, I would require moving to Fermoy for closer  
2 supervision.

3 507 Q. But you tell us that that is not a plan?

4 A. Well, you can call it a plan. I am saying it was a  
5 motive.

13:01

6 MR. HARTY: It's one o'clock?

7 CHAIRMAN: Thanks very much. Very good. We will say  
8 two o'clock. Thank you.

9

10 THE HEARING THEN ADJOURNED FOR LUNCH AND RESUMED, AS  
11 FOLLOWS:

13:02

12

13 CHAIRMAN: Thanks, Mr. Harty, yes.

14 508 Q. MR. HARTY: Thank you, Mr. Barry. I think in fairness  
15 to you, on the question of a potential transfer in  
16 2012, my instructions are that there was a new roster  
17 for the district in April of 2012, isn't that correct?

14:02

18 A. That's correct.

19 509 Q. And as a result of that roster, there was one unit in  
20 Mitchelstown that didn't have a sergeant?

14:03

21 A. There were only two sergeants in Mitchelstown so there  
22 would have been three units in Mitchelstown without a  
23 sergeant?

24 510 Q. Yes. And that's why there was an operational need  
25 going forward to have a sergeant in Fermoy, isn't that  
26 correct? An extra sergeant in Fermoy?

14:03

27 A. That could be the situation, yes.

28 511 Q. I just wanted to -- so that the Tribunal is aware of  
29 what has going on at the time. And just so we're

1 clear, it'll be my client's evidence that he hadn't  
2 decided he was going to transfer you to Fermoy, do you  
3 accept that?

4 A. I perceived that he was, but I don't have evidence to  
5 that, no. 14:04

6 512 Q. And is it through that perception that you viewed all  
7 of the matters that you complained of in 2010 and 2011?

8 A. No, when the new rosters came in, 2012, I had been  
9 given an instruction to report on that sexual assault  
10 case in a certain manner which I did not agree with, 14:04  
11 and I believe I was being brought into Fermoy on those  
12 grounds as well.

13 513 Q. All right. So you were to be brought into Fermoy, you  
14 believed at that time? It was all coming to that  
15 climax, as such? 14:05

16 A. Yes. And the new roster was an excuse to do so, even  
17 though there was a previous transfer attempt where it  
18 was proven that I should not be moved, it would be in  
19 breach of the code.

20 514 Q. Just in relation to that, do your relations never move? 14:05

21 A. Do my relations ever move?

22 515 Q. Yes.

23 A. Yes, one of them did move.

24 516 Q. But in any event, it never came to a situation where  
25 you had to identify what relations you might have had 14:05  
26 in the Fermoy area, because no one ever actually tried  
27 to transfer you to Fermoy, isn't that correct?

28 A. No, I updated it in 2004 when that attempt to transfer  
29 me came in?

1 517 Q. That's fine. If we come to the matters then after, and  
2 do you have the schedule of issues there?  
3 A. Sorry, I left it at my desk, if I need to get it.  
4 518 Q. It mightn't hurt if there was a copy that was  
5 available. Ms. McGrath I think has a copy here she can 14:06  
6 hand you. Thank you very much, Ms. McGrath. [SAME  
7 HANDED] If we go I think and just to try to follow the  
8 order, if we go 3A. So I will read that in full:  
9  
10 "Superintendent Michael Comyns and/or Chief 14:06  
11 Superintendent Gerard Gillane did target or discredit  
12 Sergeant Barry as he alleges in any one or more of the  
13 following circumstances because he made a protected  
14 disclosure by treating his sick leave in ordinary  
15 illness and not work related illness, resulting in a 14:07  
16 loss of pay to which Sergeant Barry was entitled."  
17  
18 Do you accept that neither my client, nor Chief  
19 Superintendent Dillane, was in a position to actually  
20 treat your illness as ordinary illness or work related, 14:07  
21 that wasn't a matter for them, isn't that correct?  
22 A. It would have been a matter for Chief Superintendent  
23 Dillane to investigate it had I not looked for somebody  
24 from outside the division to do so.  
25 519 Q. But my client had no role in that, isn't that correct? 14:07  
26 A. In relation to a report he sent to the occupational  
27 health -- after Inspector O'Sullivan was sent to  
28 enquire as to the cause of my sickness, Inspector  
29 O'Sullivan reported back that I had an issue with



1 Superintendent Comyns but I wasn't going to discuss it  
2 with him. And when Garda occupational health then  
3 requested a form to be completed in relation to this,  
4 which was after the report from Inspector O'Sullivan,  
5 Superintendent Comyns ticked a box no, in a question 14:08  
6 to, does the member have an issue with his supervisor.  
7 Therefore, I don't believe they were trying to assist  
8 me in the report to occupational health.

9 520 Q. Which document is that? Which document is that?  
10 A. I don't have the document. 14:08

11 521 Q. We'll come back to it, we'll come back to it. But the  
12 reality is, is that your claim in any event was that  
13 your work related health was because of any wrongdoing  
14 on the part of Superintendent Comyns, isn't that  
15 correct? 14:09

16 A. That's correct.

17 522 Q. And he played no role in determining that issue, isn't  
18 that correct?

19 A. That's correct.

20 523 Q. B, you say, or the question is: 14:09  
21  
22 "Failed to make proper temporary workplace  
23 accommodations for Sergeant Barry to which he was  
24 entitled?"  
25 14:09  
26 what do you say were the temporary workplace  
27 accommodations which my client failed to put in place?  
28 A. The same temporary workplace accommodations he  
29 implemented on 4th April 2014.

1 524 Q. And what was the difference between 2013 and 2014?  
2 A. There was none that I could see.

3 525 Q. Well, I am asking you what was the difference?  
4 A. The difference is he didn't implement them in 2013,  
5 they were disregarded and then in 2014 they were 14:10  
6 allegedly implemented.

7 526 Q. But what did he do that was different between 2013 and  
8 2014?  
9 A. He didn't allow Inspector O'Sullivan to deal with all  
10 matters until the investigations were complete. 14:10

11 527 Q. Well, the bullying complaint for the most part, with  
12 the exception of the ninth issue, was completed in May  
13 2013, isn't that correct?  
14 A. I think there was an element of bullying contained in  
15 the ninth complaint as well that was subsequently dealt 14:10  
16 with under the discipline regulations.

17 528 Q. But what did my client do to target you in 2013?  
18 A. By not allowing Inspector O'Sullivan to deal with my  
19 issues, my -- to take control over my supervision.

20 529 Q. But he was supervising you as well, wasn't he? 14:10  
21 A. But not solely.

22 530 Q. And what contact were you forced to have with my client  
23 in 2013?  
24 A. By correspondence.

25 531 Q. I see. Correspondence alone was enough? 14:11  
26 A. That's correct. And he made several attempts to  
27 contact me on the phone.

28 532 Q. And you didn't take those calls?  
29 A. No.

1 533 Q. You accept that my client had no role in investigating  
2 your work-related stress?  
3 A. Yes, he had no -- well, he had -- the inspector  
4 reported to him that I had an issue with him and he in  
5 turn then -- I have the page here, it's page 3732, 14:11  
6 volume 12. Column number 3 there:  
7  
8 "Is there any reported difficulty relevant to his or  
9 her relationship with peers, supervisors and those  
10 under his/her command?" 14:12  
11  
12 534 Q. That was in September 2012?  
13 A. Pardon?  
14 535 Q. 11th September 2012?  
15 A. Yes, following the visit by Inspector O'Sullivan to 14:12  
16 enquire as to my sickness, the reason for my sickness.  
17 536 Q. And you told Inspector O'Sullivan that you wouldn't  
18 tell him any of the details, isn't that right?  
19 A. I told Inspector O'Sullivan that I had an issue with  
20 Superintendent Comyns but I was not revealing that 14:12  
21 issue to him.  
22 537 Q. Right. And you're relying now on the answer "Is there  
23 any reported difficulty relevant to his/her  
24 relationships with peers, supervisors and those under  
25 his/her command?" And you accept that my client had no 14:13  
26 knowledge of what your reported difficulty was other  
27 than you said you had an issue with him?  
28 A. He was aware that I had a difficulty with him from  
29 Inspector O'Sullivan's report.

1 538 Q. And that's your evidence to say that my client had  
2 somehow been involved in treating your sick leave as an  
3 ordinary illness, isn't that correct?  
4 A. Sorry, could you repeat?  
5 539 Q. That's your evidence to say that my client was involved 14:13  
6 in treating your sick leave as an ordinary illness?  
7 A. Yes, because he's reporting that there's no problem or  
8 no difficulty with supervisors, with my supervisor,  
9 which there was, as reported by Inspector O'Sullivan.  
10 540 Q. I will have to check the times on that but we will come 14:13  
11 back to it. Question D then is:  
12  
13 "Pressurising Sergeant Barry to agree to transfer to  
14 another station against his will."  
15  
16 After August 2012 did my client have any role in 14:14  
17 pressurising you to transfer to another station?  
18 A. Yes, he did. I believe he applied for the exemption  
19 under the code to have my transferred to Fermoy.  
20 541 Q. And that was pressurising you, was it? 14:14  
21 A. Yes, because that exemption was not -- that exemption  
22 did not exist, could not have been granted because of  
23 my relations.  
24 542 Q. When did he do that?  
25 A. It was brought up by Mr. Murphy yesterday, I don't have 14:14  
26 it to hand now, but I know that that was mentioned. I  
27 thought that Superintendent Dillane had initiated this  
28 exemption but it was Superintendent Comyns.  
29 543 Q. That was in what year, that that exemption was signed?

1 A. I believe it would have been 2013.

2 544 Q. 2013?

3 A. I may be wrong, but that's from my recollection of  
4 yesterday's.

5 545 Q. And that was him putting pressure on you, is that 14:16  
6 correct?

7 A. Yes.

8 546 Q. My client still hadn't given up on the plan to make you  
9 move from Mitchelstown?

10 A. No, and it was actually page 3730 where he reported to 14:16  
11 Chief Superintendent Dillane that it was alleged that I  
12 had an issue with him, and that was prior to him  
13 submitting this report to the occupational health.

14 547 Q. Right. And that would have travelled up the line too,  
15 isn't that right? 14:16

16 A. That's...

17 548 Q. Does that mean that your reason for being absent with  
18 work related -- with an illness, because your medical  
19 certificate at the time from Dr. Kiely, isn't that  
20 correct, didn't mention stress, isn't that right? 14:17

21 A. Some of Dr. Kiely's certificates stated work-related  
22 stress and others she put --

23 549 Q. We're talking about the one that you just referred me  
24 to?

25 A. Sorry, this is a report of the occupational health 14:17  
26 within An Garda Síochána, this is not a doctor's  
27 report.

28 550 Q. Now, if we go to 3734, and that was your first medical  
29 cert and was the only one that you had put in at the

1 time, isn't that right?

2 A. That's the one I submitted from the 7/8, yes.

3 551 Q. And it says "medical illness"?

4 A. Yes.

5 552 Q. So there's no mention of work-related stress? 14:17

6 A. It's a medical illness, which would cover any illness,  
7 I presume.

8 553 Q. Any illness, right. But the point about it is, is that  
9 what you had put in at that stage as your reason for  
10 not being in work was a medical illness. 14:18

11 A. Sorry, if you look at the SAMS report, completed by  
12 Garda Clifford when I reported sick, it clearly states  
13 work-related stress.

14 554 Q. Okay. And where is the one that says work-related  
15 stress caused by bullying and harassment by 14:18  
16 Superintendent Comyns?

17 A. From the doctor? A doctor's cert?

18 555 Q. But that cert didn't come until much later?

19 A. I don't believe my doctor ever said bullying and  
20 harassment on a cert. 14:18

21 556 Q. No, but where is it written down on anything that went  
22 to my client, saying that the reason why you were out  
23 was because of him?

24 A. On the SAMS report as recorded by Garda Clifford.

25 557 Q. It says work-related stress? 14:19

26 A. Yes.

27 558 Q. That is at page 3733. Where is there something to say  
28 that your absence is linked to my client?

29 A. There's no column on that for who has caused your

1 illness. That is in Inspector O'Sullivan's report to  
2 Superintendent Comyns and Superintendent Comyns  
3 reported then to Chief Superintendent Dillane, on page  
4 3730.

5 559 Q. You told Inspector O'Sullivan that you had issue with 14:19  
6 him and you weren't going to discuss it any further, is  
7 that right?

8 A. Inspector O'Sullivan enquired as to the reason why I  
9 was on sick leave. I told him that I had an issue with  
10 Superintendent Comyns, where I was not going to go into 14:20  
11 the detail with him of what my complaint was.

12 560 Q. The report done by your GP in relation to your claim,  
13 which is at 4781, and that was on 5th September 2012,  
14 and that says:  
15  
16 "Stressful life event - alleged bullying at work."  
17  
18 No more detail, isn't that correct?

19 A. Yeah, that's a report, not a doctor's cert, sorry.

20 561 Q. It's signed by your doctor, isn't that right? 14:21  
21 A. Yes.

22 562 Q. The question of pressurising you to agree to a transfer  
23 to another station against your will, you say my client  
24 was still involved in that after 2013?

25 A. I believe so, yes. 14:21

26 563 Q. Can you tell me why your doctor, your psychiatrist and  
27 your psychologist didn't discuss with you the benefits  
28 of moving to another station?

29 A. If you look at Dr. Dennehy's report, he says -- it

1 indicates where I expressed my belief to Dr. Dennehy  
2 that I would get a transfer because I knew the transfer  
3 to Fermoy would not -- or to Glanmire at the time would  
4 not happen. So I believed the next transfer attempt  
5 would be to Mallow and I expressed that to Dr. Dennehy 14:22  
6 and in his report he states that I was looking forward  
7 to my transfer, or I anticipated a transfer.

8 564 Q. Yes, you do say that. If we go to Dr. Dennehy's  
9 report, this is a report which was dated 31st July  
10 2014. And at the end of that report he deals with the 14:22  
11 fact that you were seeking a transfer, isn't that  
12 correct?

13 A. I'd have to see it on the screen.

14 565 Q. Yes, I just need to find the actual full reference to  
15 it here, if you give me one moment. It's on page 5126: 14:23  
16  
17 "He is hoping to obtain a transfer and hopefully  
18 working --"  
19

20 A. Sorry? 14:23

21 566 Q. That's 5126, it's at the bottom of that page, the  
22 second last paragraph -- sorry, Mr. Murphy?  
23 CHAIRMAN: Give us a moment.  
24 REGISTRAR: 5126?

25 567 Q. MR. HARTY: 5126, yes. And if you scroll up slightly 14:23  
26 so we can see the full -- that's the paragraph there.  
27 The paragraph beginning:  
28  
29 "He has a previous history of PTSD and associated



1 depression arising from a traffic accident in 2004 but  
2 he was treated for that as symptoms resolved fully and  
3 continued to work. In the current episode his symptoms  
4 have improved only very slightly and have been maintained  
5 at a considerable extent by continuing difficult 14:24  
6 relationships at work, especially the continuing  
7 periods of stress he has had to endure around his  
8 relationship with his superior officer. He is hoping  
9 to obtain a transfer and hopefully working with  
10 different personnel will enable matter to improve, his 14:24  
11 stress levels to recede, which would allow further  
12 improvement in his depressive symptoms."  
13

14 So, when you spoke to Dr. Dennehy you gave the  
15 impression that you were seeking a transfer? 14:24

16 A. Sorry, no, he says "He hopes to obtain transfer".

17 568 Q. Okay.

18 A. Not that I would apply or seek a transfer; that I would  
19 obtain one.

20 569 Q. Okay. We're getting into fine language here now, 14:24  
21 Mr. Barry?

22 A. I know, but what you just changed the what the doctor  
23 said.

24 570 Q. I said "He is hoping to obtain transfer"?

25 A. No, seeking, you said. 14:25

26 571 Q. I was paraphrasing. I will go to the precise sentence.  
27 Can you tell me how hoping to obtain transfer is not  
28 the same as seeking a transfer?

29 A. To obtain a transfer you could obtain it by seeking it

1 or having it at public expense.

2 572 Q. Not from Dr. Dennehy's point of view?

3 A. No, Dr. Dennehy didn't go into specifics and he

4 wouldn't be aware of specifics.

5 573 Q. No. 14:25

6 A. I told him I was hoping to obtain a transfer.

7 574 Q. I see.

8 A. I never said to him I was going to apply for a

9 transfer.

10 575 Q. You told him, your precise words were, you were "hoping 14:25

11 to obtain a transfer"?

12 A. Yes, and the reasons for same. Now, you have seen I

13 have never applied for a transfer and I appealed every

14 transfer.

15 576 Q. You appealed every transfer? 14:25

16 A. Well, I was hoping to obtain this one that I referred

17 to Dr. Dennehy with, and that was the transfer I

18 believed I would get to Mallow.

19 577 Q. And tell me, if there had been a transfer suggested to

20 South Tipperary, could that have happened? 14:26

21 A. That would have been putting further mileage on me from

22 my residence.

23 578 Q. But you were intending to move?

24 A. Pardon?

25 579 Q. Your whole purpose of wanting to be directed to Mallow 14:26

26 is that you would have been able to get a moving

27 allowance?

28 A. Yes, and the fact that the superintendent in Mallow at

29 the time was the same superintendent who had encouraged

1 me to move from Dublin to Cork, because of my work  
2 record in Dublin. So I would have been happy to work  
3 in his station, supervised by him because I know he  
4 would have no malice towards me.

5 580 Q. Did you contact him? 14:26

6 A. No.

7 581 Q. Why not?

8 A. I had no reason to.

9 582 Q. Yes, you did?

10 A. No, I didn't. 14:26

11 583 Q. You had every reason to?

12 A. I beg to differ.

13 584 Q. You were hoping that somebody in An Garda Síochána was  
14 going to guess that the problem would be solved if only  
15 somebody would move you at public expense to Mallow? 14:27

16 A. Chief Superintendent Dillane did not have to guess, he  
17 was informed of that by me and I relayed that then to  
18 my doctor.

19 585 Q. And in relation to your mental health and wellbeing,  
20 did you not consider that that might be more important 14:27  
21 than 18 months of moving allowances?

22 A. At the time I was hoping for temporary workplace  
23 accommodations so that I could stay in my station. The  
24 preferable station for me would have been Mitchelstown,  
25 I didn't have to have contact with the superintendent. 14:27

26 586 Q. Except you went to Dr. Dennehy, who was trying to talk  
27 through the whole thing with you, trying to get you  
28 your best response, and you told him that you were  
29 hoping to obtain a transfer as a means of resolving all

1 of this?

2 A. That's correct, because I had relayed same to Chief  
3 Superintendent Dillane.

4 587 Q. And you said that you were hoping to obtain that  
5 transfer, but did you explain to Dr. Dennehy, when he's 14:28  
6 taking down your words, when he is writing a clear note  
7 of what he believes is the full picture of your  
8 wellbeing, did you tell him that you were in a stand  
9 off over allowances?

10 A. There was no stand off over allowances because there 14:28  
11 was no transfer at the time.

12 588 Q. There was no transfer at the time because you never  
13 identified that you would go to Mallow of your own  
14 volition?

15 A. Yes. 14:28

16 589 Q. So there was a stand off over allowances?

17 A. I had told Chief Superintendent Dillane and I told my  
18 doctor. As a result of that conversation with Chief  
19 Superintendent Dillane, I informed my doctor that I  
20 believed the transfer was in the offing. 14:29

21 590 Q. Did you tell Dr. Dennehy that the reason why you hadn't  
22 applied for a transfer to Mallow was because it would  
23 have cost you the allowances?

24 A. No, I told him that hopefully working with different  
25 personnel would enable matters to improve. 14:29

26 591 Q. Did you tell Dr. Dennehy when he was trying to deal  
27 with a patient's mental wellbeing, that you were not  
28 moving station until such time as you were paid  
29 allowances?

1 A. No.

2 592 Q. Do you understand how when Dr. Dennehy is to be  
3 assessing you and reporting on you, that it is very  
4 relevant for him to know that the reason why you're  
5 still in Mitchelstown, and the reason why you weren't 14:29  
6 transferred out of the district was because you wanted  
7 allowances?

8 A. No, I told Dr. Dennehy that they were trying to  
9 transfer me into Fermoy at the time to have contact  
10 with Superintendent Comyns, which would be detrimental 14:30  
11 to my health.

12 593 Q. And did you -- but you also told him you were hoping to  
13 obtain a transfer?

14 A. Yes, because I knew the transfer to Fermoy would never  
15 take place and therefore, I believed the next attempt 14:30  
16 would be to Mallow.

17 594 Q. I believed the next attempt would be to Mallow?

18 A. That's correct.

19 595 Q. Who told you that?

20 A. Nobody told me that. That was my opinion at the time, 14:30  
21 having indicated to Chief Superintendent Dillane that I  
22 would be willing to go to Mallow, if I couldn't be  
23 accommodated in Mitchelstown.

24 596 Q. And you say that you were giving Dr. Dennehy the full  
25 picture? 14:30

26 A. Dr. Dennehy was aware of what was happening, yes.

27 597 Q. Dr. Dennehy, I can assure you, because I am still  
28 unclear as to how it is, even though you live the same  
29 distance from Mitchelstown as you do from Mallow, that

1           somehow you would be entitled to allowances for living  
2           in or being moved to Mallow that you wouldn't otherwise  
3           get. Dr. Dennehy did not know that, did he?

4           A. I did not mention anything about travel expenses,  
5           finance, allowances or any other matter to Dr. Dennehy. 14:31  
6           I told Dr. Dennehy that I was being transferred to  
7           Fermoy at the time and that I hoped to obtain a  
8           transfer to a station that would be agreeable to me.

9   598   Q. And yet you every told him why you wanted Mallow?

10          A. No. 14:32

11   599   Q. And when he's reporting this as you taking proactive  
12           steps to deal with your health by, amongst other  
13           things, looking for a transfer, that's not in fact the  
14           full picture at all, is it?

15          A. No, sorry the why I would want to go to Mallow was 14:32  
16           explained to Dr. Dennehy, that working with new people  
17           and under Superintendent Pat McCarthy would have been  
18           agreeable to me, but I didn't mention transfer costs at  
19           public expense or otherwise.

20   600   Q. No, and you didn't mention the fact that you hadn't 14:32  
21           actually applied for Mallow?

22          A. I would not apply for Mallow and I would not have told  
23           Dr. Dennehy that I was going to apply for Mallow.

24   601   Q. well, is it possible that you discussed with him, that  
25           I can't apply for Mallow because I won't get the 14:32  
26           allowances, he would have said, but it's your mental  
27           wellbeing we're talking about here, it's your health,  
28           surely allowances shouldn't be part of your  
29           consideration, apply for Mallow?

1 A. I did not reference that to Dr. Dennehy. I merely  
2 outlined the fact that I believed that a transfer would  
3 be coming for me to a station that would be agreeable,  
4 with different personnel that I would be happy to work  
5 with. 14:33

6 602 Q. And that was to be done by way of a direction,  
7 therefore you would be paid allowances?

8 A. Any transfer that I would agree to would be me being  
9 transferred at the behest of HRM.

10 603 Q. Did you tell Dr. Dennehy that the reason why you 14:33  
11 haven't been transferred is because you're insisting  
12 upon it being at the direction of HRM?

13 A. No, because the only transfer in the offing at the time  
14 I spoke to Dr. Dennehy, I was being transferred to  
15 Fermoy and that was under appeal. So any other option 14:34  
16 or applying for another station was not an option at  
17 the time. My transfer to Fermoy was under appeal from  
18 January 2014 to January 2015. And it was during this  
19 period that I relayed that to Dr. Dennehy.

20 604 Q. But you said you were hoping during that period to 14:34  
21 obtain a transfer?

22 A. Yes, because I didn't know that the transfer would take  
23 a year, the transfer appeal. So that could have come  
24 at any time. So I would be hoping that the next  
25 transfer would be to Mallow and not Anglesea Street. 14:34

26 605 Q. But surely if Dr. Dennehy is assessing the veracity of  
27 the information that you're giving him so as to do a  
28 full report, surely you should have told Dr. Dennehy  
29 that, while I am coming to you with serious mental

1 health concerns, the reality is I haven't applied for a  
2 transfer because I want to make sure it's paid for out  
3 of the public purse?

4 A. I would never entertain that conversation with  
5 Dr. Dennehy.

14:35

6 606 Q. Why not?

7 A. Because I wasn't seek ago report from Dr. Dennehy; I  
8 was merely relaying the fact that I believed the  
9 transfer was coming and to a station that I would be  
10 happy to be in, having already --

14:35

11 607 Q. So you kept that information from Dr. Dennehy?

12 A. No, I didn't keep it from him, the fact I didn't relay  
13 it to him doesn't mean I kept it from him.

14 608 Q. You told me that you would never have told him?

15 A. No, I wouldn't, because it's not something that was  
16 relevant at the time. I had no reason to say it to  
17 him. I was under transfer to Fermoy, which was under  
18 appeal.

14:35

19 609 Q. Can we read that paragraph again, start at the second  
20 line:

14:35

21  
22 "In the current episode his symptoms have improved only  
23 very solely and have been maintained to a considerable  
24 extent by continuing difficult relationships at work,  
25 especially the continuing periods of stress he has had  
26 to endure around his relationship with his superior  
27 officer. He is hoping to obtain a transfer and  
28 hopefully working with different personnel will enable  
29 matters to improve and his stress levels to recede,



1           which would allow further improvement in his depressive  
2           symptoms. "

3

4           Dr. Dennehy is very clearly saying that if you move  
5           station away from the supervision of Superintendent           14:36  
6           Comyns, that that will lead to an improvement in your  
7           depressive symptoms?

8           A.    Dr. Dennehy is saying what I said to him, that I expect  
9           a transfer to come and that this transfer would improve  
10          my mental --           14:36

11   610   Q.    Oh you told him that?

12          A.    That's what Dr. Dennehy has said I said.

13   611   Q.    No. "He is hoping to obtain a transfer", that is what  
14          he says you said and then "he says hopefully working  
15          with different personnel will enable matters to improve   14:36  
16          and his stress levels to proceed".

17          A.    Yes.

18   612   Q.    "Which would allow further improvement in his  
19          depressive symptoms"?

20          A.    "He is hoping to obtain transfer and hopefully working   14:37  
21          with different personnel will able matters to improve  
22          and his stress levels to recede".

23   613   Q.    So you're saying that's not actually his opinion?

24          A.    Pardon?

25   614   Q.    You're saying that's not actually his opinion?           14:37  
26          A.    Sorry?

27   615   Q.    Are you saying to me that that is not Dr. Dennehy's  
28          opinion?

29          A.    I am saying that is what I told Dr. Dennehy.

1 616 Q. I see.

2 A. And for you to get Dr. Dennehy's opinion, he should be

3 here to answer. I can't answer for his opinion.

4 617 Q. We can continue on to the last line of that paragraph:

5

6 "As mentioned in my opinion, a change of circumstance

7 in his work life would be likely to benefit him in

8 terms of his mental health."

9 A. That's Dr. Dennehy's opinion.

10 618 Q. I see. And the change in circumstances of work life 14:37

11 that was being discussed was your transfer?

12 A. And temporary accommodations.

13 619 Q. He is dealing just with your transfer. And you're

14 saying that it's not relevant to his consideration in

15 relation to the veracity of what you've said to him, 14:38

16 and that's very important, because it's in relation to

17 the truth of what you've said to Dr. Dennehy. You

18 haven't given him the full picture. So when he forms

19 an opinion it's not based on the full picture. You

20 understand that, Mr. Barry? 14:38

21 A. Look, Dr. Dennehy and I had a conversation and that's

22 what he relayed. It wasn't an interrogation with

23 Dr. Dennehy.

24 620 Q. Well, you do know he's having more than a conversation.

25 He's putting together a report for court? 14:38

26 A. Sorry, no, no, he composed this report from his medical

27 notes that he made at the time.

28 621 Q. Yes.

29 A. When I went to meet him, he wasn't preparing a report

1 for court.

2 622 Q. Yes.

3 A. Had he been preparing a report for court, then would I  
4 have told him the full facts of everything that had  
5 happened previously and up to then. 14:39

6 623 Q. You would have, would you? Who is Anne McGarry of KOD  
7 Lyons solicitors?

8 A. They were my solicitors at the time.

9 624 Q. For your court case?

10 A. Yes. 14:39

11 625 Q. Can we go to page 5121. Who is that report addressed  
12 to?

13 A. KOD Lyons solicitors, of which Séan Costello was then a  
14 member.

15 626 Q. No, he wasn't? 14:39

16 A. No?

17 627 Q. No. KOD Lyons is an entirely different firm from Séan  
18 Costello solicitors?

19 A. Okay. Sorry, not Costello, Michael Kelleher, sorry.

20 628 Q. Yes, that is correct. 14:40

21 A. Yes.

22 629 Q. That's dated the 31st July, isn't that correct?

23 A. That's correct.

24 630 Q. He reviewed you on the 23rd June of that year, isn't  
25 that correct? If we go to page 5125, please, 14:40  
26 Mr. Murphy. The letter is dated July 2014 and it says  
27 in the start of the third paragraph:  
28  
29 "I last reviewed him on the 23rd June."

1

2

Do you accept that?

3

A. I accept that.

4 631

Q. So it was for the purpose of a solicitor's report for

5

court. So when you say you would have given

14:40

6

Dr. Dennehy the full facts in relation to the transfer

7

if it was for the purpose of a court report, do you

8

accept that that is not correct?

9

A. No, I am saying this report was made from Dr. Dennehy's

10

notes of the meeting he had with me. It wasn't that we

14:41

11

composed a report on the 23rd June when he met me.

12

This was done subsequently.

13 632

Q. It was done subsequently. But when you saw him, you

14

knew that your solicitor would be looking for a report

15

from him?

14:41

16

A. No, I did not.

17 633

Q. Are you seriously saying to me that your personal

18

injury action, I will get the dates on that now, which

19

was issued on 23rd February 2015, and your solicitor

20

sought this report on 31st July 2014, isn't that

14:42

21

correct?

22

A. That's correct.

23 634

Q. And are you saying to me that on the 23rd June, that

24

you had no knowledge of the fact that you were going to

25

be looking for a report from Dr. Dennehy?

14:42

26

A. I had no knowledge that my solicitor at the time was

27

going to look for this report at that time. I didn't

28

know when she was going to apply for a report?

29 635

Q. When did she tell you she was going to do that?

1 A. I can't recall. I don't recall when she said it.

2 636 Q. You can't recall?

3 A. Pardon?

4 637 Q. You can't recall?

5 A. It's back in 2014. 14:42

6 638 Q. If we go to page 276. That is your personal injury  
7 summons. And if you scroll down the page please,  
8 Mr. Murphy, just there:  
9

10 "These proceedings have been duly authorised by the 14:43  
11 Personal Injuries Board pursuant by section 32 of the  
12 Personal Injuries Assessment Board Act by authorisation  
13 dated 8th August 2014."  
14

15 A. That's correct. 14:43

16 639 Q. And your solicitor must have told you that she needed a  
17 medical report in order to put in that Personal  
18 Injuries Assessment Board application?

19 A. That would be correct, but it would be after I had met  
20 with Dr. Dennehy. 14:43

21 640 Q. Oh, I see. So is there a report where you tell  
22 Dr. Dennehy the true reason why you didn't transfer?

23 A. Yes, it's in his report.

24 641 Q. In?

25 A. In Dr. Dennehy's report, his notes of the meeting. 14:43

26 642 Q. Where is the report from Dr. Dennehy saying that the  
27 reason why you didn't transfer is because you wouldn't  
28 apply for it?

29 A. That is not part of Dr. Dennehy's remit. At the time I

1 would have told him that I was under transfer appeal to  
2 Fermoy at the time.

3 643 Q. You're still attending Dr. Dennehy?  
4 A. Pardon.

5 644 Q. You're still attending Dr. Dennehy? 14:44  
6 A. Yes.

7 645 Q. Can you show me in his notes, his records, anywhere,  
8 the bit where you made clear to him that the reason why  
9 you never got transferred is because you refused to  
10 apply for it? 14:44  
11 A. I would not have relayed that information to  
12 Dr. Dennehy.

13 646 Q. You told me you would. If Dr. Dennehy was doing a  
14 report for court, you told me Dr. Dennehy would have  
15 been told that? 14:44  
16 A. If I was involved in the compellation of Dr. Dennehy's  
17 report, if I was in his surgery when he was compiling  
18 that report, if he asked me what is the reason you did  
19 not apply for a transfer, I would have indicated it to  
20 him. 14:45

21 647 Q. All right?  
22 A. That is what I mean.

23 648 Q. But rather like it was for An Garda Síochána to guess  
24 where to stick the pin in the map to transfer you to,  
25 it was for Dr. Dennehy to guess why it is you never 14:45  
26 were transferred?

27 A. That's incorrect.

28 649 Q. Well, how was Dr. Dennehy to know the real reason why  
29 you were never transferred?

1 A. As I said, I was under appeal, I had to transfer to  
2 Fermoy under appeal when I had my consultation with  
3 Dr. Dennehy. Chief Superintendent Dillane was fully  
4 aware that I would have accepted a transfer to Mallow.  
5 And I indicated this to Dr. Dennehy, and he referenced 14:45  
6 it in his report.

7 650 Q. In his report, when he deals with the question of your  
8 appeal, and if we go back to page 5125, please,  
9 Mr. Murphy. 5125. Thank you. You see he says:

10  
11 "I last reviewed him on the 23rd June, he said he was 14:46  
12 upset over the last few weeks as his proposed transfer  
13 was under appeal."

14 A. That's correct.

15 651 Q. So you're giving him the impression that it was the 14:46  
16 fact that it was under appeal that you were upset  
17 about, not the proposed transfer?

18 A. No. I would be happy that it was under appeal because  
19 that my intention. So that would not have upset me.

20 652 Q. Well that's what it says though, isn't it? 14:47

21 A. No, you can twist Dr. Dennehy's words, no, that is not  
22 what I believe he said.

23 MR. COSTELLOE: Again, Chairman, I have been loathe to  
24 interrupt and I understand fully that Mr. Harty has his  
25 instructions but my client has repeatedly said a 14:47  
26 question such as that should be put to Dr. Dennehy and  
27 respectfully, Chairman, that is a fair observation.  
28 Mr. Harty has his impression of what that means, he has  
29 put to that to my client and my client has given

1 answer, anything other than that, in any all fairness,  
2 should go to the person who wrote the report and not my  
3 client.

4 CHAIRMAN: what do you say to, Mr. Harty?

5 MR. HARTY: I am not proposing to deal with the matter 14:47  
6 any further in any event. what I will say in relation  
7 to it is that in relation to stressors and illnesses,  
8 the requirement on the part of a psychiatrist, where  
9 there is nothing, shall we say, to empirically measure,  
10 very much deals with the accuracy of the relation or 14:48  
11 narration.

12 CHAIRMAN: I have that point -- sorry, may I make a  
13 suggestion. As you were enquiring -- I have your point  
14 about, what was the one about looking forward to an  
15 appeal. 14:48

16 MR. HARTY: Yes.

17 CHAIRMAN: Sorry, I don't want to misquote it. That he  
18 had been -- where is the part?

19 MR. HARTY: He had been upset - sorry, the second.

20 CHAIRMAN: Sorry, my thought about that, is that it is 14:48  
21 in the circumstances as we know them, that is as we  
22 them otherwise than in this report.

23 MR. HARTY: Yes.

24 CHAIRMAN: It does seem to me to be a possible  
25 interpretation, a possible interpretation, subject to 14:48  
26 what anybody says, that he said he had been upset over  
27 the past few weeks about a proposed transfer but it was  
28 under appeal.

29 MR. HARTY: Yes.



1 CHAIRMAN: Now, that I think is not a bizarre  
2 interpretation in the circumstances as we know them.  
3 MR. HARTY: No.  
4 CHAIRMAN: However, I do have your point, Mr. Hearty  
5 about whatever it was, looking forward to an appeal, 14:49  
6 looking forward to a transfer.  
7 MR. HARTY: Yes.  
8 CHAIRMAN: I'm sorry, hoping to transfer the transfer.  
9 I just can't see it in front of me. I understand your  
10 point about that, I am not commenting on it one way or 14:49  
11 the other, but just to indicate I understand the point  
12 you're making, whereas on this one I think it is -- do  
13 you understand, Mr. Barry, I think if I am looking at  
14 the first line of that, I think I could easily see how  
15 that could appear and the doctor would say that when in 14:49  
16 fact it was that you were upset over the transfer in  
17 the last few weeks or the transfer but it was under  
18 appeal.  
19 A. That would be my interpretation.  
20 CHAIRMAN: Something like that strikes me as being -- 14:50  
21 and I think we're all agreed at least that that is a  
22 possible or legitimate one, but it may not be the only  
23 one, so I don't want to leave that. That's the way it  
24 appears.  
25 MR. HARTY: I am happy. 14:50  
26 CHAIRMAN: You're leaving that topic now, Mr. Harty.  
27 MR. HARTY: I am moving on.  
28 CHAIRMAN: Okay, so I think that meets your concern,  
29 Mr. Costelloe.

1 MR. COSTELLOE: Absolutely, Chairman, thank you.

2 CHAIRMAN: Thank you.

3 653 Q. MR. HARTY: We're moving on, Mr. Barry. In relation to  
4 3E, going back to that list, you accept, or do you,  
5 that my client had no role in causing Inspector 14:50  
6 O'Sullivan or Chief Superintendent Dillane to attend at  
7 Mitchelstown Garda Station in full uniform on the 29th  
8 March and the 9th April?

9 A. I don't accept that, because from what I understand,  
10 Inspector O'Sullivan rang Superintendent Comyns 14:51  
11 immediately following this meeting.

12 654 Q. That doesn't mean that he made him go there?

13 A. But it would appear he's reporting the meeting to him.  
14 He was aware that he was going to meet me at 9pm.

15 655 Q. And what is wrong with seeking a sick certificate from 14:51  
16 you?

17 A. I didn't say there was anything wrong in seeking a  
18 certificate, I said there was something wrong in  
19 turning up at 9pm at night in full uniform for the  
20 purpose of seeking that certificate. 14:51

21 656 Q. CHAIRMAN: So, we don't get lost, Mr. Barry,  
22 Mr. Harty's question is not who spoke to whom after the  
23 meeting, he says, can you exclude -- because he's  
24 looking at the -- the question is, did Superintendent  
25 Comyns and/or Chief Superintendent Dillane, so he's 14:51  
26 saying from Superintendent Comyns's point of view, can  
27 he tick off that box and say you agree that  
28 Superintendent Comyns didn't have anything to do with  
29 Inspector O'Sullivan and Chief Superintendent Dillane

1 attending at the meeting? Do you understand me?

2 A. I understand, yes.

3 657 Q. CHAIRMAN: That's what he wants. That's what Mr. Harty  
4 wants to know?

5 A. Sorry. 14:52

6 658 Q. MR. HARTY: Do you accept that my client had no role in  
7 directing Inspector O'Sullivan there on those dates?

8 A. I accept that now.

9 CHAIRMAN: Okay.

10 659 Q. MR. HARTY: And therefore we don't need to worry about 14:52  
11 the full uniform or otherwise?

12 A. Of Inspector O'Sullivan, no.

13 660 Q. And we would accept that it is not unreasonable for an  
14 inspector to report to a superintendent after a meeting  
15 with a sergeant? 14:52

16 A. No, no, I am just saying that he would have had  
17 knowledge of the meeting.

18 661 Q. And then I think the evidence is, and it's clear  
19 evidence, that my client had no role in directing  
20 Inspector O'Sullivan to make enquiries with Dr. Kiely 14:53  
21 on the 5th April, do you accept that?

22 A. I accept that Superintendent Comyns didn't have.

23 662 Q. Yes. In relation to G, yet again I think my client  
24 didn't meet you in the car park of Mitchelstown Garda  
25 Station on 9th April 2013? 14:53

26 A. That's correct.

27 663 Q. And in relation to H, "By making implicit criticism of  
28 Sergeant Barry, including requiring him to make a  
29 report in respect of a fatal fire that occurred on 9th

1 April 2013", I take it you maintain that?

2 A. I maintain that, yes.

3 664 Q. And in relation to that, you do accept that this  
4 started with a query from the divisional office to the  
5 district office in relation to why a report hadn't been 14:54  
6 furnished?

7 A. That's correct.

8 665 Q. So the initial criticism is of my client for not  
9 furnishing the report, isn't that correct?

10 A. That's correct. 14:54

11 666 Q. Now, rather than taking that criticism to heart, my  
12 client did what he should do, which is try to uncover  
13 the situation on the ground, isn't that correct?

14 A. That's correct.

15 667 Q. So he didn't take it personally, he didn't think that 14:54  
16 Chief Superintendent Dillane was out to get him by  
17 sending this query, isn't that correct?

18 A. He may not have felt that Chief Superintendent Dillane  
19 was out to get him, but I felt that Superintendent  
20 Comyns was out to get me. 14:55

21 668 Q. But you do accept that the ordinary response to this  
22 query is not to think that this is some part of a plan  
23 from Chief Superintendent Dillane to somehow have my  
24 client move but rather simply respond to the reasonable  
25 query, isn't that correct? It was a reasonable query 14:55  
26 from Chief Superintendent Dillane?

27 A. I don't think it was reasonable because I had submitted  
28 a report or the report had been submitted.

29 669 Q. Well, we'll come to that. On the face of the document,

1 leaving aside all the other things that you knew, it  
2 was a reasonable request, isn't that correct?

3 A. It was a reasonable request but the motive behind it is  
4 what I would question.

5 670 Q. And when my client relayed that on to you, that 14:55  
6 similarly, on the face of it, is a reasonable request,  
7 isn't that right?

8 A. On the face of it, yes.

9 671 Q. You say that -- and in fact it was relayed through the  
10 sergeant in charge, isn't that correct? 14:56

11 A. That's correct.

12 672 Q. So where is the criticism, the person turning around  
13 and criticising you?

14 A. Where it says a sergeant and five gardaí attended a  
15 scene and there was no report submitted. 14:56

16 673 Q. Right. So would that be accurate if there was no  
17 report submitted?

18 A. If there was no report submitted, it would be accurate,  
19 but I believe there was a report submitted.

20 674 Q. You dealt with critical incident reports before and I 14:56  
21 think you said you had never submitted one that wasn't  
22 a C71, is that right?

23 A. In relation to fatal sudden death, yes.

24 675 Q. In relation to a sudden death, yes?

25 A. As in, where a report is required for the coroner and 14:57  
26 the district officer, that is how I submit, would  
27 submit a report on that form.

28 676 Q. That isn't quite what you said in your evidence the  
29 other day and I might have to find it on the

1 transcript. But you said -- my understanding was that  
2 you had never done a critical incident report. Have  
3 you done critical incident reports?

4 A. I said that I've attended a number of critical  
5 incidents where I did not furnish a report. 14:57

6 677 Q. You accept that that's in dereliction of duty?

7 A. No, sorry, I said where I didn't furnish a report  
8 before the timeframes given, I did submit a report  
9 subsequently.

10 678 Q. Because critical incident reports aren't limited to 14:58  
11 matters that can come before the coroner, isn't that  
12 right?

13 A. That's correct.

14 679 Q. There can be a risk to life, which thankfully in many  
15 situations does not in fact come before the coroner, 14:58  
16 and there are various other incidents set out and I  
17 don't propose to go through them?

18 A. One includes criminality by a member of the Garda  
19 Síochána.

20 680 Q. Yes. And in relation to that, Mr. Barry, where can you 14:58  
21 show me a document saying that a C71 is the necessary  
22 report?

23 A. From the top of the report itself, it says "report to  
24 the district officer /coroner".

25 681 Q. I think it's page 5697. This is the actual C71 in this 14:58  
26 case, isn't that correct?

27 A. This is the actual C71 completed by the investigating  
28 guard, who was supposed to submit the report.

29 682 Q. In fact who was supposed to submit the report, a C71?

1 A. Pardon?

2 683 Q. Who is supposed to submit a C71?

3 A. The investigating garda.

4 684 Q. Okay. Can we go to the bottom? It's not coming up on  
5 the screen, it was only added to the documents 14:59  
6 yesterday and I am not sure that it is there. But the  
7 copy that I have before me, and Mr. McGuinness is very  
8 helpfully handing it in to you now?

9 A. [SAME HANDED] Thank you.

10 685 Q. If we go to the very end of that document, you will see 15:00  
11 that it is to be signed by the garda, isn't that  
12 correct?

13 A. Completed by the investigating garda.

14 686 Q. Yes.

15 A. And signed by him. 15:00

16 687 Q. No. And signed by him, yes. And then who is it to be  
17 submitted by?

18 CHAIRMAN: We're having difficulty, Mr. Harty.

19 MR. HARTY: Yes.

20 CHAIRMAN: We only produced these very recently. Just 15:00  
21 let me check. Ms. McGrath, you seem to be actively  
22 involved in sorting out the problem, can you tell us  
23 where we stand on it?

24 MS. McGRATH: It should be with the documents, it was  
25 only disclosed yesterday to the parties, so it's a new 15:01  
26 addition to the brief.

27 REGISTRAR: We have it, I just need it to load up.

28 MS. McGRATH: It's just loading.

29 CHAIRMAN: It's just take a moment, is that right,

1 Mr. Murphy.

2 REGISTRAR: Yes.

3 CHAIRMAN: If you bear with us for a moment, Mr. Harty.  
4 I'm sorry to interrupt you, but if you just bear with  
5 us for a moment, we should be able to put it up on the 15:01  
6 screen.

7 MR. HARTY: Sorry, I won't move until --

8 CHAIRMAN: Just bear with us for a moment, Mr. Harty,  
9 please. I know it's a nuisance, and if we can't do it  
10 reasonably quickly, we will simply get copies. Two 15:01  
11 minutes. No, no, no, don't be under pressure. I am  
12 sorry, I have to curb my natural impatience, I am  
13 sorry.

14 MR. COSTELLOE: I wonder, Chairman, if it might be a  
15 useful point to interject as well and just ask if we 15:02  
16 can confirm, is that the original that was actually  
17 sent to the coroner or is it a copy, because this may  
18 be material to the questions that Mr. Harty is about to  
19 put to my client, given that it seems to be a copy.  
20 But I don't know. 15:02

21 CHAIRMAN: You have the advantage of me there,  
22 Mr. Costelloe, because I can't see it. Hold on, we  
23 have it here now. Before we go anywhere, yes,  
24 Mr. Costelloe.

25 MR. COSTELLOE: If you look down at the very bottom of 15:02  
26 the second page, Chairman, you will see that there is a  
27 name typed in, but directly above it there is not a  
28 signature, even though there is a space left for a  
29 signature and I anticipate --



1 CHAIRMAN: Sorry, Mr. Costelloe, a second.  
2 MR. COSTELLOE: Sorry.  
3 CHAIRMAN: We need to go to the bottom of the document,  
4 is that right?  
5 MR. COSTELLOE: So go to the second page of that 15:02  
6 document, which is page 5698 of the brief.  
7 CHAIRMAN: We're going down now.  
8 MR. COSTELLOE: There. Yes, keep going, I beg your  
9 pardon, Mr. Murphy.  
10 CHAIRMAN: Keep going, previous health and so on. Keep 15:02  
11 going on to the end. Now.  
12 MR. COSTELLOE: And you will see there that -- keep  
13 going, keep going, please. Yes, there. You will see  
14 that the guard referred to has his name typed in.  
15 CHAIRMAN: Yes. 15:03  
16 MR. COSTELLOE: But there's no signature in the line  
17 above it.  
18 CHAIRMAN: Yes.  
19 MR. COSTELLOE: And I anticipate Mr. Harty is about to  
20 ask a couple of questions about that document and I am 15:03  
21 just wondering if this is in fact the original or if it  
22 is in fact, what's the old fashioned expression, a  
23 facsimile, if you will, of what is actually sent to the  
24 coroner?  
25 CHAIRMAN: I understand. 15:03  
26 MR. HARTY: Obviously, I'm not at --  
27 MR. COSTELLOE: I wouldn't expect Mr. Harty to know the  
28 answer to that question, Chairman. In fairness to him,  
29 it's something that perhaps we should clarify.

1 CHAIRMAN: I think the way I think we should proceed,  
2 Mr. Costelloe and Mr. Harty, I think is Mr. Harty  
3 should proceed with his examination and we will put a  
4 slight asterisk over the matter, pending further  
5 clarification and if necessary we can return to it or 15:04  
6 it may, so to speak, validate or reinforce or  
7 uninforce. It may turn out that there is nothing  
8 significant, but it may turn out that there is, in  
9 which case we will have to revise any provisional  
10 notions that we have about it. But in the meantime, I 15:04  
11 think we ill proceed, Mr. Harty, you proceed in the way  
12 you see fit and we will sort out any other issues in  
13 due course. I think that probably is the best way,  
14 Mr. Costelloe.

15 MR. COSTELLOE: Absolutely, Mr. Chairman, thank you. 15:04

16 MR. HARTY: And just so Mr. Costelloe can be reassured,  
17 I was not going to operate under the assumption that  
18 this was the copy that actually went to the coroner or,  
19 indeed, the copy that actually went to the district  
20 office, on the basis of the fact that it is unsigned by 15:04  
21 the two people who are intended to sign it.

22 688 Q. If we look at the bottom of that page you will see, and  
23 if I can ask Mr. Murphy to scroll down very slightly,  
24 there, it is to be signed by the investigating member  
25 and then submitted by the sergeant, isn't that correct? 15:05

26 A. That's what it says, yes.

27 689 Q. So that is what is to happen with C71, isn't that  
28 right?

29 A. Yes, the investigating garda completes the C71.

1 690 Q. And it is submitted by the sergeant?  
2 A. Yes.

3 691 Q. But in fact you didn't submit this, isn't that correct?  
4 A. I believe I did. I instructed Garda Ward to complete  
5 the form, so without the signature -- 15:05

6 692 Q. You didn't tell me that you -- you never told us before  
7 now that you actually submitted it. My understanding  
8 was that you instructed Garda ward to complete it and  
9 left it at that.

10 CHAIRMAN: Make the report. 15:05

11 693 Q. MR. HARTY: That was your evidence.  
12 A. That's my evidence, yes. Garda ward placed it in the  
13 sergeant's post box for delivery to Fermoy.

14 694 Q. So you never submitted it?  
15 A. I -- 15:06

16 695 Q. Isn't that right?  
17 A. It was Garda ward was submitting it. I had signed it  
18 for submission and he placed it in the post box for  
19 onward transmission to Fermoy to the superintendent.  
20 He should have it left it in an envelope for delivery 15:06  
21 by the oncoming unit. But it would have been delivered  
22 when the sergeant came on duty in the morning anyway.

23 696 Q. What time does the sergeant come on duty in the  
24 morning?  
25 A. Sergeant Dunne would be on duty at 8:00am. 15:06

26 697 Q. And it's supposed to be in the district office by?  
27 A. Half eight.

28 698 Q. Divisional office by half eight?  
29 A. Pardon?

1 699 Q. It was supposed to be in the divisional office by half  
2 eight?

3 A. Yes.

4 700 Q. And you say you did sign it and you did submit it?

5 A. To the best of my recollection, I can remember 15:07  
6 instructing Garda ward to complete the C71 when we  
7 returned and I presume I would have signed it, I can't  
8 remember, and I can't say from this form whether I did  
9 or not.

10 701 Q. And you say, somehow, that this is what meets the 15:07  
11 requirement to report in respect of critical incidents?

12 A. Yes, I do.

13 702 Q. Why do you say that?

14 A. Because all the information necessary to brief the  
15 regional office and in turn the Garda Press Office 15:07  
16 would be contained within this document.

17 703 Q. Okay. All of it?

18 A. All the necessary information for a press release.

19 704 Q. For example, does it say suspicious circumstances?

20 A. That would not be -- it says, everything -- most of the 15:07  
21 matters here are redacted.

22 705 Q. I presume that's just the details of the deceased  
23 person and the person whose home it was?

24 A. But there are other matters --

25 MR. McGUI NNESS: And names of relatives and other 15:08  
26 civilians.

27 A. I understand that, yes. But Garda ward was in touch  
28 with Inspector O'Sullivan on two occasions when I was  
29 with him and informed him of that, and Inspector

1 O'Sullivan was in touch with Superintendent Comyns that  
2 night and the following morning.

3 706 Q. MR. HARTY: Are you saying that that report makes it  
4 clear that there were no suspicious circumstances?  
5 A. If there was suspicious circumstances they would have 15:08  
6 been reported separately.

7 707 Q. That's the point, isn't it?  
8 A. There were no suspicious circumstances.

9 708 Q. But the point is that when reporting to the district  
10 office and the divisional office in relation to these 15:08  
11 matters, the report has to make it clear whether or not  
12 there are suspicious circumstances?  
13 A. And Garda Ward's subsequent report to the district  
14 office did indicate that there was no suspicious  
15 circumstances, that the deceased died from smoke 15:09  
16 inhalation.

17 709 Q. But that's what they needed to know, and it's not  
18 contained in this form?  
19 A. They could not know that until the postmortem was  
20 carried out. 15:09

21 710 Q. But they could know, for example, the circumstances of  
22 how the fire started?  
23 A. And that was explained to Inspector O'Sullivan on the  
24 night. He in turn, I believe, relayed that to  
25 Superintendent Comyns. 15:09

26 711 Q. There is a reason why you are required to report up the  
27 line as much information as you can, to allow the  
28 divisional office to deal with the matter?  
29 A. And Garda Ward did do this.

1 712 Q. In a report?  
2 A. In a report to Inspector O'Sullivan.  
3 713 Q. And you say that that met the requirements of a  
4 critical incident report?  
5 A. That is my belief, for this incident, yes. 15:09  
6 714 Q. And you say that the question of saying that this  
7 report did not meet the critical incident report was  
8 done to make criticism of you?  
9 A. Yes.  
10 715 Q. So when Chief Superintendent Dillane made the request 15:10  
11 of my client, I take it you are saying that that was  
12 implicit criticism of my client?  
13 A. No. But I believe they both conspired together to  
14 submit this report, forward this report through the  
15 sergeant in charge for me. 15:10  
16 716 Q. They conspired?  
17 A. Yes.  
18 717 Q. Can you help me with that word? They got together to  
19 criticise you by criticising my client, is that what  
20 you're saying? 15:11  
21 A. I don't believe Chief Superintendent Dillane criticised  
22 your client.  
23 718 Q. But my client was effectively asked the same request  
24 that you were asked, which is: where is the report?  
25 A. But your client is aware that the report was submitted. 15:11  
26 719 Q. And Chief Superintendent Dillane knew that?  
27 A. Yeah, because your client reported to him that he  
28 compiled the report to the regional office from the  
29 Pulse incident in the C71 that was submitted by Garda

1           ward.

2   720   Q.    So therefore why was he writing a criticism of my  
3           client at all?

4           A.    And that is my question too.

5   721   Q.    Oh I see.  But in order to do a proper report it had to   15:11  
6           be done by marrying the Pulse incident report with the  
7           C71, you accept that?

8           A.    I don't accept that, I believe there was sufficient  
9           evidence contained within this form to brief the  
10          regional office, and together with the information   15:12  
11          forwarded by Inspector O'Sullivan to Superintendent  
12          Collins on the night before and the morning after,  
13          Inspector O'Sullivan was fully briefed of what was --

14   722   Q.    CHAIRMAN:  May I stop you a second, Mr. Barry.  I think  
15          we're getting lost here, because you're using the term   15:12  
16          report to mean a speaking report, reporting to  
17          Inspector O'Sullivan, and I am understanding counsel to  
18          be referring to a written report.  My understanding at  
19          the moment is, that there is an obligation to produce a  
20          written report.  And you say the C71 addressed to the   15:12  
21          coroner and to the district officer, you say the C71 is  
22          sufficient for that purpose and that was submitted you  
23          say by Garda ward and as far as you know you signed it.

24          A.    I believe so, yes.

25   723   Q.    CHAIRMAN:  And in due course it was submitted.  And   15:13  
26          Mr. Harty says, yes, but what about whether the fire  
27          was suspicious or otherwise.  And if I am  
28          understanding, he says that's the sort of thing that  
29          you'd have in the separate report submitted by the

1 officer in charge. Am I correct in my understanding of  
2 what you know to be the situation?

3 A. Yes.

4 724 Q. CHAIRMAN: Is that correct?

5 A. Yes, Mr. Chairman. 15:13

6 725 Q. CHAIRMAN: And Mr. Harty is saying, yes, but that isn't  
7 in the written report?

8 A. That there was anything suspicious?

9 726 Q. CHAIRMAN: In the C71, sorry.

10 A. That there wasn't anything suspicious? 15:14

11 727 Q. CHAIRMAN: Yes. For instance, that's what he says.  
12 There may be other stuff, other things besides, that's  
13 the point he's making, that's my understanding of where  
14 we stand at this moment. And he says, following from  
15 that, that the enquiry sent by Chief Superintendent 15:14  
16 Dillane to Superintendent Comyns is therefore nothing  
17 sinister, it's a standard request, why is there no  
18 report, i.e. additional over and above C71 report.  
19 wait now. That's where we are. Mr. Harty, am I  
20 understanding where we are at this moment? 15:14

21 MR. HARTY: That's precisely it.

22 728 Q. CHAIRMAN: Okay. So, that's counsel is saying, that's  
23 the question to the superintendent and his point is,  
24 and here's where I -- I am sorry to keep going, but  
25 here's where I am confused: Mr. Harty says, therefore, 15:15  
26 when the superintendent repeats that, sends it on to  
27 you, that is evidence - I'm not agreeing with this or  
28 not - he says that is an indication of a routine  
29 process that began with Chief Superintendent Dillane.



1           okay?

2           A.    Yes.

3   729   Q.    CHAIRMAN:   Now, what do you say to that?

4           A.    I say that Superintendent Comyns stated that he had to

5           rely on the C71, this form, and the Pulse incident 15:15

6           referring to this matter to complete his report to the

7           regional office.  And I am saying that is not all the

8           information.  That is not just information that he had.

9           Because Garda Ward was in touch with Inspector

10          O'Sullivan on the night, twice on the night of the 15:16

11          incident, Inspector O'Sullivan relayed this information

12          to Superintendent Comyns on the night and the following

13          morning.

14   730   Q.    CHAIRMAN:   Superintendent Comyns, you say, had another

15          source of information via Inspector O'Sullivan? 15:16

16          A.    That's my understanding, yes.

17   731   Q.    CHAIRMAN:   So that actually he was in a position to

18          furnish more information than was in the C71 and the

19          Pulse?

20          A.    Yes, Mr. Chairman. 15:16

21   732   Q.    CHAIRMAN:   Because he had the information from that?

22          A.    Yes.

23   733   Q.    CHAIRMAN:   Okay, so that's your answer.  But how does

24          that come in, that he gets this, rightly or wrongly he

25          gets this from Chief Superintendent Dillane, rightly or 15:16

26          wrongly, maybe the chief superintendent is deliberately

27          misunderstanding or whatever, but he sends this to the

28          superintendent, the superintendent passes it on, how

29          does what you are saying about the information that the

1 superintendent had answer the question, he's only  
2 passing on the form?

3 A. Because the superintendent states that there was a  
4 sergeant and five gardaí attended the scene and no  
5 report was submitted. 15:17

6 734 Q. CHAIRMAN: And in that respect do you say he was  
7 correct or incorrect?

8 A. I say he was incorrect because there was a report made  
9 to Inspector O'Sullivan and this report was then  
10 submitted as well. 15:17

11 735 Q. CHAIRMAN: He had (a) the C71 and (b) he had verbal  
12 reports made to him. Okay.

13 A. Yes.

14 736 Q. CHAIRMAN: So that's why you say the superintendent was  
15 incorrect in saying what he said? 15:17

16 A. Yes, Mr. Chairman.

17 CHAIRMAN: Thank you very much for clarifying. Now,  
18 I'm sorry, Mr. Harty.

19 MR. HARTY: No.

20 CHAIRMAN: And I hope I haven't been disturbing your  
21 train of examination, but I was hoping to get that  
22 clear in my mind. 15:17

23 MR. HARTY: It provided clarity that I am quite certain  
24 I might not have achieved.

25 737 Q. You accept or would you not accept that but for this  
26 belief on your part that there was a motive, in the  
27 ordinary course this was not an unreasonable enquiry,  
28 the request? 15:18

29 A. I believe that under the circumstances that it was

1 targeted for me. Targeting of me, because I had  
2 instructed Garda Ward to submit this report, Garda Ward  
3 in my presence phoned Inspector O'Sullivan on two  
4 occasions to update him from the scene. And when I  
5 returned to the station, I then phoned Inspector 15:18  
6 O'Sullivan to give him my version of events, which  
7 would corroborate what Garda Ward had said to him, and  
8 he did not answer for me. And the following morning --  
9 that night Inspector O'Sullivan was in touch with  
10 Superintendent Comyns and the following morning he was 15:19  
11 in touch with him as well. A scenes of crime unit  
12 attended the scene after 7am and a sergeant from Fermoy  
13 was dealing with the matter that morning from 7am.

14 738 Q. Page 412, please. If we go to the bottom of that page.  
15 So, "Following the initial notification, a full report 15:19  
16 of the incident, signed by the relevant district  
17 officer, acting district officer or superintendent,  
18 will be forwarded to the regional office via e-mail to  
19 commissioner\_south@garda.ie before 8.15 on the  
20 following day." 15:20  
21

22 So they need to have a full report in relation to it,  
23 isn't that correct, and it's a written report that is  
24 required?

25 A. The report to the regional office is an e-mail format 15:20  
26 composed from this report and the Pulse incident.

27 739 Q. I see.  
28 A. This report or a typed report, if submitted, would not  
29 be sent in a -- to the regional office, but a report to

1 the regional office would be composed via an e-mail.

2 740 Q. And if it is not a fatal incident, what happens?

3 A. Pardon?

4 741 Q. If it's not a fatal incident, what happens?

5 A. If it's not a critical incident? 15:21

6 742 Q. No, if it's not a fatal incident?

7 A. It's still a critical incident.

8 743 Q. Yes, what happens then? what report is the one that  
9 gets married to the Pulse?

10 A. Then I would have instructed Garda ward to submit a 15:21  
11 written report.

12 744 Q. Right. And that would be the ordinary course if  
13 somebody hasn't --

14 A. That would be an ordinary written report.

15 745 Q. Okay. And would that written report include detail in 15:21  
16 relation to the suspicious circumstances, for example,  
17 forensics at the scene or otherwise?

18 A. Forensics were the following morning, the scenes of  
19 crime, we terminated duty when there was a forensic  
20 examination. 15:21

21 746 Q. So the report would ordinarily say, scene of crime  
22 preserved?

23 A. The scene was preserved, yes.

24 747 Q. Now, but a report would ordinarily say that, isn't that  
25 correct? 15:22

26 A. A written report. But this was supplemented by the  
27 verbal report to the inspector. Any information not  
28 contained in this one was reported verbally to the  
29 inspector on the night.

1 748 Q. In an ordinary non-fatal critical incident a written  
2 report would be put together setting out of a these  
3 things and forwarded by e-mail to the district?  
4 A. No, by post.  
5 749 Q. By post. Okay. So that's what ordinarily would 15:22  
6 happen?  
7 A. Ordinarily.  
8 750 Q. But in this case there was no written record of the  
9 matters that aren't in the C71 and only the C71 was  
10 submitted? 15:22  
11 A. There was a verbal report and a written report  
12 submitted, and Garda Ward, to his credit, said that he  
13 would have composed a written report when he returned  
14 from the postmortem, and he did so.  
15 751 Q. But the written report has to include a variety of 15:23  
16 different things that would never be in a C71?  
17 A. I don't believe so.  
18 752 Q. You would agree with me that there is no place in the  
19 C71 for saying the scene has been preserved awaiting  
20 forensics, would there? 15:23  
21 A. That is on the Pulse incident and it's common knowledge  
22 that a scene as such would be preserved pending  
23 technical examination.  
24 753 Q. Yes. There'd be nothing on a coroner's report  
25 identifying, for example, a suspect that had been 15:23  
26 detained?  
27 A. There was no suspect.  
28 754 Q. I am suggesting --  
29 A. If there was a suspect --

1 755 Q. There is an awful lot of information not on the C71  
2 that you say was put together and would have been put  
3 together in more complete form by Garda ward following  
4 the postmortem. I am simply suggesting things that  
5 don't belong on a C71 which should be in a written 15:24  
6 report, that's all?  
7 A. You're going into a different scenario, a different  
8 scene.  
9 756 Q. We are. But you are telling me you should never --  
10 A. Like a murder scene or something. 15:24  
11 757 Q. You have told me in a fatal incident the only report --  
12 A. Critical incident.  
13 758 Q. No, no, be very clear. I tried to be as exact as  
14 possible. In a fatal incident you've only ever  
15 submitted a C71? 15:24  
16 A. Within the timeframe described.  
17 759 Q. And I am saying to you that that could not be accurate,  
18 an accurate way of dealing with the critical incident  
19 reporting requirements?  
20 A. I believe it was, and combined with the verbal report 15:24  
21 to Inspector O'Sullivan.  
22 760 Q. But you accept if somebody hasn't died, a proper report  
23 would be written up?  
24 A. If it was just an ordinary house fire?  
25 761 Q. Or a road traffic accident where somebody had to be 15:25  
26 pulled out of a vehicle, for example?  
27 A. Where it's non-fatal?  
28 762 Q. Yes.  
29 A. That matter would suffice to be on the Pulse system and

1 a report afterwards.

2 763 Q. No, it doesn't. If we look at the what the critical  
3 incident report matters are. They are -- are you  
4 saying that there's no requirement to put in a written  
5 critical incident report in relation to a kidnapping? 15:26

6 A. There is no form like the C71 in relation to a  
7 kidnapping, of course you'd write a report.

8 764 Q. Are you saying that there's no requirement to put in a  
9 critical incident report in respect of the discharge of  
10 a firearm? 15:26

11 A. A report would be submitted, yes, a written report.

12 765 Q. You see, what I am confused by is, only where the  
13 person has died do you not put together a written  
14 critical incident report?

15 A. Garda Ward as going to submit a written report when the 15:26  
16 postmortem had concluded, which he did. This was a  
17 briefing of the regional office.

18 766 Q. Yes. I have to put it to you that it was a reasonable  
19 request in the ordinary course and that there was no  
20 motive or intention to harm you or to cause you harm by 15:27  
21 sending this request?

22 A. I disagree. And if I may, could I ask to see the top  
23 of this report on screen?

24 767 Q. 512, yes. If we scroll up there slightly. It's  
25 directed "Each divisional officer, Southern Region. 15:27  
26 All critical incidents to be reported to the office of  
27 the commissioner operations by regional office within  
28 30 minutes of the incident occurring. Such reports to  
29 be made as follows: During normal office hours

1 critical incidents should be noted by phone to Garda  
2 Sharon Daly; or outside office hours a brief summary of  
3 each incident a text to Sergeant Terry. And then,  
4 following the initial notification, a full report of  
5 the incident signed by the relevant district officer 15:28  
6 will be forwarded to the regional office."  
7

8 Do you accept that in order for the district officer to  
9 do that he must have a full report from the sergeant?

10 A. Not from the sergeant. 15:28

11 768 Q. From the members at the scene?

12 A. From the members at the scene, from the guard who  
13 completed the report and from the inspector who was  
14 briefed on all the happenings on the night in regard to  
15 the incident. 15:28

16 769 Q. And that's all he looked for, isn't that correct?

17 A. And he had it.

18 770 Q. Right. I think we will move on. If we go -- in  
19 relation to the issues on Chief Superintendent Dillane,  
20 just the one thing I do want to deal with very quickly, 15:28  
21 do you think my client had any role in having you at  
22 Fota?

23 A. Pardon?

24 771 Q. Do you believe my client had any role in having you on  
25 duty at the golf? 15:29

26 A. I do.

27 772 Q. You do. What basis do you have for that?

28 A. Because he is the district officer attached to Fermoy,  
29 he is in charge of allocating personnel within Fermoy,



1 he decided I would be sent to Fota and a sergeant  
2 replace me on overtime, when that sergeant could have  
3 been sent to Fota instead of me.

4 773 Q. And can you explain, you were at the roundabout at  
5 Carrigtwohill? 15:29

6 A. Yes.

7 774 Q. On the busiest day ever, I presume, for that particular  
8 roundabout, the road that comes off it forms part of  
9 the one-way system around Fota Gold Club, is that  
10 right? 15:29

11 A. Yes, there are two different roundabouts, yes.

12 775 Q. A loop was set up. Actually, just so is I know, were  
13 you on the loop that was going in, part of the loop  
14 that was going in?

15 A. I was in both, I was in the village loop, the village 15:30  
16 roundabout and the one the other side of the motorway.

17 776 Q. What distance was that roundabout from Fota?

18 A. Pardon?

19 777 Q. What distance was that roundabout from Fota?

20 A. I wouldn't be able to say. It's a considerable 15:30  
21 distance.

22 778 Q. A considerable distance, it's at least 5 kilometres?

23 A. Approximately, yes.

24 779 Q. Approximately. And please, if Mr. Costelloe wishes to  
25 engage Google Maps again, I am open to being corrected? 15:30

26 MR. COSTELLOE: No, that's fine.

27 MR. HARTY: And I take it at this time you were still  
28 doing the shared lifts with Garda wall in Fermoy.

29 A. Mitchelstown.

1 780 Q. To Mitchelstown?  
2 A. Yes.  
3 781 Q. What's the distance from the service station in Fermoy  
4 to the divisional headquarters in Fermoy?  
5 CHAIRMAN: From what, Mr. Harty? 15:31  
6 MR. HARTY: From the service station where they parked  
7 in Fermoy to the divisional headquarters.  
8 CHAIRMAN: Thank you very much.  
9 A. Probably a mile or more.  
10 782 Q. A mile. And every morning, rather than driving past 15:31  
11 Fermoy, you pulled in to the service station in Fermoy,  
12 waited for Garda wall to arrive, and travelled on?  
13 A. Every second tour.  
14 783 Q. Every second tour. What did you do the other tours?  
15 A. I said every second tour, we alternate the lifts. 15:31  
16 784 Q. So you do the driving on the other?  
17 A. Yes. Like I said, it was 2012 and we were short of  
18 money too, and this was a means of cutting back on  
19 transport costs.  
20 785 Q. I am just slightly concerned that you were being 15:32  
21 targeted for being put within 5 miles of my client, or  
22 5 kilometres of my client at the roundabout in  
23 Carrigtwohill, but every day out of choice you waited  
24 on the side of the road within one mile of the  
25 divisional headquarters in Fermoy, is that correct? 15:32  
26 A. They are totally different matters. At the golf event,  
27 Superintendent Comyns clearly stated that should  
28 something have happened in my area of responsibility he  
29 would have had to meet with me.

1 786 Q. And should something have happened in your area of  
2 responsibility in Mitchelstown, what would have  
3 happened then?  
4 A. He would not have met with me.  
5 787 Q. why not? 15:33  
6 A. Because my doctor cert stated that he should not come  
7 in contact with me.  
8 788 Q. And when you got those certs from those doctors, did  
9 you tell them the reason you were in Mitchelstown is  
10 because you wouldn't apply for a transfer? 15:33  
11 A. When I originally looked for a certificate, the doctor  
12 thought the superintendent was stationed in  
13 Mitchelstown, that's why she wouldn't give me a cert to  
14 return to work.  
15 789 Q. Did you tell the doctor when you got that certificate 15:33  
16 that would you not apply for transfer?  
17 A. No.  
18 790 Q. Did you tell the doctor when she reviewed you over the  
19 following years, that the only reason you hadn't been  
20 transferred is because you refused to apply for one? 15:33  
21 A. No, I would have told the doctor of the attempts to  
22 transfer me to Glanmire or Fermoy.  
23 791 Q. And did you explain to --  
24 A. I wasn't applying for those.  
25 792 Q. Did you explain to her that you wouldn't apply to be 15:34  
26 transferred outside the division or why?  
27 A. No, I don't recall speaking, but I may have mentioned  
28 it to her, so I can't say.  
29 793 Q. So when a doctor in all good concern for her patient

1 and, indeed, his patient, in the case of Dr. Dennehy,  
2 is recommending that that patient not have contact with  
3 one individual, do you think it's relevant to their  
4 considerations that the only reason why there's  
5 potential contact is because you refuse to apply for a 15:34  
6 transfer?

7 A. That's not correct. I made several, numerous  
8 applications to have temporary workplace accommodations  
9 put in place. It wasn't solely --

10 794 Q. Did you tell them that you would not apply for a 15:34  
11 transfer all over allowances?

12 A. I did not remember the conversation I had with  
13 Dr. Dennehy until I saw it in discovery in relation to  
14 the transfer. Similar goes with Dr. Kiely; I cannot  
15 whether I discussed these matters with her. I believe 15:35  
16 I would have.

17 795 Q. But when you were going through them about the incidents  
18 and describing how you're getting on and the stressors  
19 that are happening and laying blame on my client, did  
20 you think it would be relevant to point out to them 15:35  
21 that would probably have a transfer if only you applied  
22 for it?

23 A. The situation was, they were well aware that I would  
24 not look for a transfer into Glanmire or Fermoy. They  
25 were the only two options at that time. 15:35

26 796 Q. I thought you said Mallow was always a live option and  
27 Carrigtwohill?

28 A. No, I am saying for management.

29 797 Q. And did you not explain to the doctor how you wanted to

1 go to Mallow or Carrigtwohill but you couldn't apply  
2 for it?

3 A. I may have discussed that with the doctor, I cannot  
4 recall.

5 798 Q. Are you saying they left that out? 15:36

6 A. I am not saying they left it out, I am saying I may  
7 have discussed it, I cannot recall.

8 799 Q. Do you understand, Mr. Barry, that where somebody is  
9 going to a doctor who is taking their word, listening  
10 to them carefully, writing them down, mindful of their 15:36  
11 obligations to mind the wellbeing of that person,  
12 Dr. Dennehy is a sensible man, isn't he, apparently?

13 A. I believe so.

14 800 Q. Dr. Kiely is a sensible lady, lots of experience?

15 A. That's correct. 15:36

16 801 Q. Do you think neither of them would have thought it was  
17 relevant, the fact that while you were complaining to  
18 them about your workplace situation, you had within  
19 your power the ability to change it?

20 A. Sorry, I cannot say that that is correct, because I was 15:36  
21 being transferred by Garda management against my wishes  
22 to stations that were not suitable for me and my doctor  
23 knew that.

24 802 Q. And you said you would transfer but only if Garda  
25 management did it? 15:37

26 A. To Mallow.

27 803 Q. Yes. And only at the direction of Garda management?

28 A. That's correct.

29 804 Q. And do you think that Dr. Kiely, when she is assessing

1 the accuracy of what you are telling her, should have  
2 known the fact that the reason why you weren't being  
3 transferred to Mallow was because you wouldn't apply  
4 for it?

5 A. No, she knew the reason I wasn't being transferred to 15:37  
6 Mallow was because local Garda management wanted me in  
7 Glanmire, Fermoy or Anglesea Street, they did not want  
8 me in Mallow.

9 805 Q. They did not want you in Mallow, why not?  
10 A. Because that would have suited me. 15:37

11 806 Q. Oh I see?  
12 A. And I wouldn't have been targeted there.

13 807 Q. Oh I see, so there was one perfect repose in Mallow and  
14 you are saying that management knew that?

15 A. Chief Superintendent Dillane was well aware of it on a 15:38  
16 number of occasions.

17 808 Q. That you had said -- you said, I'll go to Mallow but  
18 I'm not doing it at public expense, is it?

19 A. No, sorry, I said I will not go to Mallow, I will not  
20 apply to go to Mallow. 15:38

21 809 Q. Right?  
22 A. I will not go --

23 810 Q. Did you tell doctor -- because it would have been  
24 perfectly easy, wouldn't it, to get a report from  
25 Dr. Dennehy or Dr. Kiely, saying that if a transfer out 15:38  
26 of the division was granted, he will improve?

27 A. Well, at that stage I believed HRM had been informed by  
28 Chief Superintendent Dillane of that possibility, but  
29 the only information they had was that I was looking

1 for the superintendent to be transferred and that I was  
2 looking for a medical pension.

3 811 Q. Well you were looking for a medical pension?  
4 A. I was not.

5 812 Q. Oh really? So when you told us two days ago that had 15:39  
6 you been certified as injury on duty, you would not  
7 have returned to work, was that true or false?  
8 A. It was true in relation to while Superintendent Comyns  
9 was in the district, I would not have returned to work.

10 813 Q. You were going to suggest that you were going to stay 15:39  
11 out for four years unless they moved Superintendent  
12 Comyns?  
13 A. No, that's not what I am suggesting.

14 814 Q. You just told me --  
15 A. I am saying it would have been preferable for me not to 15:39  
16 return to work while he was still there, without a  
17 medical certificate. I didn't have a medical  
18 certificate when I returned to work.

19 815 Q. You didn't have a medical certificate --  
20 A. And I had no temporary accommodations. 15:39

21 816 Q. You told us the other day that had you been certified  
22 as injury on duty, you would never have returned to  
23 work?  
24 A. While the investigation was ongoing, that's what I  
25 meant, while this situation, created by Garda 15:40  
26 management, was ongoing.

27 817 Q. Two months later most of those bullying and harassment  
28 complaints were dealt, isn't that correct?  
29 A. They were dealt with, yes, by May.

1 818 Q. You were very clear two days ago when you said, I would  
2 never have returned to work?  
3 A. My intention when I said that was, while the  
4 investigations were ongoing, while I would have had to  
5 have contact with Superintendent Comyns. 15:40

6 819 Q. Well, when the investigation didn't go your way, are  
7 you saying you would have returned to work once the  
8 investigation made it clear that your bullying and  
9 harassment complaints were not upheld?  
10 A. The investigations were not completed until 15:40  
11 Superintendent Comyns had left the district.

12 820 Q. Are you saying that if your bullying and harassment  
13 complaints were not upheld, you would have returned to  
14 Fermoy -- to Mitchelstown?  
15 A. I am saying that my wish, had I been in a position to 15:41  
16 do so, I would not have returned to Mitchelstown while  
17 Superintendent Comyns was my district officer.

18 821 Q. But you tell us that at no stage did you suggest to  
19 anybody that it was Superintendent Comyns had to go?  
20 A. Never said by me. 15:41

21 822 Q. Right. Even though that's what you actually thought?  
22 A. No, where are you getting that from?

23 823 Q. Because you just told me that you would never have  
24 returned -  
25 A. while he was serving. 15:41

26 824 Q. - while he was serving?  
27 A. while he was my district officer.

28 825 Q. Yes.  
29 A. That didn't mean that he was being transferred, he



1           could have retired, anything could have happened. He  
2           could have stayed there until he retired, I didn't  
3           know.

4 826 Q.   And you are seriously asking us to believe that you  
5           didn't want my client to be moved out of the district, 15:41  
6           didn't ask for my client to be moved out of the  
7           district, didn't present as somebody who said, it's him  
8           or me, when you've just told us that you would have  
9           remained out until my client left the district, the  
10          division? 15:42

11          A.   That was before I returned to work, that was my  
12          position.

13 827 Q.   That was your position. So it was him or you?

14          A.   No, it wasn't. Because I was requesting temporary  
15          accommodations throughout my sickness. I wanted to 15:42  
16          return to work in Mitchelstown, I never requested that  
17          the superintendent be transferred by HRM. I never  
18          mentioned it to them.

19 828 Q.   And when you requested those temporary accommodations,  
20          when you relied on the good offices of Dr. Kiely, you 15:42  
21          didn't make it clear to Dr. Kiely that more permanent  
22          workplace solutions were available to you if you  
23          transferred?

24          A.   I did not know that the investigations would be so  
25          prolonged and take so long at the time. 15:42

26 829 Q.   I have to put it to you that the answer is that you  
27          were not going to be transferred out of Mitchelstown  
28          under any circumstance?

29          A.   That's incorrect.

1 830 Q. I have to put it to you that as far as you were  
2 concerned you were very happy with a situation whereby  
3 the superintendent in charge of your district was  
4 hamstrung in managing your unit and you?  
5 A. I was never happy when I was working under 15:43  
6 Superintendent Comyns' control.  
7 831 Q. If we come now to 5A. Are you seriously saying to this  
8 Tribunal that because your annual leave wasn't  
9 authorised in May 2013, that was targeting of you?  
10 A. I believe so, yes. 15:44  
11 832 Q. Even though there were no sergeants in a position to  
12 guarantee and satisfy the district office that there  
13 was cover?  
14 A. I was told that Sergeant O'Flynn, at the time I  
15 believe, was it, that he was -- I'm not sure, this is 15:44  
16 in relation to my holiday, which was June or July, not  
17 May.  
18 833 Q. Right.  
19 A. Is it the holiday you're referring to?  
20 834 Q. Yes, it is the holiday, yes? 15:44  
21 A. Yes, sorry. By refusing my leave application after  
22 submitting everything that I was asked to submit, I  
23 submitted a detailed report, which I supplied, Sergeant  
24 Quinn and Sergeant Dunne were willing to swap shifts to  
25 accommodate any shortcomings in my absence. 15:44  
26 835 Q. Who did actually accommodate it?  
27 A. Pardon?  
28 836 Q. Who did cover it?  
29 A. That would be a matter for Superintendent Comyns.

1 837 Q. But that was the point; it was a matter for  
2 Superintendent Comyns to ensure that if he was granting  
3 you the leave that there was cover?  
4 A. And the chief superintendent granted my leave provided  
5 there was cover provided. I cannot provide cover. 15:45  
6 838 Q. Yes, but you didn't -- it was your job to make sure  
7 that there was cover there?  
8 A. I did everything I could to have cover.  
9 839 Q. Did you succeed?  
10 A. No, and as Sergeants Quinn and Dunne said, they tried 15:45  
11 to explain this to Superintendent Comyns but to no  
12 avail.  
13 840 Q. In which case you shouldn't have taken the leave  
14 because the condition that was granted to you was that  
15 you would ensure that there was cover? 15:45  
16 A. Cover is provided by the district officer. I have no  
17 authorisation to provide cover. He provided cover when  
18 I had to go to Fota by applying a sergeant on overtime.  
19 841 Q. Anyway, that's targeting you, was it?  
20 A. I believe it was, yes. 15:46  
21 842 Q. In relation to the force majeure leave, you applied for  
22 those dates, the 15th April to the 17th April, isn't  
23 that correct?  
24 A. Initially I applied for leave, yes, on those dates.  
25 843 Q. why? what was that leave for? 15:46  
26 A. Because my wife had been suffering back pain  
27 intermittently over the previous months and I also did  
28 not want to have contact with the superintendent on day  
29 shifts, should it happen.

1 844 Q. I see.  
2 CHAIRMAN: On the which?  
3 MR. HARTY: On day shifts.  
4 A. On my day shifts.  
5 CHAIRMAN: On your day shifts, sorry. 15:46  
6 845 Q. MR. HARTY: So this was to get out of the day shifts,  
7 is it?  
8 A. And if my presence in the family home was necessary,  
9 then I would be available.  
10 846 Q. But your presence in the family home could have been on 15:46  
11 night shifts?  
12 A. Yes, that wouldn't be a problem.  
13 847 Q. Your presence in the family home could have been  
14 available on the 14th April, I think you were on -- I  
15 think that was Easter weekend, wasn't it? You had been 15:47  
16 on holidays, is that correct, just before this force  
17 majeure leave.  
18 A. I was on annual leave, you mean?  
19 848 Q. Yes.  
20 A. I could have been, I don't have -- 15:47  
21 849 Q. I think Dr. Dennehy refers to it as being you having  
22 returned from hols. I will see if I can get the  
23 reference. Give me one moment.  
24 MR. McGUI NNESS: I think, Chairman, it is 4820.  
25 CHAIRMAN: 4820, thank you very much. We will show 15:48  
26 that up.  
27 MR. McGUI NNESS: Report of the 15th April.  
28 MR. HARTY: That's not the report I am looking for  
29 actually, it's the main report where reference is made

1 to the disciplining in respect of the -- and that's at  
2 5121.

3 CHAIRMAN: 5121, thank you very much.

4 850 Q. MR. HARTY: If we go to page 5124, please. I appear to  
5 have the slightly wrong reference. I will come back to 15:49  
6 that, apologies, Mr. Barry. The situation is that you  
7 applied for these dates when?

8 A. I believe I resumed on the 29th, so it would have been  
9 29th/30th of March.

10 851 Q. Of March. And how did you know your wife was going to 15:49  
11 have a back pain?

12 A. I didn't know.

13 852 Q. No. You didn't?

14 A. No.

15 853 Q. Did you tell anyone the reason why? 15:49  
16 A. I told Inspector O'Sullivan.

17 854 Q. That the reason why you wanted it --  
18 A. I told Inspector O'Sullivan I was taking leave on my  
19 day shifts in the event that my wife would be  
20 incapacitated. 15:50

21 855 Q. Did you tell them that the other reason is I am trying  
22 to make sure I am never here when Superintendent Comyns  
23 is around?

24 A. Well, that was the initial -- I was after getting my  
25 doctor's cert then on the 4th April, so that wasn't an 15:50  
26 issue for me in relation to that.

27 856 Q. It wasn't an issue?

28 A. No.

29 857 Q. So when you took the force majeure leave --

1 A. No, sorry, when I applied for leave -  
2 858 Q. I see?  
3 A. - initially I had no cert.  
4 859 Q. Right?  
5 A. So I would be coming in contact with the 15:50  
6 superintendent, but subsequently, I had a cert, it  
7 stated I didn't have to.  
8 860 Q. When did that occur to you?  
9 A. Which?  
10 861 Q. That you could have come in contact with the 15:50  
11 superintendent?  
12 A. When I returned to work.  
13 862 Q. So when you applied for those days leave, it was  
14 refused, was that unreasonable?  
15 A. No, when I applied I got no notification of the leave 15:51  
16 being granted or otherwise. So on the 4th and 5th  
17 April, I believe it was, I was absent without leave  
18 effectively because nobody had got back to me in  
19 relation to the leave, and on those dates I was looking  
20 after my wife but I didn't take force majeure because I 15:51  
21 didn't know what the situation with the granting of my  
22 leave was. Then, on the 6th April -- or sorry, on the  
23 9th April, when I was inspected by Chief Superintendent  
24 Dillane and Inspector O'Sullivan, I asked Inspector  
25 O'Sullivan about my leave, what was happening with my 15:51  
26 leave and he replied to me on the 10th April in a  
27 written document. And then he rang me and told me that  
28 he was refusing my leave on the 15th and 16th but that  
29 I could reapply for the 17th because there was no issue

1 with the 17th. And I said to him, if my leave is  
2 refused and my wife is sick, I'll have to take force  
3 majeure. I said, she may be fine, if she's fine I'll  
4 be in work.

5 863 Q. And how was your wife in that week, when you were in 15:52  
6 work?

7 A. Up until that?

8 864 Q. The week that you were in work?

9 A. My wife was fine.

10 865 Q. Yes. And you'd already told Inspector O'Sullivan that 15:52  
11 even though your wife was fine while you were in work,  
12 that you intended to possibly take force majeure leave  
13 on the 15th April?

14 A. On the 15th April, if it was required.

15 866 Q. If it was required. Why didn't you say the 14th April? 15:53  
16 A. Because I didn't apply for leave on the 14th. I don't  
17 know -- I could have been --

18 867 Q. So the requirement for force majeure leave depended on  
19 whether or not you had applied?

20 A. No, if I was on nights it would be a different matter. 15:53  
21 I believe I would have been on nights, when I was on  
22 nights, my children would have been there to look after  
23 my wife.

24 868 Q. But no, I am just saying, what would have happened on  
25 the 14th or the 13th? 15:53  
26 A. I'd have to see what duty I was on.

27 869 Q. Did you warn Inspector O'Sullivan of that?

28 A. I could have been on rest days or I could have been on  
29 nights, in which case it wouldn't be relevant.

1 870 Q. Did you tell him about the 18th?  
2 A. Same situation; I could have been on rest days or on  
3 nights, I'm not sure what duty I was on.  
4 871 Q. Right.  
5 A. I was applying for leave on the dates that I believed 15:54  
6 there could have been an issue should something happen.  
7 872 Q. Would you if a member of your unit and you're tightly  
8 resourced and you're short staffed and a member of your  
9 unit comes in and says I need leave on Friday and  
10 Saturday for annual leave? 15:54  
11 A. Sorry, that wasn't the situation here.  
12 873 Q. I am just asking you how you would react if you -- do  
13 you get approached in relation to gardaí on your unit  
14 and their leave, annual leave allocations?  
15 A. If a member applied for a volume of leave, I wouldn't 15:54  
16 be focusing on a specific date.  
17 874 Q. But it is your job, you are asked their opinion, isn't  
18 that right, do you sanction their leave?  
19 A. The garda leave?  
20 875 Q. Yes. 15:55  
21 A. It wasn't sanctioned by me.  
22 876 Q. Do you sanction their leave?  
23 A. No, I don't sanction their leave.  
24 877 Q. But are you contacted whether or not it works within  
25 the unit to grant annual leave for certain days? 15:55  
26 A. Yes.  
27 878 Q. And if a member of your unit said to you, will you  
28 sanction me for Friday and Saturday for annual leave,  
29 and you say, I can't because I don't have cover, how



1 would you react if that member then doesn't show up and  
2 claims force majeure?

3 A. It wouldn't have anything to do with me, because the  
4 force majeure is nothing that I have control over.

5 879 Q. Yes. That's what force majeure is about. The point 15:55  
6 is, how do you know you're going to be exposed to force  
7 majeure a week before you have force majeure? That's  
8 what force majeure means. It means something sudden  
9 and out of your control, you understand that?

10 A. I understand. And as I stated, in between those dates 15:56  
11 there was no issue and if there was nothing happening  
12 on those dates I would have been in work.

13 880 Q. Mr. Barry, we're very clear at this stage that you are  
14 a man who is entirely suspicious of the nefarious  
15 purposes to have you moved, transferred from to Fermoy 15:56  
16 Garda Station in 2004, you're a man capable of  
17 suspicion, we know that, and are you telling me that  
18 you would have no suspicion if a member of your unit  
19 managed to call in for force majeure on the same days  
20 that that member had been refused leave? 15:56

21 A. If that guard had told me that his wife was having back  
22 problems and was being treated for same and she was  
23 having intermittent occasions where she would not be  
24 able to look after herself, then I would accept his  
25 excuse. 15:57

26 881 Q. You would accept it?

27 A. I would.

28 882 Q. And if Chief Superintendent Dillane said that the only  
29 reason he was looking for a report in relation to a

1 fatal fire was because the C71 wasn't enough, would you  
2 accept his explanation?

3 A. Not under the circumstances, no. Different  
4 circumstances.

5 883 Q. And if my client said he couldn't authorise you for 15:57  
6 some days of your annual leave in a May application,  
7 would you accept his explanation?

8 A. I did accept his explanation and I relayed to him the  
9 problem I had and the reason I was taking these leave  
10 dates, whether I needed them or not. I would have come 15:57  
11 to work and I would not have availed of my leave had it  
12 been necessary.

13 884 Q. You would have just shown up, would you, on the 15th  
14 and the 16th April?

15 A. I wouldn't have just shown up, I would have notified 15:58  
16 him that I was coming back, that I didn't need the  
17 leave.

18 885 Q. If you didn't need the leave, you were planning to come  
19 in?

20 A. If I didn't need force majeure, I had told him that I 15:58  
21 would work if I didn't need it. That the leave was --  
22 I was aware the leave wasn't granted for that date,  
23 plus I knew I was going --

24 886 Q. If you knew that a member of your unit had applied,  
25 let's take a hypothetical situation, to go for the 15:58  
26 weekend, but was refused leave for that weekend, would  
27 you be suspicious if that member called in a force  
28 majeure?

29 A. If the member was going away, as you say, for a

1 weekend, then I would be suspicious, but I was not  
2 going away for a weekend. I was attending my doctor  
3 and I could have had the 17th off, so you're talking  
4 about a day and a half effectively that I was absent.  
5 887 Q. So that's why you were applying, you kept the leave 15:58  
6 days, was so that you could attend your doctor?  
7 A. No, I am not entitled to see my doctor if I am working.  
8 888 Q. I know?  
9 A. I didn't have to look for leave for that.  
10 889 Q. No. Well, certainly that appears to be the way things 15:59  
11 operate within An Garda Síochána, that people are  
12 accommodated?  
13 A. Absolutely. It's in the interest of your health.  
14 890 Q. Yes. And what you are telling me is that it was 15:59  
15 unreasonable to be suspicious about your force majeure  
16 leave?  
17 A. I had explained the circumstances and what it may be  
18 needed for.  
19 891 Q. Do you accept that you should apply the same standard 15:59  
20 to everything that you have set out before this  
21 Tribunal, which is that it is unreasonable to be  
22 suspicious about perfectly ordinary things?  
23 A. I don't agree with you.  
24 892 Q. Right. Should the Tribunal not apply exactly the same 15:59  
25 standard of open minded and accept the things that  
26 happen in the ordinary course are just things that  
27 happen in the ordinary course?  
28 A. It is not for me to say how the Tribunal should  
29 interpret anything.

1 893 Q. Except you have suggested that all of this must be  
2 interpreted made with malice, nefarious purpose,  
3 motive.  
4 A. That is not correct.

5 894 Q. That is correct. 16:00  
6 CHAIRMAN: Mr. Harty, can I just ask you, if you would  
7 like to continue to the end, that's perfectly  
8 satisfactory. If you would prefer to leave it there  
9 and leave it over, that really depends on how far,  
10 whatever your preference is, there's no problem. 16:00  
11 MR. HARTY: I always prefer not to leave witnesses  
12 under cross-examination, my own cross-examination  
13 overnight if at all possible. Mr. Barry might be  
14 surprised but I feel it is a little courtesy I can  
15 achieve. I have I think 15 minutes. 16:00

16 895 Q. CHAIRMAN: Perfect. That is no problem. Are you  
17 happy, Mr. Barry, can you struggle on for a little, and  
18 then we will finish with Mr. Harty and you will be on  
19 to whoever is next, whether it be Mr. Carroll or  
20 Mr. McGarry. 16:01  
21 THE WITNESS: That is fine, Chairman.  
22 CHAIRMAN: Further de lights await you! Mr. Harty, I  
23 think that makes perfect sense.  
24 MR. HARTY: Thank you.

25 896 Q. In any event, you were disciplined for the veracity or 16:01  
26 otherwise of the force majeure claim, isn't that right?  
27 A. I wasn't disciplined, no.

28 897 Q. You were disciplined for not notifying the fact that  
29 you had to take force majeure leave?

1 A. which is not a reason to discipline someone.

2 898 Q. well, that was the decision of the deciding officer,  
3 isn't that correct?

4 A. It's for not reporting for duty is what the -

5 899 Q. Yes. 16:01

6 A. - regulations stat, not for taking force majeure.

7 900 Q. No, but not reporting for duty is a breach of  
8 discipline?

9 A. Yes, that is.

10 901 Q. And the deciding officer found, didn't in fact consider 16:01  
11 that but considered whether or not you had failed to  
12 report the force majeure and decided that there was no  
13 express provision in relation to that, isn't that  
14 correct?

15 A. There was no provision in the Act for reporting. 16:02

16 902 Q. In the Act, that's correct?

17 A. Yes. As it applied to An Garda Síochána.

18 903 Q. Although neglect of duty under the Garda regulations  
19 would be neglect of anything that you are required to  
20 do, isn't that correct? 16:02

21 A. But there was no requirement.

22 904 Q. CHAIRMAN: But in your case that's what did.

23 A. I did it anyway, even though it wasn't required.

24 905 Q. CHAIRMAN: Surely it is obvious that somebody has to  
25 report in, unless they're on a desert island? 16:02

26 MR. HARTY: That in fact was the decision of the  
27 district officer, was effectively that the regulations  
28 don't expressly say that you have to do this,  
29 therefore --

1 CHAIRMAN: That's what he said, Mr. Harty. But in fact  
2 Mr. Barry's case is, I did report in and here's my  
3 telephone, and despite the fact that nobody could  
4 remember it six months later of the four people that  
5 were there and he can't remember who he spoke to of the 16:03  
6 four people who were there, nevertheless there is a  
7 record of a phone all, end of, so to speak.  
8 MR. HARTY: That's what it all amounted to.  
9 CHAIRMAN: For my part, I found it a little baffling  
10 that somebody would say, ah well, it doesn't matter, 16:03  
11 there's no requirement on him. Assuming that he an  
12 electric telephone and a mobile phone and a way of  
13 making it -- but what do I know. Anyway.  
14 906 Q. MR. HARTY: The answer, Mr. Barry and Chairman, is that  
15 it was found, he found as a fact that you hadn't called 16:03  
16 in but then found that there was no requirement to do  
17 so.  
18 A. Sorry, he didn't find a fact that I didn't ring in,  
19 because I gave him the phone record.  
20 907 Q. No, no, but he made a finding? 16:03  
21 A. He made a finding that he believed I didn't.  
22 908 Q. Yes, that was his finding.  
23 A. I understand that but I did make a call.  
24 909 Q. I appreciate your version. What was done to you as a  
25 result of all of this? 16:04  
26 A. I was put through more stress and --  
27 910 Q. CHAIRMAN: But you were acquitted, weren't you?  
28 A. I was, yes.  
29 911 Q. CHAIRMAN: The thing closed down. Clearly you didn't

1 need this hanging over you and that was a worry and an  
2 unpleasant thing, no doubt about that?

3 A. Yes.

4 912 Q. CHAIRMAN: But the answer to Mr. Harty's question is,  
5 nothing happened to me because I was acquitted? 16:04

6 A. That's correct.

7 CHAIRMAN: I'm sorry, forgive me, my natural  
8 irritability and impatience comes out about this time.  
9 Sorry, Mr. Harty.

10 MR. HARTY: Not at all, Chairman. I think I may be 16:04  
11 marginally longer.

12 CHAIRMAN: No, no, I take it back. I made what is  
13 obviously a very pathetic attempt at you --

14 MR. HARTY: No, I think if the Tribunal wouldn't mind,  
15 I might ask Mr. Barry to wait over until tomorrow 16:05  
16 morning, I am losing my focus and it might be better if  
17 we left it.

18 CHAIRMAN: I hope it is not because of what I said,  
19 Mr. Harty.

20 MR. HARTY: Not at all, Chairman. It is my own, as I 16:05  
21 say, I worry that I too --

22 CHAIRMAN: That was the option available to you, so I'm  
23 not going to take it back. Okay. So we will leave it  
24 until the morning. Thank you very much.

25 MR. HARTY: Thank you. 16:05

26 CHAIRMAN: Very good. I should say before we finish, I  
27 am hoping and maybe Mr. McGarry and Mr. Carroll can  
28 help me. Mr. Harty, sorry, I'm assuming you don't have  
29 much further to go.

1 MR. HARTY: No.

2 CHAIRMAN: So then we have Mr. McGarry.

3 MR. CARROLL: I will go next, Chairman.

4 CHAIRMAN: Sorry, Mr. Carroll.

5 MR. CARROLL: I will be relatively short. At the outer 16:05  
6 reaches of half an hour, but it may be significantly  
7 less.

8 CHAIRMAN: Thank you very much. I am not trying to  
9 pressure anybody into saying how long. Mr. McGarry,  
10 you probably won't be very long. 16:06

11 MR. MCGARRY: I'm in the same position, probably half  
12 an hour at most.

13 CHAIRMAN: Okay. Mr. Costelloe, it's a matter for you  
14 if there's sufficient time, but have you any idea how  
15 long you might be? 16:06

16 MR. COSTELLOE: Based on those estimates, Chairman, I  
17 believe I will finish comfortably tomorrow.

18 CHAIRMAN: Because it would be nice if we could say to  
19 Mr. Barry, listen here, you're manfully taken, you  
20 know, answered all the questions and dealt with all the 16:06  
21 things, I would be very keen if we could say to him  
22 that he was finished tomorrow.

23 MR. COSTELLOE: Well, of course Mr. McGuinness may feel  
24 that he has re-examination.

25 CHAIRMAN: And subject to Mr. McGuinness, whom I have 16:06  
26 forgotten to ask Mr. McGuinness. But allowing for  
27 that, we might go on a tiny bit longer just to try to  
28 finish tomorrow but if at all possible I think  
29 everybody would -- you would like to be finished



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tomorrow?

THE WITNESS: Yes, Chairman.

MR. COSTELLOE: Chairman, given the detailed examination and cross-examinations so far, which I'm sure will be supplemented tomorrow by my friends, I don't anticipate being more than an hour.

16:06

CHAIRMAN: Thank you very much, Mr. Costelloe. Don't feel under pressure.

MR. COSTELLOE: I don't, thank you.

CHAIRMAN: If it goes longer, it goes longer and therefore what with can we do. It's an important matter and it's particularly important for Mr. Barry and I am sure that he would prefer not to have anything truncated. But we still have it in mind that we would love to finish tomorrow. Okay. Thanks very much.

16:07

16:07

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