

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

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

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

HEARING HELD IN DUBLIN CASTLE  
ON FRIDAY, 27TH MAY 2022- DAY 181

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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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1 THE HEARING RESUMED, AS FOLLOWS, ON FRIDAY, 27TH MAY  
2 2022:

3  
4 CHAIRMAN: Now, Mr. Harty, whenever you're ready.

5 MR. HARTY: Thank you, Chairman. 11:01

6  
7 MR. PAUL BARRY CONTINUED TO BE CROSS-EXAMINED BY  
8 MR. HARTY, AS FOLLOWS:

9  
10 Q. Good morning, Mr. Barry. 11:01

11 A. Good morning, Mr. Harty.

12 1 Q. We have two small issues, you don't agree that they are  
13 small. 5C, the question of whether my client targeted  
14 you by requiring you to apply to Inspector O'Sullivan  
15 or Superintendent Comyns for certification of 11:02  
16 Haddington Road hours. Do you still believe that that  
17 is the case?

18 A. Yes, I do.

19 2 Q. You've read the statement of retired Sergeant Aidan  
20 Dunne, I take it? 11:02

21 A. That's correct.

22 3 Q. And that's at page 1881.

23 REGISTRAR: Sorry, 1884?

24 4 Q. MR. HARTY: 1881, thank you, Mr. Murphy. If we read  
25 that statement. 11:03

26  
27 "I am a retired member of An Garda Síochána since 1st  
28 October 2020. I previously held the rank of sergeant  
29 and was employed at Mitchelstown Garda Station from mid

1 2007 until my retirement. In relation to the issue  
2 raised by retired Sergeant Paul Barry regarding the  
3 Haddington Road duty, I can confirm that at one time I  
4 did sign and approve all such applications made by  
5 retired Sergeant Barry as well as for the other 11:03  
6 sergeant attached to Mitchelstown Garda Station,  
7 Sergeant Gerry Quinn. However, this practice changed  
8 under Superintendent Michael Comyns, in which he  
9 directed that all such applications should be forwarded  
10 to him for sanction or the district inspector, Anthony 11:03  
11 O'Sullivan. "

12  
13 He then goes on, in fairness to you:

14  
15 "I cannot recall if initially this applied to retired 11:03  
16 Sergeant Barry only but I can only that before he moved  
17 from the Fermoy district, all such applications did  
18 have to be forwarded to Superintendent Comyns. "

19  
20 So, are you saying that that is not correct? 11:03

21 A. I am not saying that is not correct because he did  
22 state that he used to sign my applications, he used to  
23 approve them.

24 5 Q. And then?

25 A. And then he received a direction that my application 11:04  
26 could no longer be approved by him.

27 6 Q. I see.

28 A. It would have to be by Superintendent Comyns or  
29 Inspector O'Sullivan.

1 7 Q. And the same was done to Sergeant Gerry Quinn?  
2 A. No, I don't recall Sergeant Quinn telling me that he  
3 got correspondence.  
4 8 Q. I am asking you was Sergeant Gerry Quinn authorised --  
5 was his Haddington Road time, duty, authorised by Aidan 11:04  
6 Dunne after the directive from my client?  
7 A. Not as far as the information I have, but that would be  
8 a question best put to Sergeant Quinn.  
9 9 Q. Right. So Sergeant Dunne is incorrect when he says  
10 that Sergeant Quinn's Haddington Road duty had to be 11:04  
11 authorised for sanction to the district inspector or  
12 Superintendent Comyns?  
13 A. All Haddington Road duty was forwarded for sanction,  
14 for approval, it was done by the sergeant in charge.  
15 That approval was taken away from Sergeant Dunne in 11:05  
16 relation to me.  
17 10 Q. Right. And you know that my client says that that was  
18 the ordinary practice and that it shouldn't have been  
19 done by the sergeant in charge but should have been  
20 done by the district inspector or the superintendent? 11:05  
21 A. The Haddington Road duty was approved by the sergeant  
22 in charge and it continued as far as I was aware for  
23 other members but not for me.  
24 11 Q. I see.  
25 A. Before I could have my Haddington Road approved, it 11:05  
26 would be submitted to Inspector O'Sullivan or  
27 Superintendent Comyns and then it would be resubmitted  
28 for sanction.  
29 12 Q. So if Sergeant Aidan Dunne says that he didn't sanction

1 Sergeant Gerry Quinn's Haddington Road time and that he  
2 also forwarded that to the district inspector or the  
3 superintendent?

4 A. If you bring up a Haddington Road form, there's one on  
5 page 5520. 11:06

6 13 Q. No, we will come to that, I am asking you, if Sergeant  
7 Aidan Dunne says that he was directed not to sanction  
8 Sergeant Gerry Quinn's Haddington Road hours, will you  
9 accept that?

10 A. If that's what Sergeant Quinn says, but I did not see 11:06  
11 any paperwork directed to Sergeant Quinn from  
12 Superintendent Comyns in relation to that. He may have  
13 had a verbal direction from Sergeant Quinn but I  
14 received it in writing.

15 14 Q. Why would you have received Sergeant Gerry Quinn's 11:07  
16 communications?

17 A. I'm saying Sergeant Quinn didn't get a communication in  
18 writing from Superintendent Comyns as I did.

19 15 Q. Well, I think Sergeant Quinn was in a position to  
20 answer phone calls from Superintendent Comyns, isn't 11:07  
21 that correct?

22 A. I have no knowledge of that.

23 16 Q. Are you saying that Sergeant Quinn wouldn't answer  
24 Superintendent Comyns' phone calls either?

25 A. I said I have no knowledge of that. 11:07

26 17 Q. Are you seriously saying, Mr. Barry, that Sergeant  
27 Quinn also refused to take phone calls from  
28 Superintendent Comyns?

29 A. I said I have no knowledge of the communications

1 between Superintendent Comyns and Sergeant Quinn.

2 18 Q. At any stage, between 2013 and 2015, did Sergeant Quinn  
3 mention a phone call or a meeting with Superintendent  
4 Comyns?

5 A. No, he did not. 11:07

6 19 Q. Never?

7 A. Not to my knowledge.

8 20 Q. Ever?

9 A. In relation to Haddington Road?

10 21 Q. No. I'm talking about phone calls? 11:07

11 A. Anyone?

12 22 Q. Yes.

13 A. I cannot recall every conversation I have had with  
14 Sergeant Quinn.

15 23 Q. So you are saying to this Tribunal that the district 11:08  
16 officer didn't communicate directly with you or with  
17 Sergeant Gerry Quinn for two years?

18 A. I cannot comment on communications between  
19 Superintendent Comyns and Sergeant Gerry Quinn. That  
20 is a question best put to Sergeant Gerry Quinn. 11:08

21 24 Q. I am asking you, are you expecting this Tribunal so  
22 believe that Sergeant Gerry Quinn also did not engage  
23 in direct communication by way of phone call or meeting  
24 with my client?

25 A. I am asking the Tribunal to believe that I had no 11:08  
26 knowledge of Sergeant Quinn's communication with  
27 Superintendent Comyns.

28 25 Q. You worked on a daily basis with Sergeant Quinn for two  
29 years?

1 A. We're opposite units, sorry.

2 26 Q. You would encounter him on a daily basis?

3 A. Encounter, yes.

4 27 Q. And are you telling me that never once during those two  
5 years did he mention a meeting or a phone call he had 11:09  
6 with the super?

7 A. No, he didn't.

8 28 Q. He didn't?

9 A. Not in relation to Haddington Road.

10 29 Q. I am not talking about Haddington Road. 11:09

11 A. But I am.

12 30 Q. No, no, I am the one asking the questions and I would  
13 like you to answer the questions that I am asking, not  
14 the ones you'd like to answer, please.

15 A. I have no knowledge of other communications between 11:09  
16 Superintendent Comyns via phone call to Sergeant Gerry  
17 Quinn, that is not my business.

18 31 Q. And you are seriously saying to this Tribunal that you  
19 have no reason to believe it took place?

20 A. I have no knowledge of phone calls from Sergeant Quinn 11:09  
21 to Superintendent Comyns or vice versa.

22 32 Q. What was going on in Mitchelstown? Seriously, where  
23 apparently unit sergeants, none of them, are in contact  
24 with the district officer?

25 A. You're asking me about other sergeants' communications. 11:09

26 33 Q. You have just suggested to me that you have no reason  
27 to believe that Sergeant Quinn spoke on the phone or  
28 had meetings with my client?

29 A. Negative. I said I have no knowledge of any

1           communications between Sergeant Quinn and  
2           Superintendent Comyns. They are between those two  
3           persons.

4    34   Q.    I am asking you did it occur?  
5           A.    I cannot say. 11:10

6    35   Q.    would you like to answer that again? I am giving you  
7           the opportunity, Sergeant Barry, to give your honest  
8           answer to it. In relation to that, I am asking you a  
9           simple question: Are you saying that there was no  
10          communication by phone or meeting between my client and 11:10  
11         Sergeant Gerry Quinn?

12          A.    And I will answer you in simple terms: I have no  
13          knowledge of communications between Superintendent  
14          Comyns via phone call and Sergeant Gerry Quinn.

15    36   Q.    You understand you are not actually answering my 11:10  
16          question?

17          A.    well I believe I am.

18    37   Q.    No, you're not. I will put it in another way: To your  
19          knowledge did Sergeant Quinn attend PAF meetings with  
20          my client? 11:11

21          A.    I believe he did.

22    38   Q.    Thank you. To your knowledge did Sergeant Gerry Quinn  
23          ever receive a phone call from my client?

24          A.    I presume he would have, but I wouldn't be party to it.

25    39   Q.    That is the answer to the question I have been asking 11:11  
26          you for the last five minutes?

27          A.    No, sorry, you were asking me if I had knowledge of  
28          those calls.

29    40   Q.    No.

1 A. That's what I got from it.

2 41 Q. Right. Thank you, Sergeant Barry, or Mr. Barry.

3 A. Thank you.

4 42 Q. Well I have to put it to you that it is a remarkable  
5 thing, that to penalise you for making a protected 11:11  
6 disclosure it's your case that the entire system was  
7 changed in relation to Haddington Road hours?

8 A. That's incorrect, I said it was changed in relation to  
9 me.

10 43 Q. And in relation to other people, if it was changed? 11:11

11 A. Not to my knowledge.

12 44 Q. Not to your knowledge. Do you think maybe that before  
13 you make these allegations you should check the facts?

14 A. I did. I asked Sergeant Quinn did he get the same  
15 communication in writing that I got. 11:12

16 45 Q. That's not the question?

17 A. And he did not.

18 46 Q. That's not the question you should have asked him. Did  
19 you ask him ever whether or not he had to get sanction  
20 from the superintendent or the inspector? 11:12

21 A. He told me his approval was still being granted by  
22 Sergeant Dunne. The sanction was always done by the  
23 district officer or the inspector acting for same.

24 47 Q. In relation to the change of unit, we touched on this  
25 yesterday, and in relation to that issue, you had a 11:12  
26 serious difficulty in managing a member of your unit,  
27 isn't that correct?

28 A. That's correct.

29 48 Q. And she had also expressed difficulties in working with

1           you, isn't that correct?

2           A.    Not to my knowledge, until discovery.

3    49   Q.    Okay.  what is the best way to resolve that situation?

4           A.    Superintendent Comyns himself says he was informed by  
5           Sergeant Dunne that there was difficulty between me and 11:13  
6           that member, but he says he did not discuss it with  
7           Sergeant Dunne.  Now, as a front line manager, I  
8           believe he should have discussed it with Sergeant  
9           Dunne.

10   50   Q.    He did discuss it with Sergeant Dunne.  He said to 11:13  
11           Sergeant Dunne, and that's his evidence and will be his  
12           evidence, that talk to them and one of them needs to  
13           move but I am not going to say who?

14           A.    In his statement he says that when he was told there  
15           was a difficulty between me and that member, he did not 11:13  
16           enquire from Sergeant Dunne as to what the difficulty  
17           was.

18   51   Q.    Oh I see.  And what would have happened if he had  
19           enquired as to the difficulty?

20           A.    He may have been aware of the problem then. 11:13

21   52   Q.    And what would have happened then?

22           A.    That would be a matter for the district officer.

23   53   Q.    And would he have started an investigation into it?

24           A.    I cannot say what action he would have taken.

25   54   Q.    Well, if there was a difficulty and he carried out an 11:13  
26           investigation -- could he have carried out an  
27           investigation into interaction with a member on your  
28           unit?

29           A.    That, I can't say.

1 55 Q. would you have answered the phone call in relation to  
2 it?  
3 A. No, I would not have.

4 56 Q. No. So how could he enquire of you as to what the  
5 difficulty was? 11:14  
6 A. I had explained the difficulty to Sergeant Aidan Dunne  
7 and he could relay that in turn to the superintendent,  
8 had the superintendent enquired from Sergeant Dunne.

9 57 Q. Clearly on the basis of what Sergeant Dunne said, the  
10 superintendent said, sort it out, one of them needs to 11:14  
11 of move, I'll leave it up to you to work it out, isn't  
12 that right?

13 A. The instruction I got from Sergeant Dunne was that  
14 either I move to another unit or the whole unit -- both  
15 units would have to move, all the members on the units 11:14  
16 would have to move.

17 58 Q. So was that Sergeant Dunne who was penalising you then?  
18 A. Negative. Sergeant Dunne was instructed by  
19 Superintendent Comyns to relay that to me, that  
20 proposal. 11:15

21 59 Q. Right. I put to you that that is not the case. What  
22 was the problem with being stationed in Fermoy?  
23 A. It would have been placing me in contact with  
24 Superintendent Comyns.

25 60 Q. I am not talking about when Superintendent Comyns was 11:15  
26 there, I am talking about 2004?

27 A. The problem with being stationed in Fermoy was as I set  
28 out, the then sergeant in charge of Mitchelstown asked  
29 me not to go to Fermoy and I then submitted a list of

1 my relations, which would have been contrary to the  
2 code in either case.

3 61 Q. And you were of the view that you had succeeded in  
4 stopping an attempt to have you transferred and it was  
5 a nefarious plan to have you transferred, isn't that 11:16  
6 correct?

7 A. I didn't say it was a plan.

8 62 Q. A nefarious motive?

9 A. The motive, yes.

10 63 Q. Okay. Can we work out what the word motive means? 11:16  
11 A. Because it was contrary to the code regulations, I  
12 believed there must have been a motive behind it,  
13 because it would have been in breach of the code.

14 64 Q. And what would have been so wrong with it?

15 A. The Commissioner or whoever compiles the code does not 11:16  
16 believe that having members working in close proximity  
17 to their relations would be a good practice.

18 65 Q. And you objected to Fermoy and to the idea of closer  
19 supervision, isn't that right?

20 A. In 2004? 11:16

21 66 Q. No, in 2012?

22 A. No, I objected to going to Fermoy in 2012 to be under  
23 the superintendent, in contradiction to my doctor's  
24 certificate.

25 67 Q. Well that was 2013? 11:17  
26 A. I got the cert in 2013, yes.

27 68 Q. Yes. So you can't contradict a doctor's certificate  
28 where the doctor hadn't even thought of it in 2012,  
29 because you became aware in April in 2012 that plans

1           were afoot or moves were afoot to move a sergeant to  
2           Fermoy, isn't that right?

3           A.    In April 2012?

4   69    Q.    Yes.

5           A.    There may have been. I wasn't notified. 11:17

6   70    Q.    When did you become notified of it?

7           A.    The first application to transfer me to Fermoy was in  
8           2013.

9   71    Q.    When did you become aware of the plan to transfer a  
10           sergeant to Fermoy? 11:18

11          A.    I did not have any knowledge of the plan to transfer a  
12           sergeant in 2012, prior to when I made my complaint.

13   72    Q.    Okay. So when Dr. Kiely notes that in her records,  
14           she's just making it up?

15          A.    You refer to a plan, I said I did not refer to a plan. 11:18

16   73    Q.    Okay, Mr. Barry --

17          A.    There may have been talk of moving a member to Fermoy,  
18           but there was no plan.

19   74    Q.    Really. No plan? Because what you told your doctor  
20           was that's precisely what's going on? 11:18

21          A.    I did not mention a plan to my doctor.

22   75    Q.    Really. So when somebody is picking on little things  
23           in order to facilitate the move, that's not a plan?

24          A.    No, I believe that was a motive.

25   76    Q.    A motive? 11:18

26          A.    Yes, a motive to create a reason to transfer me.

27   77    Q.    And that was your principal concern, wasn't it? The  
28           first thing that you said to your doctor, isn't that  
29           right?

1 A. That there was a new superintendent in the district,  
2 yes.

3 78 Q. Well, in fact, he wasn't new, he was there almost two  
4 years at that stage I think?

5 A. Yes. 11:19

6 79 Q. And that superintendent was picking on little things  
7 because he wants one of the sergeants to move to  
8 Fermoy?

9 A. I believe it was me he was picking on. I don't know  
10 about the other sergeant. 11:19

11 80 Q. And the other sergeant, this was particularly unfair  
12 because the other sergeant was newer to the station,  
13 isn't that right?

14 A. Yes.

15 81 Q. When did you form the view that this is what was going 11:19  
16 on?

17 A. Over the course of the bullying actions I set out.

18 82 Q. No, I need you to be a bit more accurate, and if we go  
19 need to go through each of the bullying actions, we  
20 can. But I am asking you when in 2012 you formed the 11:19  
21 conclusion that this is what was afoot?

22 A. I did not form a conclusion, I just merely pointed out  
23 that the fact that I was being targeted by the  
24 superintendent could have been a reason to have me  
25 transferred to Fermoy. That was my belief behind it. 11:20

26 83 Q. Well that is not what you told your doctor on the 10th  
27 August. So I want to know, it was obviously before the  
28 10th August?

29 A. That's correct.

1 84 Q. When before 10th August 2012 did you form the  
2 conclusion that you were having actions on your part  
3 picked on so as to move you to Fermoy?  
4 A. I probably formulated that view after the final  
5 bullying action referred to. 11:20  
6 85 Q. Oh so you formulated that view when you received the  
7 Reg 10 notice?  
8 A. No, sorry, the 128, I'm talking about, bullying.  
9 86 Q. The 128?  
10 A. Yes. 11:21  
11 87 Q. Well the first of those was in 2010?  
12 A. That's correct.  
13 88 Q. So did you form that view in 2010?  
14 A. No, I said I formed it, probably formed it at the end  
15 when number 8 was finalised. 11:21  
16 89 Q. When number 8 was finalised. But in time the last one  
17 was the Reg 10?  
18 A. No, sorry, the Reg 10 was included in complaint number  
19 9.  
20 90 Q. The Reg 10 was the last one, isn't that right? 11:21  
21 A. In complaint number 9.  
22 91 Q. So are you saying that on the 2nd August you decided  
23 that this man is definitely going to get me moved?  
24 A. Negative. When Superintendent Comyns served me with  
25 the Reg 10, he said, I'll be watching you. So I 11:21  
26 assumed from that, he would want me in Fermoy under  
27 closer supervision.  
28 92 Q. And is that when the penny dropped?  
29 A. That was when the penny dropped confirmation wise, yes.

1 93 Q. That he was going to transfer you to Fermoy?  
2 A. That he was going to be watching me, yes.

3 94 Q. And that he was going to do that by transferring you to  
4 Fermoy?  
5 A. That would have suited him better because I would be 11:22  
6 under his immediate control.

7 95 Q. So when you left that day, you left with the firm view  
8 that you were about to be transferred to Fermoy?  
9 A. I was left under the firm view that this person was  
10 going to target me. He had said he was going to be 11:22  
11 watching me, so I believed from then on I was a target  
12 of his.

13 96 Q. Well, you said that he was going to move you to Fermoy  
14 so he could be watching you?  
15 A. I didn't say he was going to move me to Fermoy, I said 11:22  
16 that was probably his motive in saying that.

17 97 Q. Right. And you left that day with the view that this  
18 was likely because it's the first thing that you said  
19 to your GP?  
20 A. Yes, from what he said when he served me with the Reg 11:23  
21 10, that he would be watching me.

22 98 Q. Firstly, isn't it his job to watch you?  
23 A. Pardon?

24 99 Q. Isn't it his job to watch you?  
25 A. It's his job to supervise me, yes. 11:23

26 100 Q. Yes.  
27 A. Not to single me out for special attention.

28 101 Q. Not to single you out for special attention, or not to  
29 single you out to transfer you. What do you say to

1           that?

2           A.    Sorry, could you repeat that?

3 102    Q.    Is it not his job to single you out to transfer you?

4           A.    Well he did that.

5 103    Q.    He did that? 11:23

6           A.    Yeah, he did that in 2014.

7 104    Q.    Right. why did he try to transfer you in 2014?

8           A.    You'll have to ask him that. He wanted a transfer, he

9           applied for an exemption under the code to have me

10          transferred into Fermoy. 11:24

11 105    Q.    And by that stage you were a unit sergeant who was

12          refusing to engage at all?

13          A.    Negative. I was engaging via correspondence, as you

14          have seen.

15 106    Q.    You wouldn't take a phone call from your district 11:24

16          officer?

17          A.    Not to my private phone, no.

18 107    Q.    Would you take one to your work phone?

19          A.    No, I didn't have a work phone.

20 108    Q.    Well then there's no need to make the distinction. You 11:24

21          wouldn't take a phone call from him, isn't that

22          correct?

23          A.    No, I wouldn't.

24 109    Q.    Can you understand how chaotic that is?

25          A.    That situation was not created by me, that was created 11:24

26          by your client.

27 110    Q.    Was it created by my client when he decided he wanted

28          to move a sergeant to Fermoy?

29          A.    No, when he directed me to cover up the sexual abuse of

1 a child.

2 111 Q. Right, see, the point about it is that on the 10th  
3 August with your GP and on the 2nd August when you were  
4 served the Reg 10, it had nothing to do with the  
5 cover-up, it had everything - and if you wait for the 11:25  
6 question - it had everything to do with the fact that  
7 you thought when he said he's be watching you, that he  
8 was going to transfer you in to Fermoy?

9 A. The Reg 10 was in one hand, the file in relation to the  
10 sexual abuse of a child was in the other, it was 11:25  
11 clearly pointed to me.

12 112 Q. But yet you were left with a view that you were going  
13 to be transferred to Fermoy?

14 A. Yes, because he said he would be watching me.

15 113 Q. And that, I have to put it to you, is where all of this 11:25  
16 actually started?

17 A. And combined with his previous bullying attempts.

18 114 Q. Which were also about attempting to move you to Fermoy?

19 A. None of them, I don't believe any of them were about --  
20 the bullying complaints were individual complaints 11:25  
21 relating to different matters, not transfers.

22 115 Q. Was it the same sergeant in Fermoy in 2011, 2012 or was  
23 the sergeant still there who had asked you in 2004 not  
24 to move?

25 A. Sergeant Tony O'Sullivan was in Mitchelstown from 1999 11:26  
26 until 2007, when he got promoted.

27 116 Q. I see. So, in fact, if you had moved to Fermoy you  
28 would have been working closer with Inspector  
29 O'Sullivan, the man you didn't want to leave in

1 Mitchelstown?

2 A. Inspector O'Sullivan's office was in Mitchelstown.

3 117 Q. Right.

4 A. He was promoted inspector and returned to Mitchelstown

5 in charge of the courts. 11:26

6 118 Q. And did he approach you and say that he didn't want you

7 to move again in 2012?

8 A. No.

9 119 Q. No. So what was the reason you didn't want to move in

10 2012? 11:26

11 A. Because, as I indicated already, Inspector O'Sullivan

12 asked me to appeal it, or fight it, because I was doing

13 all the Pulse computer work at the time.

14 120 Q. That was 2004, I am asking about 2012?

15 A. Sorry, in 2012, Inspector O'Sullivan did not ask me not 11:27

16 to move.

17 121 Q. So what was the reason that you were resistant to

18 moving in 2012?

19 A. Because it would have put me in closer contact with

20 Superintendent Comyns. 11:27

21 122 Q. But there was no issue between yourself and

22 Superintendent Comyns?

23 A. There was no transfer attempt in 2012.

24 123 Q. Why did you tell your GP that there was?

25 A. I didn't. I said I believed that was the motive 11:27

26 behind --

27 124 Q. Why were you so resistant to the move, to the idea of a

28 move to Fermoy in 2012?

29 A. Before the complaint or after the complaint? Before

1 August or after?

2 125 Q. Before August. Well, let's put it at August. Let's  
3 say the 2nd August, the moment the penny dropped that  
4 the Reg 10's purpose was to ensure that he could then  
5 move you into Fermoy? 11:27

6 A. That was my reason, I did not want to be under closer  
7 scrutiny by that person.

8 126 Q. Before that would you have happily gone?

9 A. No, I would not.

10 127 Q. Why would you not? 11:28

11 A. Because it would have been against the code  
12 regulations.

13 128 Q. Had you checked that?

14 A. I didn't have to, I knew it from 2004.

15 129 Q. Would you have gone if it was in the interests of the 11:28  
16 proper organisation of the district?

17 A. I would not have gone in breach of the code, no.

18 130 Q. And when you were, in the years after this, talking to  
19 your doctors, why did you never really explain to them  
20 the fact that you have always resisted and had an issue 11:28  
21 with the idea of being moved to Fermoy?

22 A. I was always under the code regulations in relation to  
23 a move to Fermoy. That was not my fault.

24 131 Q. And are you saying to this Tribunal, and you need to be  
25 very careful now, are you saying to this Tribunal that 11:28  
26 it wasn't a matter of your own wishes but solely the  
27 code?

28 A. I was happy working in Mitchelstown, I did not wish to  
29 work in Fermoy and the code prohibited me from doing

1 same.

2 132 Q. And what was wrong with working in Fermoy?

3 A. It would have been in breach of the code.

4 133 Q. I am talking about your wishes?

5 A. My wishes? 11:29

6 134 Q. Yes.

7 A. I was happy working in the station to which I first

8 attested to in 2000.

9 135 Q. I think I would like you to tell me precisely who

10 caused a problem for you? I mean, one of the -- Garda 11:29

11 wall, is it?

12 A. Pardon?

13 136 Q. Is it Garda wall who lives in Fermoy?

14 A. Garda wall lives in Fermoy, yes, outside the town.

15 137 Q. Yes, and he's married to a publican in the town, isn't 11:29

16 that right, a daughter of a publican in the town?

17 A. I believe so, yes.

18 138 Q. And he's able to work in Mitchelstown?

19 A. That's Garda wall's --

20 139 Q. Oh, I see. 11:29

21 A. He was moved out of Fermoy because of that marriage.

22 140 Q. Yes, I know that.

23 A. Yes.

24 141 Q. He was moved 15 miles down the road?

25 A. Yes. And he was moved at that time because of the 11:30

26 code, because there could be a compromise.

27 142 Q. But it's not strictly applied, is it?

28 A. Well it should be.

29 143 Q. Oh I see. You weren't going to take it lying down,

1 were you? You weren't going to take it lying down,  
2 were you?

3 A. which? Any bullying attempts?

4 144 Q. Any bullying attempts?

5 A. No, I would not.

11:30

6 145 Q. Any transfer attempts?

7 A. No, I would stand up for myself.

8 146 Q. You wouldn't take it lying down?

9 A. Exactly.

10 147 Q. How far would you be willing to go?

11:30

11 A. As far as I could within the limits of the law.

12 148 Q. Thank you very much.

13 A. Thank you.

14

15 END OF EXAMINATION

11:30

16

17 CHAIRMAN: Now thanks very much, Mr. Harty. Now who is  
18 next.

19 MR. CARROLL: I will go next, Chair.

20 CHAIRMAN: Mr. Carroll, thank you very much. Just tell  
21 us who you are representing Mr. Carroll.

11:30

22 MR. CARROLL: Yes.

23

24 MR. PAUL BARRY WAS THEN CROSS-EXAMINED BY MR. CARROLL  
25 AS FOLLOWS:

26

27 149 Q. MR. CARROLL: Mr. Barry, my name is Paul Carroll and I  
28 am representing retired Superintendent John Quilter,  
29 and I just have a few questions. Can you hear me okay?

1 A. I can.

2 150 Q. I can move a little to the side?

3 CHAIRMAN: would you press the button on your machine

4 so there's a red light, Mr. Carroll?

5 MR. CARROLL: It is pressed and I will move a bit 11:31

6 closer. Just make sure is it picking up? Is that

7 picking up now?

8 CHAIRMAN: I helped by turning off mine. Thank you.

9 151 Q. MR. CARROLL: Mr. Barry, you will be glad to hear I am 11:31

10 not going to be as long as my colleagues have

11 cross-examined you and questioned you, and I am going

12 to focus really on the issues surrounding the

13 allegations in terms of the Fota golf tournament and I

14 just have some questions in relation to that and some

15 documents, I will get up some of the documents to look 11:31

16 at. Is that okay?

17 A. That's fine, thanks.

18 152 Q. In a general sense, Mr. Quilter has made a statement to

19 the Tribunal and I am sure you're aware of that, where

20 he doesn't accept that he was involved in any 11:32

21 conspiracy to target you or to discredit you, and he

22 set out some details in that statement, you understand

23 that?

24 A. Yes.

25 153 Q. And in due course he will be giving evidence before the 11:32

26 Tribunal. Just in relation to some matters, and you

27 touched upon them when Mr. McGuinness was asking you

28 questions at the start, this was obviously a large

29 public event that was happening in June 2014, and a big

1 draw, I suppose, on Garda resources in the district and  
2 outside the district as well, isn't that right?

3 A. That'd be correct.

4 154 Q. And I think it will be clear from some of the papers we  
5 have in relation to it, the background papers, the 11:32  
6 operational orders, rosters, rotas, e-mails and so  
7 forth, that there was a lot of build up in terms of  
8 organisation into the matter, isn't that right?

9 A. Absolutely, yes.

10 155 Q. And I think in relation to that, the decision was made 11:33  
11 on an operational basis to set out the rosters in a  
12 particular way, isn't that right?

13 A. That's correct.

14 156 Q. And I think, obviously I'm not going to go through this  
15 again, Mr. Murphy dealt with it adequately when he was 11:33  
16 talking about the time, there was a lot of constraints  
17 in terms of budgetary constraints and finance  
18 constraints, there was working time agreement as well  
19 in relation to matters and there was, I suppose, to put  
20 it in a sentence, there was a squeeze on overtime, 11:33  
21 there was an attempt by the Gardaí to cut the budget  
22 and try and avoid overtime I suppose, is that correct?

23 A. That would be correct, yes.

24 157 Q. And I think in relation to the matters, maybe if we  
25 could look at 4588, for example. Page 4588, please. 11:34  
26 Now, I think some of the build up to it, was - if we  
27 can just go down a bit on that page. I think some of  
28 the build up to the organisation of the event,  
29 effectively, as I understand it, that it was decided

1           that unit B would work their ordinary duty in the  
2           mornings, daytime, at the golf tournament, is that  
3           right?

4           A.    That's correct.

5   158   Q.    And I think the papers, without just going through of   11:34  
6           them, I think the papers show that unit B across the  
7           division was assigned to that and that was the unit you  
8           happened to be in, is that correct?

9           A.    Yes, there were two sergeants off unit B in the Fermoy  
10          direct, which would be my district, were allocated but   11:35  
11          there were no units from unit B in Mallow allocated.

12   159   Q.    I think the issue, there was a couple of issues, I  
13          think one of them was, and Mr. Quilter will say that it  
14          was a Middleton event and you would start using up your  
15          own people first, then you'd going to adjoining   11:35  
16          districts and, if necessary, adjoining divisions. And  
17          he will say that that's the process that went on at  
18          that time. And that would seem to be borne out by the  
19          documentation and all the rosters and e-mails and so  
20          forth dealing with it, would that be correct?   11:35

21          A.    That would be correct.

22   160   Q.    And in that sense there was no suggestion or there was  
23          no picking out individual guards at this point to do  
24          particular duties, it was done on the basis, well, we  
25          will get unit B to do this slot, then we'll move on,   11:36  
26          the resting guards would try and get in at some point,  
27          there'll be some degree of overtime but we'll try and  
28          limit the overtime at the event because it's undefined,  
29          it would be an undefined overtime, is my understanding

1 of it, that in other words, the event could go on to  
2 whatever time, it could go late, it could be weather  
3 dependent and so forth, and there wouldn't be control  
4 on the overtime as such, whereas there would be if  
5 somebody was put in the station on overtime on a 11:36  
6 particular shift. would that make sense?

7 A. It would, but what doesn't make sense is that I was  
8 replaced by a sergeant on overtime in my own district.  
9 So that sergeant could have worked at Fota instead of  
10 putting me in that situation, if you know what I mean. 11:36  
11 There would have been no extra overtime incurred. So  
12 the overtime perspective doesn't come into it in  
13 relation to that. Like, if I was taken from  
14 Mitchelstown and replaced by somebody on overtime, he  
15 could have incurred the same overtime working in Cobh. 11:37

16 161 Q. Yes. But what I am actually asking is, first off, and  
17 we will come to that, and Mr. Quilter can deal with it  
18 in due course, what I am asking you first off is, the  
19 organisation of this event, the assignment of people to  
20 the roster, the assignment of guards, was nothing to do 11:37  
21 with individual guards at the outset, isn't that right?

22 A. That's --

23 162 Q. So your assignment for the Thursday and the Friday,  
24 which were the two days you went, was because you were  
25 on unit B effectively, isn't that right? 11:37

26 A. Yes.

27 163 Q. Okay. And at that point then, that's the situation at  
28 that point, you then say you have a meeting, you said  
29 you met with Superintendent Quilter, as he was at the

1 time, in advance of the event, isn't that right?

2 A. That's right. I went to Midleton and I met with  
3 Superintendent Quilter and Inspector Eoghan Healy in  
4 Superintendent's Quilter's office, I believe.

5 164 Q. Yes. Just in relation to that meeting, that was a 11:38  
6 briefing, part of a briefing for sergeants in events in  
7 advance, isn't that right?

8 A. Yes, on an individual basis I was talking to him, it  
9 wasn't a group briefing.

10 165 Q. No, but I think there was another sergeant present as 11:38  
11 well from -- am I correct in that?

12 A. I don't recall the other sergeant being present.

13 166 Q. He thinks Sergeant Geary may have been present?

14 A. Yeah, I know he worked at the event but I'm not sure  
15 whether he would have been presented when I spoke with 11:38  
16 --

17 167 Q. But Inspector Healy was present?

18 A. That's right.

19 168 Q. And Inspector Healy -- maybe if we go to 4549 I think  
20 is part of the operational order. If we go down, 11:38  
21 scroll down a bit please. And a bit further. And I  
22 think we have there Inspector Healy is mentioned as  
23 being in charged of executing the event management  
24 traffic plan for the relevant period, isn't that right?

25 A. That's correct. 11:39

26 169 Q. Then we go to page 4565, and again we have  
27 Superintendent Comyns was in command and then  
28 underneath Inspector Healy:  
29

1 "Supervise and implement Garda traffic management plan.  
2 Liaise with MIO. Review of operation catering."  
3  
4 Then the other guards are mentioned. So Inspector  
5 Healy had a role. You would have been briefed with 11:39  
6 these, the roster and the operational order, they were  
7 briefed to all the sergeants in advance?  
8 A. That's correct.  
9 170 Q. So you were aware in advance, firstly, that  
10 Superintendent Comyns was taking over the command for 11:39  
11 the weekend or for the tournament, you were aware of  
12 that in advance?  
13 A. Yeah, I had a conversation with Superintendent Quilter  
14 in relation to that.  
15 171 Q. Yes. And you were aware -- and that that was mentioned 11:40  
16 at the -- when you went for the briefing?  
17 A. Yes, I explained my situation.  
18 172 Q. So you had obviously a difficult with Superintendent  
19 Comyns, and you had referenced that to him, but you  
20 didn't go to Middleton Garda station specifically to do 11:40  
21 that, did you?  
22 A. No, I believe I may have been summoned there for a  
23 briefing.  
24 173 Q. Yes.  
25 A. But my -- 11:40  
26 174 Q. It's just the Tribunal may have got the impression from  
27 your evidence, from your statements, that you had this  
28 issue with Superintendent Comyns at the time?  
29 A. Yeah.

1 175 Q. And that you had talked to I think your AGSI  
2 representative, that you went to speak to  
3 Superintendent Quilter specifically about this, had an  
4 appointment, arrangement with him, that's not the case?  
5 A. To my memory it may not have been if there is a 11:41  
6 briefing.  
7 176 Q. It's not the case?  
8 A. No.  
9 177 Q. And what happened was, you were going for the standard  
10 briefing that was being given to all sergeants and I 11:41  
11 think Inspector Healy in his statement doesn't remember  
12 the meeting but he accepts -- he's not doubting it, it  
13 happened, but it was a standard meeting, they were  
14 briefing all the sergeants and then you mentioned this  
15 difficulty and Mr. Quilter accepts that you mentioned 11:41  
16 it?  
17 A. No, sorry, he was briefing all the sergeants.  
18 178 Q. No, no at a separate -- sorry, my fault. At separate  
19 points, different sergeants were being brought in?  
20 A. That's what I believe. 11:41  
21 179 Q. It's Mr. Quilter's understanding that at this  
22 particular briefing there were two sergeants being  
23 brought in and being briefed in advance of the event,  
24 as all other sergeants were being brought in at  
25 different times to be briefed. And in the course of 11:41  
26 that then, at the end of that, rather, you referenced  
27 the issue with Superintendent Comyns and Superintendent  
28 Quilter said, I'll take that on board. That's what he  
29 says happened. I'll take that on board, he was aware

1 of it. You told him and he said, I will take that on  
2 board, isn't that right?

3 A. Yeah, he said that I wouldn't have to come in contact  
4 with the superintendent because of where I was  
5 positioned and that I would have to deal with Inspector 11:42  
6 Healy.

7 180 Q. That you would have to deal with Inspector Healy?

8 A. Yes.

9 181 Q. That's the first time you mentioned -- you have dealt  
10 with this aspect three times now before the Tribunal 11:42  
11 and you have been very quick to say, oh, I could have  
12 come in contact with Superintendent Comyns, I could  
13 have come in contact with him if something happened.  
14 You didn't once mention that the line of command, the  
15 chain of command at the first point would have been 11:42  
16 Inspector Healy, because that's what his role was as  
17 per the documents, isn't that right?

18 A. That is what I was assured at the meeting.

19 182 Q. Yes.

20 A. But what I referred to was what Superintendent Comyns 11:42  
21 had said in his statement, that should something have  
22 happened at my area of responsibility, he would have  
23 had to come into contact with me.

24 183 Q. And you have told the Tribunal, as I say, three times  
25 already about this without making any reference to 11:43  
26 Inspector Healy and the role that he had, in carrying  
27 out, implementing the traffic plan, and you were part  
28 of the traffic plan, being the first above you in  
29 command and I am just pointing it out, I mean go back

1 to the transcript, you didn't mention it once, about  
2 Inspector Healy's role in terms of what was actually  
3 going to happen at Fota?

4 A. At the meeting in Middleton I was assured by  
5 Superintendent Quilter that I would not have to come in 11:43  
6 contact with Superintendent Comyns, that Inspector  
7 Eoghan Healy was in charge of the traffic and that any  
8 problems I had to would be with him. But that is not  
9 what Superintendent Comyns -- they don't seem to have  
10 briefed Superintendent Comyns in relation to that. 11:43

11 184 Q. CHAIRMAN: where did Superintendent Comyns say that,  
12 Mr. Barry?

13 A. It's in his own statement, Mr. Chairman.

14 185 Q. CHAIRMAN: His statement, on what occasion?  
15 MR. CARROLL: It's at page 566. 11:43

16 186 Q. CHAIRMAN: No, sorry. which statement?  
17 A. I'm not sure which statement, but I have seen it in his  
18 statement to the Tribunal.

19 187 Q. CHAIRMAN: But you didn't know that until you saw it?  
20 A. Oh no, I didn't know it until discovery. 11:44

21 188 Q. CHAIRMAN: So this is something that arose after the  
22 Tribunal wrote to everybody?  
23 A. That's correct.

24 189 Q. CHAIRMAN: This was something that occurred to you, in  
25 other words, at a much later stage? 11:44  
26 A. Yes, I didn't know it at the time.

27 190 Q. CHAIRMAN: Okay. But at the time you sailed on  
28 completely comfortably with Inspector Healy?  
29 A. Yes. I believed that if anything happened Inspector

1 Healy would deal with it.

2 191 Q. CHAIRMAN: And the fact that Superintendent Comyns made  
3 this statement to the Tribunal, that is the basis for  
4 you saying that retrospectively you were targeted?

5 A. No, I believe I was targeted by being placed down there 11:44  
6 in the first place, that I should not have been put  
7 down working in the same area as Superintendent Comyns.

8 192 Q. CHAIRMAN: Okay. Sorry, thanks, Mr. Carroll.

9 193 Q. MR. CARROLL: And Superintendent Comyns at all times  
10 was staying at Fota. He was in command, back at the 11:45  
11 Fota location, isn't that right?

12 A. I don't know where he was.

13 194 Q. Right. And this upset you, being on this duty, isn't  
14 that right?

15 A. It upset me coming in contact with Superintendent 11:45  
16 Comyns, had he not been at the event and Superintendent  
17 Quilter was in charge, I would have had no problem  
18 attending the event.

19 195 Q. So it wasn't -- and this contact, you say, was being in  
20 a room as big as this room with over a hundred gardaí, 11:45  
21 that's the contact, is it?

22 A. That was the contact on the day that upset me, yes.

23 196 Q. That upset you. You've provided your diary to the  
24 Tribunal, isn't that right? You've made numerous  
25 references to your diary, haven't you? 11:46

26 A. That's correct.

27 197 Q. Where is that recorded in your diary?

28 A. I did not record that in my diary.

29 198 Q. Not at all, that upsetting event?

1 A. I referenced it in my statement, that I immediately  
2 decided that I would apply for a pre-retirement course.

3 199 Q. Right. So this was the push for your retirement, I'm  
4 going to retire now, I've decided that because of this,  
5 is that what you are saying to the Tribunal? 11:46

6 A. I decided that this would not happen me again if I  
7 could help it, yes.

8 200 Q. And there and then, I think you used the expression in  
9 one of your statements, and off you go to write your  
10 letter for the pre-retirement course, isn't that right? 11:46

11 A. That's correct.

12 201 Q. Could we have that, it's at page 257, please. So this  
13 is the 21st June. So the event had just finished, the  
14 day after I think that is. And there's your letter:  
15 11:47

16 "I wish to apply for inclusion in the next available  
17 pre-retirement course. I have already applied to have  
18 my prison service included for pension purposes."  
19

20 But this event was what got you going, this event, 11:47  
21 there and then, I'm going to retire, I'm going to look  
22 into it. But you had already applied, you had already  
23 looked into the prison service, hadn't you? So it  
24 wasn't this event at all, I suggest to you?

25 A. No, no, this was the trigger. I had prepared my prison 11:47  
26 service in relation to retirement, yes.

27 202 Q. Right. So you already had it in mind, you were already  
28 looking at retirement, you're already in touch with the  
29 prison service, it was nothing to do with this event,

1 the way you have portrayed it, that this was some  
2 trigger event, isn't that right?

3 A. It was what triggered me, and you can see there I  
4 immediately applied following the event. I would have  
5 had my prison service long before this. 11:48

6 203 Q. So you had already sussed out your retirement and  
7 whether your service in the prison would be included  
8 long before Fota?

9 A. Initially when I met my solicitor he asked me what  
10 service is I had left, when I could go, and that is 11:48  
11 what triggered me to enquire as to having my prison  
12 service --

13 204 Q. Long before Fota you had already looked into your  
14 prison situation and the prison service, isn't that  
15 right? 11:48

16 A. I had calculated when I could go, yes.

17 205 Q. So long before -- I will ask it again: Long before  
18 Fota and this event you had looked into whether your  
19 prison service would be included in your retirement and  
20 you looked into that. It's a yes or no. 11:48

21 A. It's true, yes, I did.

22 206 Q. Okay. You then -- sorry, I will just get the dates to  
23 be accurate about it. Bear with me. Bear with me one  
24 second. I think you'd -- yes, sorry, I have them. I  
25 think the 19th June then you were on duty at Fota, that 11:49  
26 was a Thursday, isn't that right?

27 A. That's correct.

28 207 Q. And then the 20th June you were on duty, which was the  
29 Friday, isn't that right?

1 A. Yes, I did two days there.

2 208 Q. And then, just bear with me, so that was the Friday.  
3 You seem to have written this letter then on the 21st  
4 June, which was the Saturday, isn't that right?

5 A. That's going by the date, yes. 11:49

6 209 Q. And then Monday was the 23rd June, is that right?

7 A. That's correct.

8 210 Q. And that's when you went to see Dr. Dennehy, didn't  
9 you, on the Monday?

10 A. I don't recall. If it's in his notes, that date. 11:50

11 211 Q. You've already been asked questions by both Mr. Murphy  
12 and Mr. Harty about this report?

13 A. That was for the 15th June, I believe.

14 212 Q. You have already been asked questions about it, you  
15 mightn't have been asked specifically about this date. 11:50  
16 But the 23rd June, the Monday, you went to see  
17 Dr. Dennehy, didn't you, your psychiatrist?

18 A. If you could bring that up --

19 213 Q. We'll get to the page number now, I am just asking you  
20 first, yes? 11:50

21 A. I don't recall that I attended him on the 23rd.

22 214 Q. The Monday?

23 CHAIRMAN: Hold on, everybody, Mr. Carroll, let's get  
24 the document.

25 MR. CARROLL: It's page 51 -- 11:50

26 CHAIRMAN: Mr. Barry is not sure that he went on that  
27 particular date and we better find out what actually is  
28 the situation as to Dr. Dennehy.

29 MR. CARROLL: Yes. 5125.

1 CHAIRMAN: Thanks very much.

2 215 Q. MR. CARROLL: If we could just scroll down a little bit  
3 please. Just stop there please for a moment.  
4

5 "I last reviewed him on the 23rd June." 11:51  
6

7 That's following the entry about February 2014. Right?  
8 And you were questioned about this, because Mr. Harty  
9 questioned you about it because you told him you were  
10 upset about your transfer appeal 11:51

11 A. Yes.

12 216 Q. Yes?

13 A. Yes.

14 217 Q. Now you remember it. And so you were upset about your  
15 transfer appeal. You talk about the labour relations 11:51  
16 Commission, you talk about meeting a victim of the  
17 incident in 2012, you talk about being upset, about  
18 that, you talk about being upset about your transfer  
19 appeal. What you don't talk about is being upset over  
20 anything that happened a couple of days earlier in 11:51  
21 Fota, isn't that right?

22 A. It appears so, yes.

23 218 Q. So this awful event that happened, not mentioned  
24 whatsoever when you go to your psychiatrist a couple of  
25 days later, is that right? 11:52

26 A. That appears correct.

27 CHAIRMAN: Could you scroll down so we can see the rest  
28 of that.

29 219 Q. MR. CARROLL: We will go to the end of that paragraph

1 if you wish. You mention other things that are  
2 recorded. They're in the notes, we have the notes of  
3 Dr. Dennehy as well, and that he records these things  
4 that you are telling him about transfer appeal and so  
5 forth. He actually says: 11:52  
6  
7 "He admitted that his mood had dipped when the transfer  
8 issue had come out but had improved again. I felt at  
9 the time that he was mentally improved and probably the  
10 best I had seen him since he first attended." 11:52  
11  
12 And this is days after this awful event at Fota, when  
13 you are seeing your psychiatrist that you have been  
14 under for a while, isn't that right?  
15 A. My situation was mentally improved because I knew that 11:52  
16 I had submitted my application to retire.  
17 220 Q. CHAIRMAN: Did you tell him that?  
18 A. I don't recall whether I did or not. I may have.  
19 221 Q. CHAIRMAN: I'm a little puzzled as to why you wouldn't,  
20 because you'd say, well, it's all going to be over 11:53  
21 soon, because I have applied for retirement, I mean, I  
22 am going to get out of this awful hell hole. It seems  
23 a bit funny?  
24 A. I accept that, Mr. Chairman, yes.  
25 CHAIRMAN: I am just looking at it in context? 11:53  
26 222 Q. MR. CARROLL: And you say to the Tribunal in your own  
27 words that my client deliberately took leave to bring  
28 about this situation?  
29 A. That's what I believe.

1 223 Q. That's what you believed?  
2 A. That's what I believed.  
3 224 Q. That he deliberately went on a holiday that was booked  
4 some time previously, as I understand it, late in the  
5 year previously, and that was all part of a plan and a 11:54  
6 conspiracy with Superintendent Comyns -- Chief  
7 Superintendent Dillane he was in on the conspiracy as  
8 well, wasn't he?  
9 A. That's what I believed at the time, yes.  
10 225 Q. Yes. And the upshot of the conspiracy was you in a 11:54  
11 room bigger than this room with over a hundred gardaí  
12 getting upset but not so upset you'd tell Dr. Dennehy a  
13 couple of days later. That's the upshot, isn't it?  
14 A. I don't recall why I did not mention it, whether I did  
15 or not. 11:54  
16 226 Q. And not put it in your diary?  
17 A. It's not in my diary, no.  
18 MR. CARROLL: Thank you.  
19  
20 END OF EXAMINATION 11:55  
21  
22 CHAIRMAN: Now, are you all right there, you're still  
23 in okay form?  
24 THE WITNESS: Pardon?  
25 CHAIRMAN: Are you still managing, you don't need a 11:55  
26 break or anything like that?  
27 THE WITNESS: Oh no, I'm fine, thank you.  
28  
29

1 MR. PAUL BARRY WAS CROSS-EXAMINED BY MR. MCGARRY, AS  
2 FOLLOWS:

3  
4 227 Q. MR. MCGARRY: Mr. Barry, Paul McGarry is my name and I  
5 am one of the lawyers representing both Inspector 11:55  
6 O'Sullivan and former Assistant Commissioner Fanning.  
7 I just have a number of questions for you arising out  
8 of what's been said already largely AND what's in the  
9 papers. And just in relation to the position of  
10 Inspector O'Sullivan, obviously you don't dispute any 11:55  
11 of the factual circumstances involving Inspector  
12 O'Sullivan and the way in which he was appointed to  
13 investigate your work-related stress and met with you  
14 and so on?

15 A. That's correct. 11:56

16 228 Q. And as I understand it, your problem or one of your  
17 problems with Inspector O'Sullivan relates to this  
18 famous meeting on 30th March 2013, when you say he  
19 inspected you, is that right?

20 A. I believe that was the 6th March. 11:56

21 229 Q. Well, I think you said that you returned to work --

22 A. Sorry, the 6th April.

23 230 Q. No, I am talking about the first of the two issues.  
24 There are two incidents where, as I understand it, you  
25 say you were inspected, the first was where Inspector 11:56  
26 O'Sullivan was there and the second was where Inspector  
27 O'Sullivan and Chief Superintendent Dillane were  
28 involved.

29 A. Yeah, I believe the first inspection by Inspector

1 O'Sullivan was the 6th April.

2 231 Q. You said that that happened in the evening, is that  
3 right?

4 A. At 9pm, when I commenced my tour of duty.

5 232 Q. And that's because that was when you commenced your 11:56  
6 tour of duty, wasn't it?

7 A. 9pm, yes.

8 233 Q. Inspector O'Sullivan says that he bumped into you, but  
9 even if he wanted to talk to you, isn't it reasonable  
10 to assume that if he wanted to do that he would have to 11:57  
11 do it at the commencement of your tour of duty in case  
12 you went into the car and went out or whatever?

13 A. I would have expected him to give me a phone call, I  
14 had known him quite well.

15 234 Q. Yes. 11:57

16 A. I didn't expect him to turn up unannounced in full  
17 uniform.

18 235 Q. Well, of course, you know he says that he wasn't in  
19 full uniform?

20 A. I understand that. 11:57

21 236 Q. And he says that he advised you about the need for a  
22 medical certificate, isn't that right?

23 A. That's correct.

24 237 Q. And you knew that you would need a medical certificate  
25 to go back to work, didn't you? 11:57

26 A. I had looked for one, yes.

27 238 Q. But you didn't have it at that stage, isn't that right?

28 A. No.

29 239 Q. And do I understand correctly your complaint about that

1 to be the fact that you considered it to it be an  
2 inspection?

3 A. That's correct.

4 240 Q. So that was the thing that upset you most about it?

5 A. That's it. 11:58

6 241 Q. Okay. So it wasn't the fact that he asked you or told  
7 you that you need a medical cert, something you knew  
8 anyway, is that right?

9 A. No, that would be acceptable, to ask me for a cert,  
10 yes. 11:58

11 242 Q. So it was the fact of the inspection in your mind that  
12 caused the problem for you?

13 A. That's what I believed, yes.

14 243 Q. And that's a similar complaint that you have in  
15 relation to the subsequent meeting that Chief 11:58  
16 Superintendent Dillane attended, is that right?

17 A. That's correct.

18 244 Q. He arrived unannounced, you said, with Inspector  
19 O'Sullivan at your place of work, was that at the same  
20 time? 11:58

21 A. Yeah, night shift, yes, 9pm.

22 245 Q. And again your complaint is, as I understand it, that  
23 you considered that this was an inspection?

24 A. Yes, I did.

25 246 Q. Some sort of a formal thing that caused you to feel -- 11:58  
26 A. Because they were dressed formally on both occasions,  
27 yes.

28 247 Q. And that was the thing that caused you to feel like you  
29 were asked bullied and harassed?

1 A. Inspected, yes.

2 248 Q. And obviously you know that Inspector O'Sullivan says  
3 that he's almost a hundred percent sure that Chief  
4 Superintendent Dillane was not in full uniform at the  
5 time? 11:59

6 CHAIRMAN: Say that again, Mr. McGarry.

7 249 Q. MR. MCGARRY: Inspector O'Sullivan said that he is  
8 almost a hundred percent sure that Chief Superintendent  
9 Dillane was not in full uniform.

10 A. I accept that that is what he said, yes. 11:59

11 250 Q. No Sam Browne belt, that's what he says?

12 A. He's not a hundred percent sure.

13 251 Q. He says he's almost a hundred percent sure?

14 A. Almost, yeah.

15 CHAIRMAN: He is not a hundred percent sure, that is 11:59  
16 correct.

17 252 Q. MR. MCGARRY: Yes. And you again said that you thought  
18 that was targeting because you considered it to be an  
19 ambush, is that right?

20 A. That's correct. 11:59

21 253 Q. Can I just ask you to look at page 286, please. If you  
22 go back to the request, this is a reply to particulars  
23 that you delivered in the context of your High Court  
24 proceedings. They're ongoing proceedings I think,  
25 aren't they? 12:00

26 A. That's correct.

27 254 Q. If you just go back to page 281, please, Mr. Murphy.  
28 If you just scroll down there, please, Mr. Murphy.  
29 Question 2, you know what this is, don't you?

1 A. I do, yes.

2 255 Q. This is a request for information from you about what  
3 you say your case or your claim is, isn't that right?

4 A. That's correct.

5 256 Q. So just at question 2 there you're asked: 12:00  
6  
7 "Please explain how it is claimed that the plaintiff  
8 complaints of bullying, harassment or intimidation were  
9 not investigated in a thorough and impartial manner."  
10 12:01  
11 And the answer to that is at page 286, the answer to  
12 question 2. And your solicitor summarised the  
13 position, presumably on your instructions, says:  
14  
15 "This is a matter for evidence, but without prejudice 12:01  
16 the following is a non-exhaustive list..."  
17  
18 And there's no reference anywhere in that list  
19 obviously to --  
20 CHAIRMAN: Just scroll down, please, so we can see the 12:01  
21 list.

22 257 Q. MR. MCGARRY: Is there anywhere referred to in that  
23 list of the issue surrounding the visits from Inspector  
24 O'Sullivan on the one hand and Inspector O'Sullivan and  
25 Chief Superintendent Dillane on the other? 12:01

26 A. No, this is in relation to the bullying complaints that  
27 I made.

28 258 Q. Yes, it is?

29 A. I never made a complaint in relation to their visits.

1 259 Q. Okay. Yes. And just go back again to page 181 for me  
2 please. The next question in the request, if you  
3 scroll down to question 3, please:  
4

5 "Please kindly specify whether the plaintiff alleges 12:02  
6 that he continues to be subjected to a relentless  
7 campaign of mean and spiteful behaviour as alleged in  
8 paragraph 11."  
9

10 Do you see that? 12:02

11 A. That's correct.

12 260 Q. This is the only other question that's asked about the  
13 supposed bullying and harassment or what's described in  
14 your own claim I think as the relentless campaign of  
15 mean and spiteful behaviour, do you see that? 12:02

16 A. That's correct, yes.

17 261 Q. If you go forward again to page 289, you will see the  
18 answer. You say:  
19

20 "Yes, since the plaintiff reported unfit for duty the 12:02  
21 following incidents evidences a campaign of bullying,  
22 harassment and penalisation. The following is not an  
23 exhaustive list but a summary of events."  
24

25 And if you scroll down through that list, you will find 12:03  
26 there is I think in (ix) a reference to the inspection  
27 that you say took place, that you now say took place on  
28 the 6th April. In any event, we won't fall out over  
29 the dates. But can you just tell me where in paragraph

1           9 you use the word inspection?

2           A. I did not use it in that.

3 262 Q. Yes. But you've told us already that the thing that  
4 you complain about by reference to that visit was that  
5 it was an inspection, it was a formal inspection by           12:03  
6 you?

7           A. But I did not make a complaint in relation to it at the  
8 time. It was only when I was asked how I was targeted  
9 in relation to this inquiry, that I relayed it.

10 263 Q. I see. So that doesn't form part of your complaint,           12:04  
11 your civil case, that particular element, is that  
12 right?

13           A. That particular element didn't, no.

14 264 Q. It's only since the Tribunal started investigating your  
15 complaint that you threw that into the mix, is that           12:04  
16 right?

17           A. Well, I asked how I felt; I was targeted.

18 265 Q. I suggest to you there is quite a lot of detail in (ix)  
19 about that event and it's part of the answer to the  
20 question about the ongoing campaign of bullying and           12:04  
21 harassment, but there is no reference at all to the  
22 fact that it was an inspection?

23           A. It says "The plaintiff was extremely distressed by  
24 these actions, particularly as his doctor felt..." --

25 266 Q. Yes, the fact that you were told to go and get a cert           12:04  
26 from the doctor?

27           A. And the inspector's questioning of my cert subsequently  
28 with the doctor. It says there at the end that I was  
29 distressed by these actions particularly.

1 267 Q. But no reference to it being an inspection or that you  
2 considered it at the time to be an inspection?  
3 A. Oh I considered it at the time, but I did not make a  
4 complaint about it.

5 268 Q. Insofar as Assistant Commissioner Fanning is concerned, 12:05  
6 is there anything in that document, that Replies to  
7 Particulars, that refers in any way to something done  
8 or not done by the assistant commissioner as equating  
9 to targeting or bullying?

10 A. No. 12:05

11 269 Q. There are references to HRM all right in there, but  
12 only in the context of the movement of papers and  
13 letters in the hierarchical structure that is An Garda  
14 Síochána, isn't that right?

15 A. I accept that. 12:05

16 270 Q. So there is no complaint made in your civil proceedings  
17 about Assistant Commissioner Fanning at all, would that  
18 be a fair summary of it?

19 A. That would be correct.

20 271 Q. Just so that I understand, your complaints about 12:06  
21 Assistant Commissioner Fanning fall into a couple of  
22 categories, is that right? There's the issue that you  
23 have identified about what he said to Chief  
24 Superintendent Dillane, isn't that right?

25 A. Yes. 12:06

26 272 Q. If you go to page 345, this is an extract from the  
27 statement of Chief Superintendent Dillane. He records  
28 at the top of the page, in the first full sentence, a  
29 conversation that he had with Assistant Commissioner

1 Fanning. Do you see that? It says:

2

3 "My recollection of this conversation was that I was  
4 expressing my frustration with the whole HR structures  
5 in An Garda Síochána. Sergeant Barry wasn't complying 12:06  
6 with the instructions. At the end of the conversation  
7 Assistant Commissioner Fanning told me I should  
8 consider disciplining Sergeant Barry."

9

10 Do you see that? 12:07

11 A. Yes.

12 273 Q. Am I correct in thinking that the first time you became  
13 aware of that conversation was when you read this  
14 statement from Chief Superintendent Dillane?

15 A. That's correct. 12:07

16 274 Q. Okay. So you have now added the fact that Assistant  
17 Commissioner Fanning -- well sorry, Chief  
18 Superintendent Dillane tells the Tribunal that  
19 Assistant Commissioner Fanning told him that he should  
20 consider disciplining you, is that right? 12:07

21 A. That's correct.

22 275 Q. And I suggest to you that you have then extrapolated  
23 from that the suggestion that the disciplining would be  
24 something that would take place without an  
25 investigation? 12:07

26 A. Well, to discipline someone, there should be an  
27 investigation before you decide to discipline them.

28 276 Q. Yes, but where is it ever recorded that anybody  
29 suggested that it was to be discipline, there wouldn't

1 be an investigation?

2 A. It's just that he said to discipline him, that's all  
3 I'm referring to.

4 277 Q. Yes, you see, the difficulty with that is, as you know,  
5 all discipline, just leave aside the Reg 10 for the 12:08  
6 moment, all discipline within An Garda Síochána  
7 requires some form of investigation, doesn't it?

8 A. That's correct.

9 278 Q. And for Assistant Commissioner Fanning to suggest  
10 discipline in that way, if that's what he suggested, 12:08  
11 could never have been understood to involve a scenario  
12 without an investigation?

13 A. Well, my understanding is that Chief Superintendent  
14 Dillane enquired from Dr. Collins and Dr. Oghuvbu that  
15 they would back him if he went to discipline me as a 12:08  
16 result of this. So I believe Mr. Fanning should have  
17 been in consultation with those persons before he  
18 decided to instruct someone to discipline me.

19 279 Q. Again I suggest to you that even if the conversation is  
20 accurately recorded by Chief Superintendent Dillane, he 12:09  
21 is nowhere instructing anybody to do anything, isn't  
22 that right? In fact, what he is doing is, he is  
23 suggesting an option.

24 CHAIRMAN: Just let Mr. Barry answer that.

25 MR. MCGARRY: Yes. 12:09

26 280 Q. CHAIRMAN: Mr. Barry, what do you say to that?

27 A. I believe -- sorry, page 1578, the statement of Monica  
28 Carr.

29 CHAIRMAN: Yes.

1 MR. MCGARRY: Yes.

2 A. Just to quote from it:

3

4 "He understands that a case conference is --"

5 12:09

6 CHAIRMAN: where are you?

7 A. Sorry. "Spoke with Commissioner Fanning."

8

9 281 Q. CHAIRMAN: I can't see that. what does the paragraph  
10 say that starts it? 12:10

11 A. I'm not sure where exactly. It's a diary entry for --

12 282 Q. CHAIRMAN: I don't mind what it is, Mr. Barry. If you  
13 refer me to -- I am sorry, you refer us to page 1578,  
14 whereabouts on page 1578 is it?

15 A. Sorry, Mr. Chairman, I gave the wrong page. 12:10

16 283 Q. CHAIRMAN: Don't apologise in the slightest. Do you  
17 think it's a different page?

18 A. It's page 1578 and it refers to 5th April 2013.

19 284 Q. CHAIRMAN: How does the paragraph start?

20 A. I don't have it, I just have the quote from Ms. Carr 12:10  
21 in --

22 MR. COSTELLOE: I wonder is it the fifth paragraph  
23 Chairman, I am not sure but I wonder is Mr. Barry  
24 referring to that.

25 CHAIRMAN: How does it start? 12:10

26 MR. COSTELLOE: "A further e-mail".

27 285 Q. CHAIRMAN: Thanks very much. Now, you see, is that the  
28 one? Are you looking at your own notes or what are you  
29 doing?

1 A. I am looking at a note that I made from this,  
2 Mr. Chairman, from the page.

3 286 Q. CHAIRMAN: Okay. So anyway, here we are, and  
4 Mr. Costelloe says is this the one "A further e-mail"?

5 A. No, what I have -- 12:11

6 287 Q. CHAIRMAN: First of all, tell us what you have. You  
7 think it's Ms. Monica Carr saying something?

8 A. Yes, Mr. Chairman.

9 288 Q. CHAIRMAN: what do you have her recorded as saying, so  
10 at least we will start there? 12:11

11 A. In the statement of Monica Carr on 5th April 2013, and  
12 I quote "He understands that a case conference is  
13 convened for Monday, directing that --"

14

15 Sorry, I have gone ahead of myself. It is in relation 12:11  
16 to 19th March 2014 at 10.30am by Chief Superintendent  
17 Dillane, he states "Spoke with Commissioner Fanning,  
18 discussed the case. I explained developments since I  
19 requested a transfer, he told me to discipline him."

20 12:11

21 CHAIRMAN: what's that again, I didn't hear the last  
22 bit?

23 289 Q. MR. McGARRY: Can I just ask, Mr. Barry, what are you  
24 reading from there, just so we are clear on this?

25 A. I had made a note in relation to the page and 12:12  
26 document --

27 290 Q. CHAIRMAN: You are reading from your note.

28 A. Yes.

29 291 Q. MR. McGARRY: what is it a note of, Mr. Barry?

1 CHAIRMAN: It's a note of -- I take it's a note of this  
2 page, because that's the one you referred us to, 1578,  
3 is that right? Or is it a reference to Chief  
4 Superintendent Dillane's statement?  
5 MR. MCGARRY: Chairman, I just have a concern if 12:12  
6 Mr. Barry is giving evidence by reference to some notes  
7 that he has prepared for the purposes of answering  
8 questions as opposed to have contemporaneous notes  
9 about facts that occurred at the time. I know  
10 Mr. Murphy raised this issue previously but I am just 12:12  
11 not sure what it is Mr. Barry is answering the question  
12 by reference to.  
13 292 Q. CHAIRMAN: Mr. Barry, what are you referring to? You  
14 have your own computer in front of you.  
15 A. Yes, I made a mistake, Mr. Chairman, in relation to 12:12  
16 that.  
17 293 Q. CHAIRMAN: wait now, we will come back to this. We are  
18 on a different tack now just for a moment. What's on  
19 your computer that you're referring to?  
20 A. I was referring to that page 2085, I was incorrectly 12:13  
21 thinking that this was -- would have answered the  
22 question.  
23 294 Q. CHAIRMAN: I am just querying something else, because  
24 Ms. McGarry has raised a question and in fairness,  
25 Mr. Murphy did raise it previously, and I understood a 12:13  
26 different situation. You have your own personal  
27 computer in front of you?  
28 A. Yes, sir.  
29 295 Q. CHAIRMAN: what notes are on your -- what is written on

1 your personal -- tell me the nature of the document  
2 that you're consulting?

3 A. I was --

4 296 Q. CHAIRMAN: No, no, wait now, "I was" is not the answer. 12:14  
5 Sorry "I was" cannot be the answer to my question. I  
6 want to know what is on your computer. Sorry, I'm not  
7 making this difficult, it's simple enough: what's on  
8 your computer?

9 A. It's my short notes made from the document submitted to  
10 the Tribunal. 12:14

11 297 Q. CHAIRMAN: Right. Fine. So when you were studying the  
12 documents submitted to you by the Tribunal, the many  
13 volumes, so I quite understand that, you made notes on  
14 your computer?

15 A. That's correct. 12:14

16 298 Q. CHAIRMAN: Is that right?

17 A. Yes.

18 299 Q. CHAIRMAN: How many pages are there in your notes, just  
19 while we're on the subject?

20 A. There was 18 pages in total. 12:14

21 300 Q. CHAIRMAN: Okay. So you have an 18-page summary to  
22 help you master the documents and what you want to know  
23 and that is what is in front of you now, so that when  
24 Mr. McGarry asks you a question, you are able to say,  
25 look at page 1578 and you will find something from 12:15  
26 Monica Carr, is that right?

27 A. Yes, Mr. Chairman, yes.

28 301 Q. CHAIRMAN: Okay.

29 A. But I have the incorrect page number referenced on my

1 thing, so the wrong page is coming up for me. I made  
2 an error in --

3 302 Q. CHAIRMAN: Nobody is going to -- sorry, you're not  
4 going to be trouble over making a mistake on the page  
5 numbering. Don't be worrying about that. 12:15  
6

7 Okay, if anybody wants to ask you any more about the  
8 nature of your notes, at least we have now clarified  
9 what they are. Okay?

10 A. Yes, Mr. Chairman. 12:15

11 303 Q. CHAIRMAN: Now, the question is: Mr. McGarry is asking  
12 you where do you get the idea -- sorry, where do you  
13 get the evidence or the proposition that Assistant  
14 Commissioner Fanning told, instructed or ordered Chief  
15 Superintendent Dillane to discipline you? where do you 12:16  
16 get that?

17 MR. MCGARRY: without an investigation.

18 CHAIRMAN: No, no, don't mind without an investigation.  
19 Don't mind an investigation. I am sorry, Mr. McGarry,  
20 if you don't mind, Mr. McGarry, do it my way for a 12:16  
21 moment and then I'll back off.

22 MR. MCGARRY: Sorry, Chairman.

23 304 Q. CHAIRMAN: So let's keep it very simple, where is the  
24 instruction that Assistant Commissioner Fanning gave to  
25 Chief Superintendent Dillane to discipline you? 12:16

26 A. I'm sorry, I don't have the correct page, Mr. Chairman,  
27 but I believe it is contained in Ms. Monica Carr's  
28 statement to the Tribunal.

29 305 Q. CHAIRMAN: Okay. Well we can turn up Ms. Monica Carr's

1 statement to the Tribunal and we will see what she says  
2 about it.

3 MR. COSTELLOE: Do you want that page, Chairman?  
4 CHAIRMAN: Yes, please, Mr. Costelloe.

5 MR. COSTELLOE: 1575 is the commencement of Ms. Carr's 12:17  
6 statement.

7 CHAIRMAN: Thank you very much. 1575. That's great.

8 MR. COSTELLOE: That's just where it starts.

9 CHAIRMAN: I know, obviously it goes on for however  
10 long it goes. Thanks very much, you're very good. 12:17  
11 Thank you. So, can you help us about this, Mr. Barry,  
12 or will we just scroll down and read it for ourselves  
13 and see what we see.

14 A. Well, I'm sorry, Mr. Chairman, I can't help you. I  
15 have made an incorrect page reference. 12:17

16 306 Q. CHAIRMAN: That's okay.

17 A. I don't have it.

18 CHAIRMAN: We better scroll down here, thanks very  
19 much.

20 MR. MCGARRY: Chairman, I don't wish to take up an 12:17  
21 undue amount of time dealing with that specific issue,  
22 obviously if Mr. Costelloe wants to identify it and  
23 deal with it in his own examination.

24 CHAIRMAN: Are you happy to leave it there?

25 MR. MCGARRY: Well, I just want to put the position of 12:18  
26 Assistant Commissioner Fanning to Mr. Barry.

27 307 Q. CHAIRMAN: Very good, I completely understand, and  
28 you're perfectly entitled to do that, Mr. McGarry. As  
29 far as I'm concerned, it's a matter, if anybody wants

1 to clear it up, and obviously we're aware of hearsay  
2 and everything else. But at least we can see what  
3 Mr. Barry is referring to. But, Mr. Barry, what  
4 Mr. McGarry is putting to you in the first place, is  
5 that Chief Superintendent Dillane's statement does not 12:18  
6 say that Assistant Commissioner Fanning ordered him to  
7 discipline you.

8 A. Yes, Mr. Chairman, I understand that, but I believe  
9 there was a reference to that particular direction in  
10 Ms. Monica's statement. 12:18

11 308 Q. CHAIRMAN: But Ms. Monica Carr was not the person who  
12 was speaking in the conversation. The two people were  
13 Assistant Commissioner Fanning and Chief Superintendent  
14 Dillane, isn't that right?

15 A. I accept that, Chairman. 12:19

16 309 Q. CHAIRMAN: So what Ms. Monica Carr says or doesn't say  
17 is basically irrelevant?

18 MR. COSTELLOE: Excuse me, Chairman. It's entirely a  
19 matter for Mr. McGarry, but if it assists him or if you  
20 wish to rely upon it in that question you just put to 12:19  
21 my client, 1578 includes the reference which was quoted  
22 on the previous page that Mr. Barry said was erroneous,  
23 so, if you go to the top --

24 CHAIRMAN: well, let's go for it, Mr. McGarry. I am  
25 going to go and let's find out, page 1578. Thank you, 12:19  
26 Mr. Costelloe, for your assistance.

27 MR. COSTELLOE: Not at all, Chair. It's the paragraph  
28 that begins on page 1578, "A further e-mail was  
29 received".

1 CHAIRMAN: Thank you very much. Okay.

2 MR. COSTELLOE: That was also quoted on the previous  
3 document.

4 CHAIRMAN: Thanks very much. Let's have a look at  
5 this. 12:19

6 310 Q. MR. MCGARRY: well, perhaps I can ask you a question  
7 then by reference to that statement. Where in that  
8 statement is it recorded that Assistant Commissioner  
9 Fanning ordered Chief Superintendent Dillane to  
10 discipline you? 12:20

11 A. I believe that could be further -- I don't have the  
12 exact page. But I recall, to the best of my memory I  
13 recall seeing that in Ms. Carr's statement. Some  
14 reference to it.

15 311 Q. I suggest to you that it is not that part of it in any 12:20  
16 event?

17 A. Absolutely, it's not that part. I apologise.

18 312 Q. You see, I suggest to you that the notion that  
19 Assistant Commissioner Fanning would suggest such a  
20 thing without an investigation is nonsensical having 12:20  
21 regard to the position that Assistant Commissioner  
22 Fanning was in?

23 A. I wouldn't agree, because Chief Superintendent Dillane  
24 made enquiries as a result of that direction.

25 313 Q. I suggest to you that Assistant Commissioner Fanning 12:20  
26 will say this in his evidence, that at no stage did he  
27 do anything other than suggest an option to Chief  
28 Superintendent Dillane in relation to discipline, the  
29 possibility of discipline can be considered?

1 A. I was referring to Chief Superintendent Dillane's notes  
2 in relation to my reference.

3 314 Q. And that further, even if it could be construed as some  
4 sort of a direction that you were to be disciplined,  
5 the notion that that could ever happen without an 12:21  
6 investigation makes no sense?

7 A. Yes, it would have to be investigated, yes.

8 315 Q. But your complaint in your evidence was, you said it on  
9 two separate occasions you said, this is the man who  
10 suggested that I be disciplined without an 12:21  
11 investigation?

12 A. Well, he didn't suggest that there would be an  
13 investigation into a breach of discipline, he said, he  
14 should be disciplined.

15 316 Q. Yes, but again I suggest to you, and I will finish with 12:21  
16 this question, I am suggesting to you that having  
17 regard to the position that Assistant Commissioner  
18 Fanning held, he was in charge of Human Resources,  
19 discipline was what he -- was a major part of his  
20 function, isn't that right? 12:22

21 A. Among other things, yes.

22 317 Q. Yes. Of all the people that would know that you can't  
23 engage in any process of discipline without an  
24 investigation, Assistant Commissioner Fanning is  
25 exactly the type of person who would know that, isn't 12:22  
26 that right?

27 A. Yes.

28 318 Q. And as I understand it, your complaint in relation to  
29 the request for temporary workplace accommodations

1            revolves around the fact that this was funneled through  
2            Assistant Commissioner Quilter, is that right?

3            A.    Yes.

4 319 Q.    And your complaint is, I think, if I understand it  
5            correctly, that Assistant Commissioner Fanning ought            12:23  
6            not to have done that because Assistant Commissioner  
7            Quilter was in some way implicated in what you had been  
8            saying to them?

9            A.    I didn't think it was appropriate at the time, yes.

10 320 Q.    Did you ever say that to Assistant Commissioner            12:23  
11            Fanning?

12            A.    I replied to Chief Superintendent Grogan in relation to  
13            it and after that I believe Chief Superintendent Grogan  
14            forwarded my concerns to A/C Nolan.

15 321 Q.    I have to suggest to you that Assistant Commissioner            12:23  
16            Fanning's position is that it was completely normal for  
17            him to channel the communications in that way, having  
18            regard to the various positions that Assistant  
19            Commissioner Quilter and Chief Superintendent Dillane  
20            occupied, there was nothing remotely unusual about            12:24  
21            that?

22            A.    But I didn't think it was appropriate considering the  
23            connection.

24 322 Q.    You never actually met Assistant Commissioner Fanning,  
25            did you?            12:24

26            A.    Never.

27 323 Q.    Never spoke to him at all?

28            A.    No.

29 324 Q.    Okay. It follows obviously that you never told him

1 that you made a protected disclosure?

2 A. I had made that clear to HRM when I submitted my  
3 original complaint.

4 325 Q. You see, I have to suggest to you that as with the  
5 other issues that you have identified, all of the 12:24  
6 things that you say amount to bullying or targeting are  
7 essentially subjective things, they're your view about  
8 what happened, isn't that right?

9 A. I am going by what I have seen in discovery and  
10 whatever, that I don't think it is appropriate that 12:24  
11 somebody should be directed to interview my doctor when  
12 she's trying to do her best for my welfare.

13 326 Q. Thank you, Mr. Barry.

14

15 END OF EXAMINATION 12:24

16

17 MR. MCGARRY: Chairman, can I just formally reserve the  
18 position with regard to the issue of the notes that  
19 Mr. Barry is using. That can perhaps be dealt with, if  
20 necessary, in correspondence separately with the 12:25  
21 Tribunal. I am not going to do anything by saying  
22 anything more about it for the moment. I just want to  
23 reserve the position.

24 CHAIRMAN: well, I suppose it's only fair to Mr. Barry  
25 and to everybody else to say, if there's any issue 12:25  
26 about this, then I think counsel are entitled to raise  
27 it. And I will hear in due course, if necessary, if  
28 nobody says anything, I don't propose to do anything  
29 about it, if -- now, I am not making any criticism of

1           you've, Mr. Barry, in saying this.  Somebody may  
2           suggest that a criticism ought to be levelled at you.  
3           I am not assuming any such thing and I am certainly not  
4           assuming that any such criticism would be justified.  
5           THE WITNESS:  I understand. 12:26  
6           CHAIRMAN:  So what I am saying is:  If anybody has an  
7           issue to raise, they are free to raise it with me.  I  
8           think probably the appropriate time is probably two  
9           o'clock, I think possibly, so as not to interrupt that  
10          flow of what's happening, and I would tentatively think 12:26  
11          that if people wanted I would direct that -- sorry,  
12          subject to what Mr. Costelloe says, but I think that  
13          the possibility, the option would be to direct  
14          Mr. Barry to make his notes available for examination  
15          or inspection.  I will only do that if counsel suggest 12:26  
16          there's a good reason for doing so.  I am assuming that  
17          he made the notes as he says he did, which would be  
18          understandable given the huge volume of material that  
19          we have circulated.  So that would be understandable,  
20          it seems to me, to make notes in some shape or form. 12:27  
21  
22          So if any party wishes to make a submission about that,  
23          please do so and I will consider the position and hear  
24          what anybody has to say and consider the position.  
25 12:27  
26          My disposition at the moment, however, is to do  
27          nothing, unless somebody applies with a particular  
28          application.  So that's where we go with that.  
29

1 Now, Mr. McGarry, you have finished and that's the end  
2 of cross-examination, isn't that right? So what  
3 happens now is, I am going to Mr. Costelloe to make any  
4 questions he wants, following which I will come back to  
5 Mr. McGuinness for any wrap-up, follow up that he  
6 thinks appropriate. Thanks very much Mr. Costelloe.

12:28

7  
8 MR. PAUL BARRY WAS EXAMINED BY MR. COSTELLO AS FOLLOWS:

9  
10 327 Q. MR. COSTELLOE: Thank you, Chairman. Good afternoon,  
11 Mr. Barry.

12:28

12 A. Good afternoon, Mr. Costelloe.

13 328 Q. I hadn't intended starting here but as it is probably  
14 freshest in all of our memory, given that Mr. McGarry  
15 was just asking you about it and it appeared that had  
16 you got the wrong page number or at least according to  
17 your evidence, could I ask you please to direct  
18 yourself to page 2085. We have been told by the  
19 Tribunal that these are typed notes in redacted format  
20 given by Mr. Dillane from his journal entries. If I  
21 ask you to go down to Wednesday, 19th March 2014, to  
22 the entry of 10.30am, would you go read that, please?

12:28

23 A. "10.30am spoke with A/C Fanning." Redacted then.

24 "Paul Barry discussed the case. I explained  
25 developments since I requested his transfer. Told me  
26 to discipline him."

12:29

27 329 Q. Did you recollect reading that previously?

28 A. I do.

29 330 Q. Is that what you were referring to a moment ago when

1           you were saying you'd seen it in the notes?

2           A.    But I also saw a reference in Monica Carr's notes.

3 331 Q.    But in any event, you also recall seeing that entry on  
4           a previous occasion?

5           A.    I do. 12:29

6 332 Q.    All right. Let's go back then to get some things out  
7           of the way. You are obviously aware of the fact that  
8           the Chairman is obligated to look at various categories  
9           of complaint. We know that they're under headings 1  
10          through to 8 and they have been in some shape or form 12:29  
11          amended over the last number of months, isn't that  
12          correct?

13          A.    That's correct.

14 333 Q.    And you have been, during the course of your direct  
15          examination and, indeed, by my friends in 12:30  
16          cross-examination, referred to various aspects of those  
17          complaints, isn't that correct?

18          A.    That's correct.

19 334 Q.    Could we deal please first then with your complaint  
20          regarding number 6, Chief Superintendent Catherine 12:30  
21          Kehoe, and I am going to call this, in an umbrella  
22          sense if you will, the complaint about the  
23          investigation in relation to the three categories that  
24          you raised, isn't that right?

25          A.    That's correct. 12:30

26 335 Q.    Okay. Your position now I think is that while you  
27          maintain that her investigation was unduly lengthy to  
28          the point at which it was wrong because it took so long  
29          to be completed, you're not persisting with the balance

1 of your complaints in respect of Chief Superintendent  
2 Kehoe, isn't that correct?

3 A. That is correct.

4 336 Q. So, to put that another way, if it's of assistance to  
5 my friends, more importantly to the Chairman, in 12:30  
6 respect of 6A you persist with your concern but in  
7 respect of the balance of category 6 you no longer are  
8 pursuing that complaint?

9 A. That is correct.

10 337 Q. Thank you. Could I move then to number 7, please. And 12:31  
11 again I will use the same method and if my friends have  
12 an objection, I will gladly rephrase. But this is in  
13 relation to your complaints to do with the conduct of  
14 Assistant Commissioner Fanning and Chief Superintendent  
15 Grogan, isn't that correct? 12:31

16 A. That's correct.

17 338 Q. Specifically about them, you asserting, targeting or  
18 discrediting you and we have heard about that over the  
19 last number of days; isn't that correct?

20 A. That's correct. 12:31

21 339 Q. It is correct to say that you are no longer pursuing  
22 any complaint or allegation about being targeted by  
23 Chief Superintendent Grogan; isn't that correct?

24 A. That's correct.

25 340 Q. In fairness, I think that was elicited by 12:31  
26 Mr. McGuinness in direct-examination and you gave an  
27 answer to that effect, but for the avoidance of doubt,  
28 because it has been touched upon again in  
29 cross-examination, that is your position?

1 A. That is my position.

2 CHAIRMAN: So the complaint remains against Assistant  
3 Commissioner Fanning but it does not remain against  
4 Chief Superintendent Grogan?

5 MR. COSTELLOE: Forgive me for throwing that question 12:32  
6 over to Mr. Barry, Chairman, but is that correct,  
7 Mr. Barry?

8 341 Q. CHAIRMAN: Is that right, Mr. Barry?

9 A. That's right.

10 342 Q. CHAIRMAN: We can exclude Chief Superintendent Grogan 12:32  
11 but you're maintaining your complaint against Assistant  
12 Commissioner Fanning?

13 A. Yes, Mr. Chairman.

14 CHAIRMAN: Thank you. I'm not expressing any -- do you  
15 know what I mean, I am just clarifying it. 12:32

16 A. I understand.

17 CHAIRMAN: Thank you very much, Mr. Costelloe.

18 MR. COSTELLOE: Thank you, Chairman.

19 343 Q. With the balance of the grounds or categories, however  
20 one wishes to refer to them, it remains your position 12:32  
21 that a relevant wrongdoing is borne out in respect of  
22 each of those categories, by which I mean a relevant  
23 wrongdoing for the purposes of this inquiry, isn't that  
24 the case?

25 A. That is correct. 12:32

26 344 Q. Okay. Your letter, it's at page 86, I am not going to  
27 ask the Chair to refer to it again, is the letter that  
28 sets out under heading 1 to 9, grounds 1-9 if you  
29 recall, this is the letter addressed to Superintendent

1 Pat Lordan, your complaints up to 2nd October 2012,  
2 isn't that correct?

3 A. That is correct.

4 345 Q. No criticism is intended by the manner in which I  
5 phrase this question, to you or to anybody who has been 12:33  
6 questioning but this, but where certain categories or  
7 certain numbers of those complaints have been put to  
8 you, not all of them have, you're aware of that fact -

9 A. I am, yes.

10 346 Q. - it remains your position that all of those complaints 12:33  
11 are valid and you stand over each of those complaints?

12 A. I do, yes.

13 347 Q. And again, I wouldn't propose to go through each and  
14 every one of them, except to say it's fair to comment,  
15 isn't it, that you do highlight in that letter, in the 12:33  
16 penultimate paragraph, that you identify number 9, and  
17 we won't get into the specifics of it, but number 9,  
18 dealing with the, if I put this as benignly as I can,  
19 sexual assault allegations, the investigation of the  
20 sexual assault allegations, you do say that in your 12:34  
21 opinion that's the most serious of them all?

22 A. Absolutely, yes.

23 348 Q. You have previously explained that you were trying to  
24 deal with these chronologically, isn't that correct?

25 A. That's correct. 12:34

26 349 Q. At the time at which you sent that letter, that would  
27 have been the most recent in the sense that it would  
28 have been the most recent for you to have dealt with,  
29 isn't that correct?

1 A. That is correct.

2 350 Q. Could we try and get some, what I am going to the  
3 suggest to the Chairman at some point, are minor issues  
4 out of the way, other people may disagree, but it seems  
5 that there just might have been a small bit of 12:34  
6 confusion about one or two things and I want to try and  
7 see if we can clarify this. On the first day of your  
8 evidence - and, Chairman, I am referring to page 135 of  
9 the transcript for the purposes of the record - you  
10 were talking about the, and again I don't wish to put 12:35  
11 any weight in respect of how I am describing the  
12 document, but the disciplinary notice, you remember  
13 this, this is you being late and being disciplined?

14 A. That's correct.

15 CHAIRMAN: The Regulation 10 notice. 12:35

16 351 Q. MR. COSTELLOE: Thank you. why don't we deal with it  
17 that way instead. we'll call it the Regulation 10  
18 notice. At least one of my colleagues had something to  
19 say about whether or not it amounts to discipline or  
20 not and I am not getting into that right now. But as I 12:35  
21 understand it, that was actually served on the 2nd, the  
22 day after rather, which would have been 2nd August  
23 2012, not on the day that you were late, or have I got  
24 that wrong?

25 A. No, that's correct, what you say is correct. It was 12:35  
26 the day after.

27 352 Q. Sorry, please finish your answer, I didn't mean to  
28 interrupt?

29 A. It was the day after the allegation that I was late.

1 353 Q. And insofar as it may appear that you were saying that  
2 you had that served upon you, the Regulation 10 notice  
3 served upon you on the day that you were late, that's  
4 not what you're saying, it was the following day?  
5 A. No, it was the following day, yes. 12:36

6 354 Q. Could we go to the occasion upon which you say you met  
7 with Mr. Dillane and Mr. O'Sullivan, I am not entirely  
8 sure whether or not they are still -- I think Inspector  
9 O'Sullivan is still a serving member of An Garda  
10 Síochána, but it is now Mr. Dillane, I think? 12:36

11 A. That's correct.

12 355 Q. So I am just referring to them, I don't mean anything  
13 pejorative by it, as Mr. Dillane and Mr. O'Sullivan.  
14 You met with them on the 9th April 2013, is that  
15 correct? 12:36

16 A. That's correct.

17 356 Q. Would you please again just traverse, explain how you  
18 came to meet with them. What I want you to deal with  
19 is, where you were when you first met with them and if  
20 you stayed at that location throughout your engagement 12:36  
21 or interaction with them on that occasion?

22 A. The occasion of meeting them was when I drove into the  
23 car park of Mitchelstown Garda Station before my tour  
24 of duty.

25 357 Q. Yes. 12:37

26 A. At approximately ten to nine at night.

27 358 Q. Yes.

28 A. And I saw that Chief Superintendent Dillane was sitting  
29 in his car with Inspector O'Sullivan in the passenger

1 seat. They got out of the car when I parked up and  
2 approached me, and said they want to discuss the CMO  
3 meeting the previous day. We went into the garda  
4 station, I believe it was into the sergeant's office,  
5 where the interaction occurred.

12:37

6 359 Q. I am not asking to you go back over the interaction,  
7 you've already given your evidence on that, but the  
8 sequence of events then is that you arrive in the car  
9 park, you see them sitting in a parked car, this is at  
10 approximately ten to nine pm on the 9th April, they get  
11 out of the parked car, they speak with you in the car  
12 park and then you go inside and you think in the  
13 sergeant's room you have a conversation with them  
14 present?

12:37

15 A. That is correct.

12:37

16 360 Q. Thank you. One final matter then which again it may  
17 just have been because various medical certificates  
18 were being referred to in cross-examination yesterday.  
19 But it was put to you yesterday in cross-examination  
20 that the medical certificate which at that point in  
21 cross-examination was being referred to, did not  
22 actually name Mr. Comyns on the certificate. Do you  
23 remember that line of questioning yesterday when you  
24 were being cross-examined?

12:38

25 A. Yes.

12:38

26 361 Q. Okay. If I can just ask Mr. Murphy to go to page 198  
27 of the book of documents. Mine won't open. Would you  
28 mind scrolling down, Mr. Murphy. That's perfect, just  
29 there. Would you read that paragraph, the only

1 substantial paragraph in that letter please?  
2 CHAIRMAN: We can read that, Mr. Costelloe. He doesn't  
3 need to read it.  
4 MR. COSTELLOE: Thank you, Chairman. I didn't know how  
5 you wanted me to proceed with putting matters on the 12:38  
6 record.  
7 362 Q. But can we all agree that that says that you should not  
8 come into contact with Superintendent Michael Comyns?  
9 A. That is correct.  
10 363 Q. Okay. In respect of ground number 4, sub-ground (I), 12:39  
11 so 4(I), you make a specific complaint concerning  
12 Mr. John Barrett and a letter concerning Mr. John  
13 Barrett; isn't that correct?  
14 A. That's correct.  
15 364 Q. So we have all in front of us. This is a reference to 12:39  
16 Chief Superintendent Dillane, that he targeted you by  
17 stating in a letter to Mr. John Barrett dated 7th  
18 August 2015 that Sergeant Barry was having a negative  
19 effect on policing in the Fermoy district.  
20 A. That is correct. 12:39  
21 365 Q. You have already explained that you persist, you  
22 maintain with that complaint, you recall being  
23 cross-examined about whether or not it had been said  
24 that you were having a negative effect on policing in  
25 the district? 12:39  
26 A. It hadn't been said to me. This was included in the  
27 Chief Superintendent Dillane's report to the review  
28 board, the transfers review board.  
29 366 Q. Yes.

1 A. And that was the first time I had seen it.

2 367 Q. Well then, so that we all again have it in front of us,  
3 if we could first of all to the letter, which should be  
4 found at page 118. We won't go through all the content  
5 of this. But that is the particular letter. It's 12:40  
6 addressed to Mr. John Barrett, who is the executive  
7 director of Human Resources and People Development of  
8 An Garda Síochána, isn't that correct?

9 A. That's correct.

10 368 Q. And it's stamped, I don't see a date on it, in another 12:40  
11 forum I might complain about that.

12 CHAIRMAN: The 7th August.

13 MR. COSTELLOE: Yes, you will see a stamp there, the  
14 7th August.

15 CHAIRMAN: It's date stamped, but I think it's 7th 12:40  
16 August.

17 369 Q. MR. COSTELLOE: So that's the letter you're referring  
18 to, correct?

19 A. That's correct.

20 370 Q. Mr. Murphy, can I ask you please to scroll down to the 12:41  
21 second page and stop at the second paragraph beginning  
22 "on 13th September". There we have it. This paragraph  
23 reads:

24

25 "On 13th September 2012 I met with Sergeant Barry by 12:41  
26 appointment as I wanted to enquire into his welfare.  
27 During the course of the meeting he told me that he  
28 didn't want to discuss his absence with me, as I was  
29 stationed in the same garda station as Superintendent

1 Comyns. "

2

3 Now, this has been the subject of some

4 cross-examination, this is a reference to, I use this

5 word neutrally, the meeting of the 13th September. Was 12:41

6 this meeting in person or otherwise?

7 A. There was no physical meeting on the 13th September,

8 that was a phone call. Chief Superintendent Dillane

9 said we met in Watergrasshill.

10 371 Q. Yes. 12:41

11 A. The only meeting I had with Chief Superintendent

12 Dillane was the 13th October at Grandon's in Glanmire.

13 372 Q. And you have maintained that position throughout?

14 A. Absolutely, yes.

15 373 Q. And then moving on then I suppose, just would you mind 12:41

16 please, Mr. Murphy, scroll down a little bit further

17 for me, to the paragraph that begins "on 13th October

18 2012". There we have it, right there. That is in fact

19 -- according to you, that is in fact the only occasion

20 upon which you physically met with Chief Superintendent 12:42

21 Dillane to discuss this issue?

22 A. Yes, while on the sick leave. That is the only

23 physical meeting we had.

24 374 Q. And then the next page, which is page 120 of the book

25 of documents, could I ask you please to go down to the 12:42

26 middle of that page, Mr. Murphy, you should see a

27 paragraph that begins "I subsequently wrote". There we

28 go. This is a paragraph that states:

29

1 "I subsequently wrote to HRM seeking advice as I felt  
2 the situation proposed by solicitor Séan Costello was  
3 not realistic and also pointing out the advice from  
4 Garda Sick Section that Sergeant Barry was unfit for  
5 duty."

12:42

6  
7 Were you aware of the fact that he been writing to the  
8 Garda Sick Section at that stage?

9 A. No, I was not.

10 375 Q. And again, insofar as that was alluded to in  
11 cross-examination, this is the letter from Chief  
12 Superintendent Dillane where he refers to the fact that  
13 he did in fact point that out to Garda Sick Section,  
14 correct?

12:43

15 A. That's correct.

12:43

16 376 Q. If we move onto the next page, which is 121, and stop  
17 at the first paragraph there. You will see the last  
18 sentence of that paragraph, Chief Superintendent  
19 Dillane stating to HRM that:

20  
21 "I told Sergeant Barry that anything we do in respect  
22 of providing him with temporary workplace accommodation  
23 has to be done by mutual agreement but must also be  
24 reasonable and practicable."

12:43

25  
26 Is that your recollection of that conversation?

27 A. That is my recollection, yes.

28 377 Q. I'm sorry, I couldn't hear you?

29 A. He did reference that the accommodation should be

12:43

1 mutual and agreeable.

2 378 Q. Yes. And then he goes on to say that he told, "I told  
3 Sergeant Barry --"  
4

5 No, you had it there. Thank you, Mr. Murphy. "I told 12:44  
6 Sergeant Barry that his current work arrangements had  
7 to cease immediately and that I could not allow them to  
8 continue. I referred to the doctor's certificate which  
9 he supplied from Dr. Anne Kiely."  
10 12:44

11 Again, was this something is you recollect being told  
12 to you by Chief Superintendent Dillane?

13 A. Not the in relation to the meeting on the 9th April.  
14 He did dismiss my doctor's certificate on that night,  
15 yes, but it was Dr. Margaret Kiely. 12:44

16 379 Q. I think it's common case, we all know that he is  
17 talking about the same Dr. Kiely there?

18 A. Yes, sorry.

19 380 Q. I don't think there are two different Dr. Kielys. With  
20 regard to the substance of that statement though, that 12:44  
21 he told you that your then current work arranges could  
22 not continue, that they had to "cease immediately", was  
23 that something that was said to you at that meeting?

24 A. I believe it was, yes.

25 381 Q. Again for the purpose of the record perhaps if for no 12:45  
26 other reason, if I ask you to move down, Mr. Murphy, to  
27 the paragraph on the same page, it begins with "I then  
28 outlined to Sergeant Barry". Yes, that's it right  
29 there. will you refer yourself please, Mr. Barry, to

1 the third line, the sentence beginning "I told him that  
2 I believed", do you see that sentence there?  
3 A. Yes.  
4 382 Q. "I told him that I believed that Fermoy Garda Station  
5 and working with Superintendent Michael Comyns was a 12:45  
6 safe working environment."  
7  
8 Do you recollect him telling you that?  
9 A. I can't say that I do, no, at this point but I don't  
10 dispute that it was said. 12:45  
11 383 Q. Okay. And again, this would have been on 9th April  
12 2013?  
13 A. That's correct.  
14 384 Q. After you had begun the whole process and after you had  
15 handed in your letters from your doctor, Dr. Kiely? 12:45  
16 A. That is correct.  
17 385 Q. If you turn to the next page then, please. This is  
18 page 122, the paragraph beginning "On 1st May 2013."  
19 CHAIRMAN: The little wheel, Mr. Costelloe, is stopping  
20 us. 12:46  
21 386 Q. MR. COSTELLOE: I often feel that way myself, Chairman!  
22 Okay. So, yes, that's the paragraph there Mr. Murphy  
23 Yes, that's the paragraph there, Mr. Murphy, thank you  
24 very much. This is a paragraph, the second paragraph  
25 on the page that reads: 12:47  
26  
27 "On 1st May 2013, I spoke with Superintendent Michael  
28 Comyns, who informed me that he was experiencing  
29 serious difficulties in the administration of Fermoy

1 district due to the work practices of Sergeant Barry."

2  
3 First of all, were you aware of the fact that this was  
4 being communicated by Superintendent Comyns to Chief  
5 Superintendent Dillane? 12:47

6 A. No, I was not.

7 387 Q. Do you wish to make any comment about the comment of  
8 that sentence?

9 A. I don't believe I was causing serious difficulties. I  
10 was abiding by my doctor's certificate and I was 12:47  
11 willing to engage with Inspector O'Sullivan at all  
12 times.

13 388 Q. Thank you. If we move down to the very end of that  
14 page, please, Mr. Murphy. There should be a paragraph  
15 beginning "on 3rd April 2014". Yes. 12:47

16  
17 "On 3rd April 2014, I was attending a meeting in Garda  
18 Headquarters and during lunch hour I called in to  
19 Dr. Donal Collins, CMO, to discuss the matter of  
20 Sergeant Barry with him. During the discussion he 12:48  
21 called Dr. Oghuvbu into his office and outlined the  
22 situation from my perspective. The doctor advised me  
23 that having discussed Sergeant Barry's problem with his  
24 GP, he had concluded that this matter is a health and  
25 safety issue for the organisation, as Sergeant Barry 12:48  
26 perceives that having contact with Superintendent  
27 Comyns will affect his health and wellbeing. I  
28 immediately requested a case conference be held as this  
29 was the first time I had been informed of this and I

1 felt totally let down by advices I was previously  
2 given. The situation had now changed from a management  
3 problem to a health and safety issue for the  
4 organisation."

12:48

6 Had you any knowledge of that?

7 A. No, I did not.

8 389 Q. Okay. And again, it's clearly stated there, this was  
9 on 3rd February 2014, if we put it this way, well into  
10 the process at this stage?

12:48

11 A. Yes. And I believe this was the same date that he  
12 sought the backing of the CMO to have me disciplined.

13 390 Q. Yes. Then, where I began, but I am finally getting  
14 there, if we go to page 124, at the top of the page,  
15 second paragraph, on the 3rd February he talks about  
16 the report he receives by Superintendent Comyns, I am  
17 not going to traverse all that all over again, we've  
18 had that. But then the next paragraph:

12:49

19  
20 "I immediately conveyed this information to Human  
21 Resource Management to emphasise the urgency to have  
22 Sergeant Barry transferred out of the Fermoy Garda  
23 Station as I felt that his presence was having a  
24 negative impact on the policing of the area."

12:49

25  
26 That's the reference to negative impact that you  
27 referred to, is that correct?

28 A. That's correct.

29 MR. HARTY: Sorry to interrupt, Mr. Costelloe appears

12:49

1 to have made a small but perhaps important --  
2 MR. COSTELLOE: I can't hear you, Mr. Harty.  
3 MR. HARTY: Sorry. Mr. Costelloe appears to have made  
4 a small but important error in relation to what he read  
5 out there, he read it out as Fermoy Garda station as 12:50  
6 opposed to Fermoy Garda District.  
7 MR. COSTELLOE: I apologised to my Friend, Chairman, I  
8 didn't realise I had made that mistake. The chair has  
9 it.  
10 CHAIRMAN: Yes. 12:50  
11 MR. COSTELLOE: It is "Fermoy Garda District, as I felt  
12 that his presence was being a negative impact on the  
13 polices of the area." That's the reference there.  
14 CHAIRMAN: And the reference would be to Mitchelstown,  
15 which is in Fermoy Garda District, as understand it. 12:50  
16 MR. COSTELLOE: Yes.  
17 CHAIRMAN: Isn't that right, we're all agreed on that?  
18 MR. COSTELLOE: Yes.  
19 CHAIRMAN: So that if he was saying I want him moved  
20 out of Fermoy -- he wasn't in the station. 12:50  
21 MR. COSTELLOE: No, no.  
22 CHAIRMAN: But he was in the district.  
23 MR. COSTELLOE: Yes.  
24 CHAIRMAN: Because he was in Mitchelstown Garda  
25 Station. 12:50  
26 MR. COSTELLOE: I apologise for creating any confusion  
27 there.  
28 CHAIRMAN: No.  
29 MR. COSTELLOE: It's very clear that is what is being

1 referred to when one reads the content of the paragraph  
2 that precedes it, it is a reference to Mitchelstown.  
3 CHAIRMAN: I think it is clear, Mr. Costelloe.

4 391 Q. MR. COSTELLOE: why is it that you believe you were  
5 being targeted -- sorry, is that the last? Yes, that 12:51  
6 is the letter that you were referring to.

7 A. Yes. That --

8 392 Q. Sorry, just bear with me, Mr. Barry, that's the letter  
9 that you were referring to?

10 A. Yes. 12:51

11 393 Q. And that specific reference to negative impact is what  
12 you are referring to therein?

13 A. That's correct.

14 394 Q. Okay. Having acknowledged that then, why is it that  
15 you feel you were being targeted by virtue of the 12:51  
16 content of that letter?

17 A. Because I was not informed of this conference that he  
18 referred to, the Transfers Review Board, it was only  
19 when I got this documentation was the first I heard  
20 about the complaint, that he had reference to HRM in an 12:51  
21 attempt to have me transferred.

22 395 Q. And what's specifically about the fact that he's  
23 referring to you as having a negative impact, do you  
24 have anything to say about that?

25 A. Yes, that was never put to me, that I was having a 12:52  
26 negative impact on the district and I rebuked his  
27 allegation.

28 396 Q. Now, the next thing that I'd like to deal with, I am  
29 going to use the sub-heading, the issue of transfers,

1           okay. There is, within the body of material that we  
2           have been supplied, a letter from the same gentleman  
3           that the previous letter was addressed to, this is  
4           Mr. John Barrett, and it's addressed to the Chairman of  
5           the Members of Transferred Review Body. It's to be 12:52  
6           found under a covering letter at page 128, the letter  
7           in substance begins at 129. 129.

8  
9           Now, this is a lengthy enough letter, I am not going to  
10          go through all of it again but it may be that the 12:53  
11          Chairman in due course may find it helpful because it  
12          sets out various dates in respect of which formal  
13          efforts of transferring you were made under different  
14          headings. One being to Fermoy Garda Station and one  
15          being to Anglesea Street Garda station. You're aware 12:53  
16          of this letter, isn't that correct?

17          A. I am, yes.

18 397 Q. The dates that are referred to in the body of this  
19          letter appear to be correct, isn't that right?

20          A. Yes, they do. 12:53

21 398 Q. Now, dealing with that letter then, it refers, as I  
22          just put to you, to specific transfers that we all  
23          agree I think, there's no doubt about this, were formal  
24          efforts that were made to transfer you from  
25          Mitchelstown Garda Station, correct? 12:53

26          A. That's correct.

27 399 Q. The first being an effort made on the 19th January --  
28          this is on the second page of the letter, Chairman,  
29          under the heading Transfer to Fermoy Garda Station.

1  
2  
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29

"On 19th January 2014, Sergeant Paul Barry was directed on transfer by Executive Director, Human Resources and People Development from Mitchelstown Garda Station to Fermoy Garda Station. Sergeant Barry appealed this transfer to assistant commissioner Human Resources Management on 5th March 2014."

12:54

You have already agreed with us that that did happen and that is an accurate summary of what went on, correct?

12:54

A. Yes, that's correct.

400 Q. What was the outcome then? Again for the record, what was the outcome of that, your appeal to that?

A. That the transfer was cancelled.

12:54

401 Q. That yes, it was cancelled. Now, if we go to page -- I will be coming back to that document in a moment, Mr. Murphy, but first can we go please to page 430. This, we have been told, Mr. Barry, is an e-mail that is sent to the assistant commissioner Human Resources Management by Chief Superintendent Dillane. It was sent on 10th December 2013 at 14:36, do you see that?

12:54

A. Yes, I do.

402 Q. Okay. It says:

"Re proposed transfer of Sergeant Paul Barry." It gives your epaulet number. "Mitchelstown Garda Station to Fermoy Garda Station." I won't go through the content of it, but it says -- well, again, perhaps to

12:55

1 be fair, I should. Just to read it out:

2

3 "I wish to have Sergeant Barry, Mitchelstown Garda  
4 Station, transferred to Fermoy Garda Station. The  
5 reason for this transfer is to try to ensure the  
6 delivery of an efficient policing service in the new  
7 Fermoy district, which has been expanded in the  
8 district amalgamations."

12:55

9

10 If I pause there for a moment. Do you have any comment  
11 to make upon that particular assertion, that the  
12 proposed transfer was for efficiency reasons?

12:55

13 A. It would have been contrary to my health to have me  
14 transferred at that time.

15 403 Q. It goes on:

12:56

16

17 "The minimum requirement for Fermoy Garda Station,  
18 which is a divisional and district headquarters, is one  
19 unit sergeant on each of the five units. Since the  
20 introduction of the new roster system there is one unit  
21 at Fermoy Garda Station without any supervising  
22 sergeant and I believe that it's more important that  
23 the unit sergeant is based in Fermoy rather than at  
24 Mitchelstown county Cork."

12:56

25

26 Do you have any comment to make about that?

27 A. I don't agree with his rationale for the transfer.

28 404 Q. Okay. Obviously he's a superior officer who's tasked  
29 with, amongst other things, locating members of An

12:56



1 speaking of.

2

3 "On 11th November 2013, Glanmire sub-district became  
4 part of Cork City division and these grounds should now  
5 no longer be valid as it is in a different division and 12:57  
6 Cork City division is exempt the terms of code 8.3."

7

8 Do you have any comment to make upon that?

9 A. That he was referencing my relations, as he knew from  
10 2004, but one of my relations was then residing in the 12:58  
11 Watergrasshill sub-district. So that would mean that  
12 that exemption could not be effected.

13 410 Q. Okay. And then he goes on to say that he's requesting  
14 that transfer. Now, we've already established that  
15 this was an e-mail that was sent on 10th December 2013, 12:58  
16 and it is referenced in the previous document, which is  
17 the document to the transfers board from Mr. John  
18 Barrett, referring to the transfer request of 19th  
19 January 2014. That's all correct, yes?

20 A. That's correct. 12:58

21 411 Q. Okay. At that time, who was the superintendent in  
22 charge of Fermoy Garda Station?

23 A. Superintendent Comyns.

24 412 Q. So, if in fact that transfer had been successful, you  
25 would have been under the direct supervision, as in, 12:58  
26 actually in the same station, as Superintendent Comyns?

27 A. That is correct.

28 413 Q. And this was a request that was made by Chief  
29 Superintendent Dillane well into the process of you

1 making complaints and furthering medical certificates  
2 setting out what you said were the consequences of the  
3 bullying and the stress that you had been enduring at  
4 Mitchelstown Garda Station as a member of An Garda  
5 Síochána, correct? 12:59

6 A. That's correct.

7 414 Q. Were you aware at the time, either in December of 2013  
8 or in January 2014, that this request was being made to  
9 move you to Fermoy?

10 A. I believe it was -- it's in my diary entries there, 12:59  
11 where the first I heard of the transfer to Fermoy was  
12 from Inspector Eddie Golden, that he had spoken with  
13 Chief Superintendent Dillane and that he was going to  
14 transfer me to Glanmire and he was contacting B branch  
15 about it. 12:59

16 415 Q. Okay. There are a couple of different things in that.  
17 First of all, who is Inspector Golden, how is it that  
18 you had any dealings with him?

19 A. Inspector Golden approached Chief Superintendent  
20 Dillane in relation to me being allocated to Fermoy on 13:00  
21 Pulse, because Inspector Gallagher, who was my official  
22 rep, was not available.

23 416 Q. Okay, these are AGSI reps?

24 A. That's correct.

25 417 Q. So you had gone to Michael Gallagher, there's a 13:00  
26 statement in the documents, we needn't open it right  
27 now, he was unavailable, so you went one above him  
28 effectively, to the inspector, Inspector Golden?

29 A. That's correct.

1 418 Q. And Inspector Golden raised the issue with Chief  
2 Superintendent Dillane, this all coming from the fact  
3 that your status appeared to have changed on the Pulse  
4 data base system, whereby you were no longer down as  
5 serving at Mitchelstown Garda Station but rather 13:00  
6 parading for duty at Fermoy Garda Station?  
7 A. That's correct.

8 419 Q. That therefore -- sorry, Chairman, I beg your pardon?  
9 CHAIRMAN: No, no. Tell me whenever you would like to  
10 break, Mr. Costelloe. 13:00  
11 MR. COSTELLOE: Thank you.  
12 CHAIRMAN: At a convenient point in your examination  
13 and so on.  
14 MR. COSTELLOE: Thank you, Chairman. I am sure my  
15 friends will be happy to know I am nearly done. 13:01

16 420 Q. Then you reference Fermoy, we have been referencing  
17 Fermoy in those questions and answers. -  
18 CHAIRMAN: I'm sorry to interrupt you once more. If  
19 you are overall examination is coming to a close.  
20 MR. COSTELLOE: No. 13:01  
21 CHAIRMAN: Please proceed. Sorry, if you are coming to  
22 a convenient point. I am sorry, I just wanted to make  
23 that clear, whatever you think fit.  
24 MR. COSTELLOE: Thank you, Chairman.

25 421 Q. Just because I don't want to leave it there in case I 13:01  
26 forget to come back to it, Inspector Golden then  
27 references Glanmire Garda Station, what's going on  
28 there? why is that relevant?  
29 A. Inspector Golden was told, allegedly, by Chief

1 Superintendent Dillane that he was going to transfer me  
2 to Glanmire and that he was going to contact B branch  
3 about it. Now he told Inspector Golden that, but that  
4 was the first I heard about it at that time.

5 422 Q. So correct me if I have the sequencing wrong, there is 13:01  
6 an e-mail sent to have you transferred in December of  
7 2013, a formal request appears to have been sent in  
8 January 2014, after that you become aware, because the  
9 Pulse database has changed, that were to be moved to  
10 Fermoy Garda Station, you raise that with your AGSI 13:02  
11 rep, who in turn raises it with Chief Superintendent  
12 Dillane and thereafter the reference is that you won't  
13 be going to Fermoy but you will be going to Glanmire?

14 A. That's correct.

15 423 Q. Glanmire at that time was part of which policing 13:02  
16 district?

17 A. At the date in question, I believe it was still part of  
18 Fermoy district -- or cork north.

19 424 Q. Cork north. And who was in charge at that stage of  
20 cork north? 13:02

21 A. In Glanmire it would have been the superintendent in  
22 Cobh.

23 425 Q. In any event, the same district in which Fermoy was at  
24 that time.

25 A. No, it would be the Cobh district, sorry. 13:02

26 426 Q. Start again, because I think I misled you with the  
27 question. Glanmire at that time, was it in the same  
28 district as Fermoy Garda Station or not?

29 A. What was the date?

1 427 Q. well, it appears that we're dealing with in around the  
2 beginning of 2014. If you don't know, you don't know?

3 A. I think at the end of 2013 it went back into Cork City  
4 division, so it would have been Cork City division in  
5 2014.

13:03

6 428 Q. And Cork City division, because this may become  
7 relevant after lunch, Cork City division obviously  
8 includes Anglesea Street?

9 A. That's correct, and Mayfield.

10 CHAIRMAN: And Mayfield.

13:03

11 429 Q. MR. COSTELLOE: Sorry, what was that?

12 A. And Mayfield.

13 MR. COSTELLOE: If it's convenient, Chairman. I don't  
14 have a great deal left, probably about half an hour.

15 CHAIRMAN: Be completely at ease, Mr. Costelloe, thank  
16 you very much indeed and thank you for your help, I  
17 quite understand. So, very good, we will say five past  
18 two. Thanks very much.

13:03

19  
20 THE HEARING ADJOURNED FOR LUNCH AND RESUMED, AS

13:03

21 FOLLOWS:

22

23 CHAIRMAN: when you're ready, Mr. Costelloe, thanks  
24 very much.

25 MR. COSTELLOE: Thank you, Chairman.

14:05

26 430 Q. Mr. Barry, I was referring you to the letter written to  
27 the Transfer Appeals Board, that was the second but  
28 one, if you follow me, that was the second last  
29 document I referred you to before lunch, you remember

1           that, don't you?

2           A.    I do, yes.

3 431 Q.    This is a document that ultimately I think we will be  
4           submitting to the Chair is a helpful précis of those  
5           particular transfers. It's a document that again is to 14:05  
6           be found at page 129, pages 129 of the papers. You've  
7           already agreed -- so if we scroll down, please, on page  
8           130, we've already dealt with the transfer to Fermoy  
9           Garda Station. I'm sorry, Mr. Murphy, I beg your  
10          pardon. 14:06

11          REGISTRAR: I am having a slight issue with the --  
12          MR. COSTELLOE: No, no, I wasn't paying attention,  
13          excuse me. It's my experience that these things always  
14          happen on a Friday afternoon, so I'm not too shocked!  
15          Thank you very much, Mr. Murphy. 14:08

16 432 Q.    Okay, Mr. Barry, you see there, under the subtitle,  
17          sub-paragraph heading, transfer to Fermoy Garda  
18          Station, yes?

19          A.    Yes.

20 433 Q.    We have all right dealt with this, but to fix ourselves 14:08  
21          in time again, this was 19th January 2014, that it  
22          appears the formal request is being made to have you  
23          transferred, isn't that right?

24          A.    That's correct.

25 434 Q.    Mr. Murphy, would you help me please, will you scroll 14:09  
26          down to the next page, where you should see the heading  
27          "Transfer of Sergeant Paul Barry to Anglesea Street  
28          Garda Station." Thank you. Now, moving on then, we  
29          see the second of the two transfers referred to in this

1 letter and that is a transfer mooted or proposed  
2 transferring you to Anglesea Street Garda station on  
3 5th February 2015. Now, first of all, those are two  
4 formal requests, isn't that correct, those are two  
5 stated formal requests to have you moved from 14:09  
6 Mitchelstown to in the first instance Fermoy and in the  
7 second instance Anglesea Street Garda station?  
8 A. That's correct.  
9 435 Q. To your knowledge, were there in the intervening  
10 periods between those two requests any efforts to move 14:09  
11 you to any other garda station?  
12 A. Not officially through HRM.  
13 436 Q. Dealing unofficially then, what is your understanding  
14 of what has happening?  
15 A. I understood when the transfer to Glanmire was under 14:09  
16 appeal -- or to Fermoy was under appeal, that Chief  
17 Superintendent Dillane said that he intended to  
18 transfer me to Glanmire.  
19 437 Q. And you covered this in your evidence before lunch, but  
20 Glanmire would have been in which particular district? 14:10  
21 A. It would have been in Cork City division at that time,  
22 in 2014.  
23 438 Q. Sorry for interrupting you, finish your answer, please?  
24 A. It would have been in Cork city division in 2014.  
25 439 Q. Okay. And as part of Cork City division, that would 14:10  
26 have been the same divisional area as what other  
27 stations?  
28 A. It would have been all the Cork City stations,  
29 including Mayfield, where...

1 440 Q. It would have included Mayfield and it would have  
2 included Anglesea Street?  
3 A. That's correct.

4 441 Q. Anglesea Street, was that the divisional headquarters?  
5 A. Yes. 14:10

6 442 Q. Okay. Mayfield was a subdivisional garda station and  
7 obviously then we're dealing at the moment with your  
8 understanding that Glanmire was being mooted or  
9 suggested at that time, correct?  
10 A. Yes, Mayfield -- sorry, Mayfield would have been the 14:11  
11 district headquarters and Glanmire was the  
12 sub-district.

13 443 Q. So I have interjected one in between. So if there's a  
14 hierarchy, if that's a poor way of describing it, I'm  
15 sorry, but descanting order, if you will, there's 14:11  
16 Anglesea Street, Mayfield and then Glanmire?  
17 A. That's correct.

18 444 Q. Okay. What, if any, attitude did you have, response  
19 did you have to the suggestion that you might be moved  
20 to Glanmire? 14:11  
21 A. I didn't think it would be possible to do so, because  
22 it was verbally communicated to me and there was no  
23 formal request from HRM for me to go to Glanmire, so I  
24 didn't have to appeal it or anything.

25 445 Q. Yes. Ignoring the formalities of it, would you have 14:11  
26 been satisfied to go to Glanmire at that point in time?  
27 A. I would not have, because it was going back into Cork  
28 City division, where I believed Superintendent Comyns  
29 would eventually be going back into the city from where

1 he came.

2 446 Q. This was general scuttlebutt at the time, there was a  
3 general rumour going around that Superintendent Comyns  
4 was moving back into the city, back into some station  
5 in the city, isn't that correct? 14:12

6 A. That's correct.

7 447 Q. whatever about the source of those rumours, they in  
8 fact transpired to be true because ultimately he was in  
9 fact moved to Mayfield first, isn't that correct?

10 A. That's correct. 14:12

11 448 Q. And then ultimately he went from Mayfield, where he was  
12 the superintendent in charge, to Anglesea Street, isn't  
13 that correct?

14 A. That's correct.

15 449 Q. Do you know at what time he was moved to Mayfield at? 14:12  
16 when did that happen?

17 A. I believe it was in May 2015.

18 450 Q. Okay. Do you know then when he went from Mayfield to  
19 Anglesea Street Garda station?

20 A. I believe it was after I retired that that was... 14:12

21 451 Q. In relation to the hierarchy that we've already  
22 outlined, what would have been the situation vis-à-vis  
23 Anglesea Street Garda station and Mayfield Garda  
24 station?

25 A. Well when Superintendent Comyns was transferred to 14:13  
26 Mayfield he would be answerable to Anglesea Street, but  
27 Glanmire then would be answerable to Mayfield.

28 452 Q. Okay. So if, in fact, at that time you had been moved  
29 to Glanmire, you would have been working at a station

1           that would have been answerable to the superintendent  
2           in Mayfield, who it transpires became Superintendent  
3           Comyns?

4           A.    That's correct, it would be the same situation as  
5           Fermoy, Mitchelstown. 14:13

6 453 Q.    And this is information that you had from general garda  
7           rumour and garda speculation at the time, isn't that  
8           right?

9           A.    That's correct.

10 454 Q.   So then moving forward, there is the formal request 14:13  
11           which is referred to in that letter, the page is open  
12           in front of you:

13

14           "Transfer of Sergeant Paul Barry to Anglesea Street:  
15           On 5th February 2015, a minute was issued from chief 14:14  
16           superintendent HR & PD."

17

18           Is that Chief Superintendent Grogan or who are we  
19           dealing with there, do you know?

20           A.    I don't believe it was Chief Superintendent Grogan at 14:14  
21           the time.

22 455 Q.    "To chief superintendent Cork north division", do you  
23           know who that was?

24           A.    That would have Chief Superintendent Dillane.

25 456 Q.    Yes. "Directing transfer of Sergeant Paul Barry from 14:14  
26           Mitchelstown Garda Station to Anglesea Street Garda  
27           station on 24th February 2015."

28

29           Isn't that right?

1 A. That's correct.

2 457 Q. First of all, when did you become aware of the fact  
3 that there was a formal ask made to move you to  
4 Anglesea Street Garda station from Mitchelstown?

5 A. I believe it was January, possibly January/February 14:14  
6 2015.

7 458 Q. Yes. And how did that information come to you? In  
8 what format and who delivered it?

9 A. I believe Chief Superintendent Dillane may have  
10 discussed it with me at the time. 14:15

11 459 Q. Was your status on the Pulse database at any point  
12 around about this time changed?

13 A. I would have been changed to Anglesea Street when this  
14 became official, bulletin. And I appeared on the HR  
15 bulletin. 14:15

16 460 Q. Perhaps I am doing you no service by jumping ahead one  
17 question then. So, there is a formal request to move  
18 you to Anglesea Street Garda station, how did you  
19 respond to that formal request?

20 A. I immediately stated that I would submit an appeal to 14:15  
21 it.

22 461 Q. Did you in fact submit an appeal to it?

23 A. I did, yes.

24 462 Q. How long after the 5th February do you think you put  
25 that appeal in? 14:15

26 A. It would have been within days.

27 463 Q. While that appeal was pending, was your status in any  
28 way changed on the Pulse database?

29 A. Yes, I was transferred on Pulse into Anglesea Street.

1 464 Q. Did you make any concerns or any -- sorry, I don't wish  
2 to use loaded words, but did you have feelings about  
3 the fact that your status on the database was changing  
4 despite the fact that you had made an appeal?

5 A. Yes. I made enquiries with somebody in HR at the time, 14:16  
6 I believe. Her name was Nicola McAulay.

7 465 Q. We will come to that letter in a moment, go ahead?

8 A. And she said that -- I expressed to her that I was now  
9 under the supervision of an inspector in Anglesea  
10 Street, even though I wasn't attached to Anglesea 14:16  
11 Street.

12 466 Q. Yes.

13 A. And every time I check anything to do with me on Pulse,  
14 it's all -- I don't even appear in Fermoy district, I  
15 am answerable to somebody in Anglesea Street who I have 14:16  
16 never met. So she said she would make enquiries and  
17 she got back to me saying that it is nothing to do with  
18 -- she cannot do it, it has something to do with Garda  
19 Headquarters.

20 467 Q. What was the outcome of your appeal in respect of the 14:16  
21 move to Anglesea Street?

22 A. The Commissioner at the time denied my appeal and I  
23 then appealed the Commissioner's transfer to the  
24 appeals board.

25 468 Q. This necessitated you coming to Dublin to appear before 14:17  
26 that board, is that right?

27 A. That's correct, I had to come to appeal before the  
28 board in May of 2016.

29 469 Q. Yes. And perhaps it's not necessary to go into what

1           happened at that, except what was the outcome of that  
2           appeal by you?

3           A.    The outcome was that they recommended to the  
4           Commissioner not to transfer at the time.

5   470   Q.    And were you transferred? 14:17

6           A.    No.

7   471   Q.    The other question then, the other question in relation  
8           to this: what was your attitude to being moved to  
9           Anglesea Street? Forgetting all about your status on  
10          Pulse, but how did you feel about the proposed move 14:17  
11          into the city centre?

12          A.    I felt disgusted by it, because I was being sent back  
13          to be in contact with Superintendent Comyns.

14   472   Q.    Well, explain that. How would you have been in contact  
15          with Superintendent Comyns if you were being moved into 14:17  
16          the city centre?

17          A.    If I was sent into Anglesea Street Garda station, I  
18          believe I would have been in contact with him because  
19          he would be reporting regularly to Anglesea Street  
20          Garda station. 14:18

21   473   Q.    Why would he have been reporting to Anglesea Street  
22          Garda Station? In what capacity?

23          A.    He'd be reporting to the chief and for various meetings  
24          and briefings or whatever, just the same as I would be  
25          reporting to Fermoy in normal terms. 14:18

26   474   Q.    Okay. Let me put it this way: On 5th February 2015,  
27          what station was Superintendent Comyns paraded at,  
28          stationed at, excuse me?

29          A.    I believe it was May '15 when he went into Mayfield.

1 He was still in Fermoy in February.

2 475 Q. I think from his own statement it's actually March but  
3 in any event --

4 A. I believe, yeah, it could be March.

5 476 Q. In any event, it's after you had become aware of the 14:18  
6 fact that you were to be moved but while your appeal is  
7 pending?

8 A. That's correct.

9 477 Q. You've already said you were aware of rumour anyway,  
10 which turned out to be correct, that in fact he was 14:18  
11 being moved to Mayfield?

12 A. That's correct.

13 478 Q. Other than that particular incident -- I'm sorry,  
14 that's not an appropriate way of describing it. Other  
15 than that particular occasion upon which your status 14:19  
16 was changed on the Pulse database, so you went from  
17 being stationed at Mitchelstown to being stationed at  
18 Anglesea Street as far as the database was concerned,  
19 were there ever any other instances where something  
20 like that happened? 14:19

21 A. There were. When the transfer to Fermoy became  
22 official on a HR bulletin, I was immediately  
23 transferred on Pulse to Fermoy. And because of the  
24 problems I had dealing with my own incidents, et  
25 cetera, I asked Inspector Golden to raise the issue 14:19  
26 with Chief Superintendent Dillane and the week that he  
27 spoke with -- when he spoke with Chief Superintendent  
28 Dillane, I was allocated to Fermoy. Within a week  
29 after that I was allocated back to Mitchelstown and the

1 following week I was back in Fermoy again. So my  
2 status changed temporarily and then I was reverted back  
3 as being transferred to Fermoy.

4 479 Q. If I could ask, Mr. Murphy, please, would you go to  
5 page 1460. Now this is the statement that was provided 14:20  
6 by Ms. McAulay, you've already alluded to her in your  
7 statement. It was a statement provided to the Tribunal  
8 by her. She refers to her employment. She's a  
9 civilian employee, holding the grade of executive  
10 officer, with AGS. Then they goes on to say that: 14:20

11  
12 "In response to you on the 14th August, you informed  
13 Sergeant Barry that as per bulletin 04.15 he  
14 transferred from Mitchelstown Garda Station to Anglesea  
15 Street Garda Station." 14:21

16  
17 I will just pause there, Chairman, and say that that  
18 bulletin is to be found at page 4255. I am not going  
19 to ask Mr. Murphy to go to it right now, but it's at  
20 4255. 14:21

21  
22 "A bulletin is a notification of all changes that  
23 happened within An Garda Síochána for both garda  
24 members and civilian staff within a specific time  
25 period, such as transfers in, out, promotions, 14:21  
26 retirements, et cetera."

27  
28 She goes on to refer to the bulletin in her own  
29 statement. Then she goes on to say:

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"My response is, retired Sergeant Barry on 14th August 2015 was the correct response as this was the procedure at that specific time and would have been the standard response given to any member. I have no recollection of retired Sergeant Barry and I have no recollection of the e-mail exchange between the two of us."

First things first, had you read that statement previously?

A. Not before discovery, no.

480 Q. Okay, but after discovery, prior to giving your evidence, have you had sight of that statement?

A. I believe I would have read through it, yes.

481 Q. In reference to her response to you which she said was the correct response, to what is that alluding to? what is that a reference to?

A. I presume it's in reference to the HR bulletin when it comes out. I pointed out to her that there could be five sergeants transferred on that bulletin but I was the only one who was immediately transferred from my station to the new proposed station. Others would not appear in the bulletin until the transfer had actually taken effect.

482 Q. I wonder if it assists you, Mr. Barry, Mr. Murphy, would you go to page 4254 please, upon which we should see, we hopefully will see two e-mails. The one at the bottom is the first in time. So if you scroll down the page, please, Mr. Murphy. There, you should see an

1 e-mail now. Ostensibly that's from you, would you read  
2 that e-mail and tell us if you remember sending it?

3 A. I do remember sending it, yes. "I am stationed in  
4 Mitchelstown Garda Station and yet I am allocated to  
5 Anglesea Street Garda Station. As a result private and 14:23  
6 confidential correspondence was incorrectly addressed  
7 to me at Anglesea Street, where it was opened and then  
8 forwarded to Mitchelstown. This has resulted in a  
9 breach of my human rights and I would like to have the  
10 matter addressed so that no breach occurs in the 14:23  
11 future. Should you have any queries, I can be  
12 contacted at, on... Forwarded for your information  
13 please."

14

15 483 Q. Yes, and this is an e-mail that you sent to Human 14:23  
16 Rights Management Records on 13th August 2015 at half  
17 past four in the afternoon, and then one week later you  
18 receive a response from the same person who made the  
19 statement a moment ago, that was just opened a moment  
20 ago, Nicola McAulay, in which she says: 14:23  
21

22 "Hi Paul, according to bulletin 04/15 you transferred  
23 from Mitchelstown Garda Station to Anglesea Street  
24 Garda Station. Garda records can only be updated on  
25 foot of a bulletin. If bulletin 04/15 is incorrect, 14:23  
26 you will need to contact the transfers section, Garda  
27 Headquarters."

28

29 Do you remember receiving that e-mail from her?

1 A. I do, yes.

2 484 Q. That appears to be the e-mail that she is referring to  
3 as her correct response in the statement that she has  
4 made to the Tribunal, isn't that correct?

5 A. That's correct. 14:24

6 485 Q. Okay. So, to get it straight then, a bulletin, a  
7 regular Garda bulletin is issued and amongst the  
8 material on the face of the bulletin is the fact that  
9 various gardaí, various sergeants have been transferred  
10 from one station to another, isn't that correct? 14:24

11 A. That's correct.

12 486 Q. On this particular bulletin, 04/15, there is reference  
13 to you being transferred from Mitchelstown Garda  
14 Station to Anglesea Street Garda Station, correct?

15 A. That's correct. 14:24

16 487 Q. Was that the first occasion upon which you became aware  
17 of the fact that you had been transferred?

18 A. I believe it was. I didn't even see the bulletin when  
19 it came out initially, it was a member of garda rank  
20 rang me to tell me that I was on it. 14:24

21 488 Q. Yes.

22 A. That was the first I knew of it.

23 489 Q. Forgetting about that conversation with the other  
24 guard, you then made yourself familiar with the content  
25 of the bulletin? 14:25

26 A. I did, yes.

27 490 Q. And you saw that you, amongst a number of other gardaí,  
28 had been designated as transferred. You were moved  
29 from one station to another station?

1 A. I just checked those of sergeant rank, the same as  
2 myself, and I would be the only sergeant out of  
3 possibly four or five, I can't remember how many were  
4 on it, but I was the only one transferred immediately  
5 on Pulse. 14:25

6 491 Q. Well, you have anticipated my next question. When you  
7 saw the bulletin, you looked to see if anybody else was  
8 recorded on Pulse as having transferred and despite the  
9 fact that the bulletin referred to a number of other  
10 sergeants being transferred, you were the only one who 14:25  
11 was immediately changed, your status was immediately  
12 changed from Mitchelstown to Anglesea Street in your  
13 case?

14 A. That's correct.

15 492 Q. I believe you may have touched on this this morning, 14:25  
16 but in case there is any ambiguity about it, you have  
17 made it abundantly clear to the Chairman that you were  
18 never going to ask for a transfer, you were never going  
19 to formally request a transfer and you've stated your  
20 reasons for that, isn't that correct? 14:26

21 A. That's correct.

22 493 Q. You also said this morning to Mr. Harty in  
23 cross-examination that you would have preferred, your  
24 preference was to remain at Mitchelstown Garda Station?

25 A. Yes, that's correct. 14:26

26 494 Q. Why?

27 A. Because I went there in 2000, I had engaged with the  
28 community, I liked the people in the town, I loved the  
29 people I was working with, everything. I had no

1 problems there until this incident and I was very happy  
2 to remain there. In my 30 years in the guards, I never  
3 applied for a transfer.

4 495 Q. Yes. In respect of the people you were working with,  
5 obviously it's a large organisation like any other, but 14:26  
6 in general terms, how did you get on with the people  
7 you were working with at Mitchelstown Garda Station?

8 A. In general terms I would say I got on perfectly well  
9 with over 90% of the people attached to the station.

10 496 Q. In the period of time between late 2012 and up until 14:27  
11 mid to late 2015, was it common knowledge -- where the  
12 issues the subject-matter of the Chair's inquiries  
13 common knowledge, that you had made a complaint and  
14 that there was --

15 A. Yes, it was common knowledge. 14:27

16 497 Q. Hopefully no one will object to the fact that I am  
17 paraphrasing and summarising, but it was open knowledge  
18 amongst all of your colleagues that you were having  
19 issues or issues were being had between yourself and  
20 senior management, including Superintendent Comyns? 14:27

21 A. That's correct.

22 498 Q. Would you have discussed this with any of your  
23 co-staff, other people you were working with?

24 A. I would have discussed it mostly with Sergeant Gerry  
25 Quinn. He would have been the person I discussed it 14:27  
26 most with.

27 499 Q. Did you feel you had the support of that sergeant  
28 and/or any other members of An Garda Síochána?

29 A. I believe I had the support of the majority of the

1 members attached to the station.

2 500 Q. Did you take any comfort from the fact that you were  
3 working amongst people whom you felt supported by?  
4 A. Yes, it was a big comfort for me to go to a station  
5 where I knew who I could trust and who I felt would 14:28  
6 have my back.

7 501 Q. If you had been moved during this period of time to the  
8 same garda station, would you have the same sense of  
9 support or comfort, if you will, working with other  
10 people at these other garda stations? 14:28  
11 A. Not in relation to Glanmire or Fermoy, I believe I  
12 would have been happier with the personnel who were  
13 attached to Mallow at the time.

14 502 Q. What about Anglesea Street Garda Station, since you are  
15 being specific about stations? 14:28  
16 A. I wouldn't know anyone in there.

17 503 Q. Okay.  
18 A. So I wouldn't trust anyone as such, while I would be  
19 there.

20 504 Q. We will move on then from the transfers and I think 14:28  
21 with the exception of one or two small things to touch  
22 on, the only last substantive thing I want to ask you  
23 questions about pertain to the force majeure  
24 application in April of 2013 and your general status in  
25 respect of annual leave and leave in general, okay. 14:29  
26

27 You communicated to -- it was known to people that the  
28 occasion upon which you had sought force majeure  
29 absence in April 2013 was not the only time in your

1 history as a member of An Garda Síochána that you had  
2 sought the same dispensation, isn't that correct?

3 A. That's correct. I never applied while I was stationed  
4 in Rathmines. It was only when I came to Mitchelstown  
5 in 2010 was my first application, I believe. 14:29

6 505 Q. Forgive me for the really convoluted way in which I  
7 asked that, but what I am trying to get at is: The  
8 application in April of 2013 wasn't your first time  
9 applying for it?

10 A. No, it was not. 14:30

11 506 Q. And in fact, in the very recent past you were able to  
12 inform the Tribunal of a prior occasion and the  
13 Tribunal has been able to obtain documents pertaining  
14 to that request, you're aware of that fact?

15 A. Yes, I had a copy of the original -- my first force 14:30  
16 majeure application to another superintendent.

17 507 Q. Okay. Mr. Murphy, would you please go to page 5570.  
18 Do you have that in front of you, Mr. Barry? Do you  
19 see it?

20 A. I see it. 14:30

21 508 Q. It's a letter dated 11th January 2010 and it's issued  
22 by Superintendent Myers. Before we go any further, who  
23 was Superintendent Myers?

24 A. He was the superintendent in Fermoy before  
25 Superintendent Comyns arrived. 14:30

26 509 Q. Yes. You may have already touched upon this, but did  
27 you at any stage while you were working in  
28 Mitchelstown, or at any point, have any issues working  
29 under the command structure of Superintendent Myers?

1 A. We had no major issues whatsoever.

2 510 Q. Okay. This is a letter addressed in the sergeant in  
3 charge at Mitchelstown, is that you or is it a  
4 different sergeant?

5 A. That would be Sergeant Aidan Dunne. 14:31

6 511 Q. Okay. So this is a letter dated 11th January 2010,  
7 issued by Superintendent Myers or at least on his  
8 behalf, it's addressed to the member in charge, it's:  
9

10 "Re: Application for force majeure leave - Sergeant 14:31  
11 Paul Barry."

12

13 It simply says:

14

15 "With reference to above, I wish to enquire what are 14:31  
16 the circumstances surrounding this application."  
17

18 Correct?

19 A. That's correct.

20 512 Q. Okay. It's written then underneath it: "Garda Barry, 14:31  
21 for report please". And it's signed by the sergeant  
22 you just referred us to, Sergeant Dunne; isn't that  
23 right?

24 A. That's correct.

25 513 Q. Okay. This all relates to the next document. 14:31  
26 Mr. Murphy, if you scroll down to the next page please,  
27 which is referenced appendix B of form 1, FM1 schedule  
28 "Form of notice of force majeure under the Parental  
29 Leave Act 1998." Correct?

1 A. That's correct.

2 514 Q. It sets out the relevant section. Then it goes on to  
3 say, member details. Name, Paul Barry. It gives your  
4 reg number.

5 CHAIRMAN: There's no need for you to read the whole 14:32  
6 thing, we can see it, Mr. Costelloe.

7 MR. COSTELLOE: Thank you, Chairman. I am just going  
8 to go into the handwritten section of it. I am not  
9 going to read the entirety of it but just go to the  
10 handwritten section of it. whose handwriting is that? 14:32

11 A. That would be my handwriting, yes.

12 515 Q. Will you read it out for us, please?

13 A. It hasn't scrolled down yet.

14 CHAIRMAN: We will have a look at it first of all and  
15 we will see if we need to read it out. Okay. Well, I 14:32  
16 can read that.

17 MR. COSTELLOE: Right.

18 516 Q. Then you set out your reasons for it and you set out  
19 the dates upon which you are seeking the force majeure  
20 leave, isn't that correct? 14:32

21 A. The dates that I took force majeure, yes.

22 517 Q. Again, just bear with me, it says "Details of force  
23 majeure leave" and it gives three days; isn't that  
24 right?

25 A. That's correct. 14:32

26 518 Q. 5th January 2010, 6th January 2010, 7th January 2010,  
27 correct?

28 A. That's correct.

29 519 Q. Okay. Go down a little bit further, please,

1 Mr. Murphy. And tell us the date upon which you  
2 submitted this form?

3 A. I submitted it on 13/1/2010.

4 520 Q. So again self-evidently this was submitted after you  
5 had in fact taken those three days of force majeure? 14:33

6 521 Q. CHAIRMAN: But force majeure leave has to be sought  
7 after the application, it's force majeure, isn't that  
8 right?

9 A. Yes.

10 522 Q. CHAIRMAN: You take the leave and then afterwards you 14:33  
11 explain it?

12 A. Yes. It's afterwards --

13 523 Q. CHAIRMAN: So an application for it is actually an  
14 incorrect way of saying it?

15 A. Yes, Mr. Chairman. 14:33

16 524 Q. CHAIRMAN: It is an explanation of why you took it?

17 A. That's correct.

18 525 Q. CHAIRMAN: Isn't that right?

19 A. That's correct.

20 526 Q. CHAIRMAN: And what Superintendent Myers said was, 14:33  
21 please let me have the explanation. It comes along to  
22 you and you say, suffering from an illness, okay. But  
23 there it is. That's what you explained?

24 A. That's correct.

25 CHAIRMAN: Okay. 14:33

26 527 Q. MR. COSTELLOE: And then the next document, the next  
27 page down is your response to the request for  
28 information that's coming via Sergeant Dunne from  
29 Superintendent Myers and it sets out the circumstances

1 of what is referred to as an application but, as the  
2 Chairman has pointed out, in fact it is merely you  
3 clarifying what was after happening. Then it is  
4 forwarded on by Sergeant Dunne to the superintendent,  
5 who has requested it, isn't that right? 14:34

6 A. That's correct.

7 528 Q. Was ever any issue raised in respect of that -- was  
8 ever any issue raised about the fact that you took that  
9 force majeure in 2010?

10 A. No, no issue. 14:34

11 529 Q. CHAIRMAN: Did nobody ask you what the illness was?

12 A. No, Mr. Chairman.

13 530 Q. CHAIRMAN: That was it?

14 A. That was it.

15 CHAIRMAN: Okay. 14:34

16 531 Q. MR. COSTELLOE: In late 2012, 2013, into '14 and '15,  
17 when you were seeking leave, to whom were you directed  
18 to apply.

19 A. The leave in relation to...?

20 532 Q. On any occasion on which you sought leave in that 14:35  
21 period of time, to whom did you make it?

22 CHAIRMAN: Sorry, yes leave, normal application.

23 MR. COSTELLOE: Normal. I should have made that clear.  
24 I am not dealing with force majeure.

25 CHAIRMAN: Thanks very much. 14:35

26 A. Normal leave.

27 533 Q. CHAIRMAN: To whom did you apply for leave when you  
28 needed it?

29 A. I would submit it through the sergeant in charge for

1 the district officer.

2 CHAIRMAN: Sorry, Mr. Costelloe.

3 534 Q. MR. COSTELLOE: And the sergeant in charge, do you know  
4 to whom he forwarded that request.

5 A. To the district officer. 14:35

6 535 Q. And who was the district officer?

7 A. Superintendent Comyns.

8 536 Q. Okay. At any stage were you directed or did you have  
9 to make the application through Inspector O'Sullivan?

10 A. No, I had sought -- when I was on sick leave I 14:35  
11 addressed my leave sheet to Inspector O'Sullivan but I  
12 wasn't directed to do so.

13 537 Q. Yes. And, indeed, within the papers, and it'll be for  
14 Inspector O'Sullivan to deal with this himself when he  
15 gives evidence, there's reference to him apparently, I 14:35  
16 will keep this as neutral as I can, expressing a  
17 position about the fact that he was dealing with this  
18 rather than it going to Superintendent Comyns, isn't  
19 that right?

20 A. No, sorry, he was saying that -- I had addressed it to 14:36  
21 Inspector O'Sullivan and he said that it should be  
22 addressed to Superintendent Comyns.

23 538 Q. Yes, I think that's exactly what I just put to you,  
24 Mr. Barry.

25 A. Sorry. 14:36

26 539 Q. Let's keep it as neutral as we possibly can. You sent  
27 it to Inspector O'Sullivan?

28 A. That's correct.

29 540 Q. And something arose whereby you became aware of the

1 fact that Inspector O'Sullivan was saying in fact that  
2 should have gone to Superintendent Comyns and it was  
3 nothing to do with him?  
4 A. That's correct.  
5 541 Q. why at that stage were you directing the application to 14:36  
6 Inspector O'Sullivan?  
7 A. Because I didn't want to have communication with  
8 Superintendent Comyns.  
9 542 Q. Had you been told to whom you were supposed to direct  
10 any kind of application like that, at that time? 14:36  
11 A. Normally it would have been through the sergeant in  
12 charge to the district officer.  
13 543 Q. But as you just said, the sergeant in charge would have  
14 forwarded it to Superintendent Comyns?  
15 A. No, in normal times yes, but I was on leave, I think I 14:36  
16 was on leave when I submitted that application and I  
17 met with the secretary and asked her to put it in an  
18 envelope for Inspector O'Sullivan.  
19 544 Q. Yes. At this time, dealing with the occasion now where  
20 you're looking for annual leave, had any arrangement 14:37  
21 been put in place whereby you wouldn't have to deal  
22 directly with Superintendent Comyns?  
23 A. No.  
24 545 Q. Was it your understanding that that was contrary to a  
25 formula which had been developed whereby you would only 14:37  
26 engage with Inspector O'Sullivan, thereby precluding  
27 you having to deal directly with Superintendent Comyns?  
28 A. There was no fixed system put in place that I would  
29 have to deal only with Inspector O'Sullivan. All my

1           communications was directed to go through the  
2           superintendent.

3 546 Q.    And that remained the case even when you were looking  
4           for leave, had you to apply to Superintendent Comyns?  
5           A.    That's correct. 14:38

6 547 Q.    So, insofar as there might be a suggestion that a  
7           temporary workplace arrangement has been put in place,  
8           putting a middleman in between yourself and  
9           Superintendent Comyns, if you will, this is an  
10          incidence where, for example, it didn't happen, you 14:38  
11          were told to -- not that you were told, but had you to  
12          continue to have to apply to Superintendent Comyns for  
13          something like leave?  
14          A.    Yes, I was never aware of the temporary allocation of  
15          Inspector O'Sullivan to my dealings in April 2014. I 14:38  
16          was never made aware of that. So all my communications  
17          continued to be addressed to the superintendent.

18 548 Q.    And again, it's probably not for you, it's for  
19          Superintendent O'Sullivan when he gives evidence, he  
20          can deal with his interaction with Patricia Gould and 14:39  
21          her own statement.  
22

23          But there was an occasion when you applied for leave  
24          and an issue arose about to whether or not there was  
25          cover available for you in order to take that leave, 14:39  
26          isn't that correct?  
27          A.    Yes, that was for a family holiday in 2013.

28 549 Q.    What would have been the ordinary set up, the ordinary  
29          process whereby a sergeant could take leave to go on a

1 family holiday? what did you have to do in order to  
2 ensure that you got X days available to you to take  
3 leave?

4 A. I would normally submit my leave application and if it  
5 wasn't -- if there was days that weren't suitable, then 14:39  
6 I would be notified by the district officer.

7 550 Q. Okay. whose responsibility in general terms, I'm not  
8 asking about you now in particular, but in general  
9 terms whose responsibility would have it have been to  
10 ensure that there was cover on the days upon which a 14:39  
11 member was seeking to have annual leave?

12 A. Normal terms of duty, the district officer is  
13 responsible for who is on duty on any particular day.

14 551 Q. Okay. Did you have any responsibility, as far as you  
15 were concerned, with ensuring that there was cover 14:40  
16 available in the station so that you could take leave  
17 on those particular days?

18 A. If there was a situation -- in that situation that  
19 we're talking about, when I submitted the application,  
20 it was to find out who was actually available, what 14:40  
21 dates I could avail of. And there was dates came back  
22 where I was told there was no cover, that I couldn't  
23 get leave. And I was asked to submit then a list of  
24 the people who were available to work on those dates.

25 552 Q. Okay. well let's go back over that, because it may 14:40  
26 have been a point that was missed in your earlier  
27 evidence. When you made your application for annual  
28 leave were you looking for exact dates or were you  
29 making enquiries about when in a period of time you



1 A. Not through Superintendent Comyns, no.

2 558 Q. Okay. If we go to page 1880, please. Now, this is the  
3 statement of, I think he's retired now, I think it's  
4 Mr. Dunne. It's made on 7th December 2021. In that he  
5 sets out certain information, including the fact that 14:42  
6 -- if I just find the exact -- sorry, my own note.  
7 Excuse me please, Mr. Barry. I was looking at the  
8 wrong page, sorry, Mr. Barry. So you have there one of  
9 the statements, there are a number of statements made,  
10 I was looking at the wrong one. But this statement was 14:43  
11 made by Mr. Barry. It was made on 16th November 2020.  
12 And if we go down to the third paragraph, which is the  
13 paragraph that begins "Retired Sergeant Barry" on page  
14 21, you see that paragraph there?

15 A. Yes. 14:43

16 559 Q. Okay. Let's go to the last part of that paragraph,  
17 beginning with "I do recall difficulties", do you see  
18 that?

19 A. Yes.

20 560 Q. "I do recall difficulties with retired Sergeant Barry's 14:43  
21 application for annual leave in mid 2013, referred to  
22 in pages 39, 40 and 41 of his statement. I did submit  
23 a report to Superintendent Comyns at Fermoy Garda  
24 Station and I did speak to the superintendent about the  
25 issue, explaining that I believed that there was enough 14:44  
26 cover to facilitate the application for leave, save one  
27 day, July 13th, 2013."  
28  
29 Does that coincide with your understanding of what was

1 going on?

2 A. That's -- I believe it came down to one day in the end,  
3 yes.

4 561 Q. Okay. Since we have this particular document opened,  
5 even though it is not strictly speaking on point but it 14:44  
6 has been raised, let's just deal with one other thing  
7 in it. Go to the last paragraph, please, Mr. Murphy,  
8 it begins "On page 55". You see that paragraph there?

9 A. Yes.

10 562 Q. "On page 55 it's mentioned that I informed retired 14:44  
11 Sergeant Barry that if he did not move units, from unit  
12 C to unit B, the superintendent would swap each entire  
13 unit to ensure retired Sergeant Barry would no longer  
14 be supervising a number of named gardaí. I cannot  
15 recall this specific conversation or these facts but I 14:44  
16 do recall that these issues were raised about changing  
17 units and supervision of members at this time. I  
18 cannot recall the specific details of the issues or  
19 conversations but I cannot say definitively that such a  
20 conversation did not occur." 14:45  
21

22 You see that there in his statement?

23 A. I do, yes.

24 563 Q. It's to this that you were alluding to this morning in  
25 cross-examination when you were talking about the fact, 14:45  
26 and indeed yesterday, when you were talking about the  
27 fact that it became known to you that either you moved  
28 or your unit was going to be moved?

29 A. That's correct.

1 564 Q. So that was Mr. Dunne. If we could then turn to  
2 retired Sergeant Gerry Quinn's statement, which I hope  
3 is at page 1345. Yes. This is the statement of Gerry  
4 Quinn made on 5th July 2021. Mr. Murphy, would you  
5 scroll down to the bottom please so that we can see the 14:46  
6 last seven or eight lines of that page. Do you see a  
7 sentence, mid sentence, it starts "I recall Sergeant  
8 Barry looking for annual leave and I offered to change  
9 tours of duty", do you see that?

10 A. Yes, I do. 14:46

11 565 Q. Okay. It continues "...in an attempt to enable you to  
12 get you annual leave. I recall another occasion when  
13 Sergeant Barry took force majeure and he completed  
14 relevant paperwork at his return on resumption of duty.  
15 It appeared a time later he was being investigated by 14:46  
16 Superintendent Lehane in relation to Sergeant Barry  
17 taking force majeure."  
18

19 So in that obviously he references the force majeure  
20 but he also says that he did offer to change his tours 14:47  
21 of duty, isn't that correct?

22 A. Yes, he did.

23 566 Q. And to your knowledge was that offer communicated to  
24 Superintendent Comyns so as to facilitate you taking  
25 the day 's leave that you were looking for? 14:47  
26

27 A. Yes, it was.

27 567 Q. Was there anything at all unusual about you in that  
28 situation looking for particular days of leave?  
29

29 A. Not when it was so far in advance, I thought there

1 would not be an issue with it.

2 568 Q. In the ordinary course of events where other sergeants  
3 in the station had indicated to the superintendent in  
4 charge that they were prepared to cover the shifts  
5 referable, would there ever have been an issue about 14:47  
6 that sergeant who was making the application getting  
7 the days that he was looking for?

8 A. No.

9 569 Q. Did you get the days you were looking for?

10 A. Only on appeal to the chief superintendent. 14:47

11 570 Q. Then the penultimate thing I want to ask you about. If  
12 we go to what's referred to as ground 3H in the  
13 Tribunal's grounds, but really it deals with the fatal  
14 fire and the reporting or non-reporting, depending on  
15 one's perspective and what flowed from that. That's 14:48  
16 the area we're dealing with now and your complaint in  
17 respect of how you feel you were treated as a result of  
18 what was done after that, okay?

19 A. Yes.

20 571 Q. All right. So again that's ground 3H and it references 14:48  
21 the fatal fire of 9th April 2013. The coroner's form,  
22 which on your evidence was sufficient in which to  
23 comply with the initial obligations to report the  
24 incident, is the form C 71, isn't that correct?

25 A. That's correct. 14:48

26 572 Q. And that's been opened, I don't need to go back over it  
27 again, that was opened yesterday and the information  
28 that is set out on its face is apparent to the Chairman  
29 when it comes to the report to be written, isn't that

1 correct?

2 A. That's correct.

3 573 Q. Now, Chief Superintendent Dillane complains, and again,  
4 this may have been opened previously, I think it was,  
5 but complains that the comprehensive report should 14:49  
6 be -- first of all, that it should be a comprehensive  
7 report but that it should be submitted by the working  
8 sergeant in line with the memo that had been sent down  
9 by the assistant commissioner, that's Assistant  
10 Commissioner Quilter, dated 3rd August 2012, isn't that 14:49  
11 correct?

12 A. That's correct.

13 574 Q. So again, you've already said this, but this is at a  
14 time when you're off duty, you're out sick, a memo is  
15 sent down from the A/C, saying, in future for critical 14:49  
16 incidents I want the following things to be done, isn't  
17 that right?

18 A. That's correct.

19 575 Q. And what flows from that, is that on the occasion upon  
20 which you attended the fatal fire, Chief Superintendent 14:49  
21 Dillane complains that that instruction isn't complied  
22 with, that you have failed somehow to comply with what  
23 you have been told to do in that direction from A/C  
24 Quilter. Have I got that right?

25 A. That's correct, but I was not told. 14:50

26 576 Q. Yes, but so far we're correct?

27 A. Yes, correct.

28 577 Q. Okay. So then if we turn to page 142, please. Have I  
29 got the wrong page? I think it's page 142. We have in

1 front of us here an undated letter but it's stamped  
2 10th May 2013, and it's regarding this particular  
3 incident. It's common case that is what it refers to.  
4 It's sent by Chief Superintendent Dillane and this is  
5 the subject-matter of his complaint set out there in  
6 black and white: 14:50

7  
8 "I have noted Sergeant Barry's report. In future for  
9 any critical incident that occurs in your district, I  
10 expected a comprehensive report to be submitted by the 14:51  
11 working sergeant in line with Assistant Commissioner  
12 Quilter's minute dated 3rd August 2012."

13  
14 Correct?

15 A. That's what it says, yes, correct. 14:51

16 578 Q. That's what you're referring to, that's what we've just  
17 been dealing with; isn't that right?

18 A. That's correct.

19 579 Q. Okay. And then if we actually go to the memo itself  
20 from Assistant Commissioner Quilter, it's at page 14:51  
21 412/413. It's an e-mail. The second half of that  
22 page, Mr. Murphy, if you go down for me, please. There  
23 we go. From commissioner south, that's Assistant  
24 Commissioner Quilter, and it's sent to the various  
25 superintendents and it regards reporting of critical 14:51  
26 incidents. It's the one that is dated 3rd August 2012,  
27 and it's an e-mail in which it's directed to each  
28 divisional officer in the Southern Region and it says:  
29

1 "In compliance with the directions of Deputy  
2 Commissioner Operations, all critical incidents will be  
3 reported to the office of Deputy Commissioner  
4 Operations by regional offices within 30 minutes of the  
5 incident occurring, such reports will be made as 14:52  
6 follows."

7  
8 Now, first of all, you've already said this, but for  
9 the avoidance of call doubt, you never had sight of  
10 this because you were off duty, isn't that right? 14:52

11 A. That's correct.

12 580 Q. It goes on to say:

13  
14 "During normal office hours 7.30am to 6.30pm Monday to  
15 Friday critical incidents will be notified by phone to 14:52  
16 Sergeant Sharon Terry at..." a given telephone number,  
17 isn't that correct?

18 A. That's correct.

19 581 Q. Tell us what time was the fire reported to you at? I  
20 think you've already said this, can you remember? 14:52

21 A. From memory, I think it was before 11pm.

22 582 Q. I think you may have said it was shortly around ten  
23 o'clock at night?

24 A. Yes.

25 583 Q. Give or take, it was nighttime in any event? 14:52

26 A. Yes, it was.

27 584 Q. The minute goes on, or the direction, however one  
28 wishes to describe it goes on:

29

1 "Following the initial notification, a full report on  
2 the incident signed by the relevant district officer,  
3 acting district officer or superintendent on call will  
4 be forwarded to the regional office via e-mail to  
5 commissioner southern garda i.e. before 8.15am on the 14:53  
6 following day."

7  
8 Is that right?

9 A. That's correct.

10 585 Q. And then it goes on to say what a critical incident 14:53  
11 includes, and it sets out a number of obviously very  
12 serious crimes or incidents and it's signed or at least  
13 directed by Mr. Quilter, correct?

14 A. Correct.

15 586 Q. Okay. In response to your attendance at the fire, the 14:53  
16 fatal injury fire, you told the Chairman that you  
17 directed the guard who was working with you at the time  
18 to complete the C 71 form, isn't that correct?

19 A. That's correct.

20 587 Q. You said that to the best of your recollection you 14:53  
21 signed off on it because it was left for you to sign  
22 off on that particular document, the C 71, correct?

23 A. I believe so, yes.

24 588 Q. And then that was communicated through to the coroner 14:54  
25 by which you made the report of what had happened,  
26 correct?

27 A. Correct.

28 589 Q. It doesn't appear to be the case, it's probably a  
29 matter more for submission but I am giving you an

1 opportunity to comment upon it, it doesn't appear to be  
2 the case that that particular memo makes any reference  
3 to the sergeant on duty making a report?  
4 A. No, it does not.  
5 590 Q. Despite the fact that Chief Superintendent Dillane 14:54  
6 seemed to be saying that in the correspondence that  
7 flow from the particular incident, the fire incident?  
8 A. That's correct.  
9 591 Q. One or two very small things, then I think we're done,  
10 Mr. Barry. This morning, excuse me, this afternoon, 14:54  
11 Mr. McGarry put to you certain responses that had been  
12 written down on your behalf in your Replies to  
13 Particulars in your civil claim, do you remember that  
14 happening?  
15 A. I do, yes. 14:55  
16 592 Q. He put to you something that is borne on page 290 and  
17 it's given (ix). We have it there on the screen in  
18 front of us. You remember this being put to you?  
19 A. Yes.  
20 593 Q. Okay. "When Inspector O'Sullivan received the cert he 14:55  
21 attended at the plaintiff's doctor surgery unilaterally  
22 and without notice. He interrogated the plaintiff's  
23 doctor on whether it was the plaintiff or the doctor  
24 who had written the certificate. The plaintiff was  
25 extremely distressed by these actions, particularly as 14:55  
26 his doctor clearly felt intimidated."  
27  
28 Now, first of all, how is it that you say you know that  
29 your doctor, by which it's a reference to Dr. Kiely,

1 that's common case, Dr. Kiely felt intimidated by  
2 Inspector O'Sullivan attending at her place of  
3 business?

4 A. When she rang me after his visit, she said that he  
5 arrived in full uniform with his cap and tunic and she 14:56  
6 felt intimidated by his appearance and his questioning  
7 of my cert.

8 594 Q. Okay. Since the commencement of the Tribunal Dr. Kiely  
9 has prepared a statement, isn't that correct? You know  
10 that? 14:56

11 A. I do, yes.

12 595 Q. And it's included hopefully in the same bundle of  
13 documents that Mr. Murphy has available to him, but it  
14 should be found at page 5669. Sorry, 5670, excuse me.  
15 Yes, that's it. We'll skip over that first page for a 14:56  
16 moment, Mr. Barry, and go to the end of the second page  
17 of this letter, which is again in response to requests  
18 for information made by the Tribunal. Keep going,  
19 Mr. Murphy, please. "In conclusion", there. This is  
20 Dr. Kiely providing information to the Tribunal, 14:57  
21 correct?

22 A. That's correct.

23 596 Q. You have had sight of this letter, you're aware of its  
24 contents, isn't that right?

25 A. I only saw it in discovery, yes. 14:57

26 597 Q. Yes, but you have seen it?

27 A. I have seen it, yes.

28 598 Q. This isn't the first time seeing this?

29 A. No.

1 599 Q. Okay. She states in her conclusions that: "Although  
2 it was a number of years ago, the statement I prepared  
3 is from my medical records", correct?  
4 A. Correct.

5 600 Q. She goes on to say: "My recollection from that time is 14:57  
6 that Inspector O'Sullivan presented in full uniform to  
7 the reception desk of my GP surgery. I brought him  
8 into my office and spoke to him without disclosing any  
9 medical information in relation to Garda Paul Barry.  
10 Patient confidentiality was maintained at all times." 14:57  
11  
12 Then she sets out:  
13  
14 "On that day I remember being slightly unnerved by the  
15 visit, as it is highly unusual to receive what seemed 14:57  
16 to be a formal visit from a member of An Garda Síochána  
17 to query the validity of a medical certificate. I  
18 remember feeling annoyed as in my opinion the visit  
19 seem inappropriate. I was available to speak with  
20 doctors from the Garda Health Department if requested." 14:58  
21  
22 Just to finish it:  
23  
24 "My priority was and is to my patient and his mental  
25 wellbeing and that is why I put the conditions in the 14:58  
26 medical certificate with regard to his return to work.  
27 In my opinion he was pit to work as a garda but due to  
28 alleged bullying that had taken place, attending Fermoy  
29 Garda Station and contact with Superintendent Comyns

1 would have had a negative impact on Garda Barry's  
2 mental health."

3  
4 Again, this coincides with what you've just told the  
5 Chairman, about her telling you that she was unnerved 14:58  
6 or irritated by Inspector O'Sullivan's attendance at  
7 her GP surgery?

8 A. That's correct.

9 601 Q. Sorry, my computer has decided not to cooperate. Bear  
10 with me, please, Mr. Barry, my computer has decided to 14:59  
11 take Friday afternoon off as well, it's like a spinning  
12 wheel.

13  
14 would you mind scrolling to the first page of the  
15 letter, Mr. Murphy. Sorry, I am trying to find a 14:59  
16 particular passage. My computer has crashed while I am  
17 sitting here, so I don't have my note on it. That  
18 paragraph right there, Mr. Murphy. Thank you.  
19 Sergeant Barry, do you see the paragraph that begins  
20 "Retired Sergeant Paul Barry. . ."? 15:00

21 A. Yes.

22 602 Q. "...attended me on 28th March 2013, he brought with him  
23 a letter from Assistant Commissioner Fintan Fanning.  
24 Retired Sergeant Barry told me that he felt he had no  
25 option but to return to work. He had spoken to a 15:00  
26 colleague who was awaiting High Court date for the  
27 previous five years as the gardaí allegedly would not  
28 agree that his sick leave was work related. He told me  
29 that at that time they had not agreed that his sick

1 leave was work related. He told me that he had been  
2 referred to a consultant psychiatrist."  
3  
4 Isn't that correct?  
5 A. That's correct. 15:00  
6 603 Q. It goes on and sets out the fact that you felt you had  
7 to return to work for severe financial pressure and  
8 financial reasons, have I got that right?  
9 A. That's correct.  
10 604 Q. Okay. Then the next paragraph, and this is the last 15:01  
11 part that I just put to you because it was put to  
12 you -- yes, you are quite right, Mr. Murphy, excuse  
13 me -- this was put to you but the letter was never  
14 opened, but it was put to you in cross-examination, if  
15 you refer yourself to the paragraph there that begins 15:01  
16 "On 4/4/2013", do you see that paragraph?  
17 A. Yes.  
18 605 Q. And then do you find the sentence that begins "When I  
19 had seen him on 28th March 2013"?  
20 A. That's correct. 15:01  
21 606 Q. What does she say there about her opinion as to your  
22 medical status at that stage?  
23 A. "In my opinion he was not fit to return to the same  
24 work situation as before, as this in my opinion would  
25 trigger the same difficulties he had experienced and in 15:01  
26 my opinion this would have adversely affect his mental  
27 health."  
28 607 Q. Excuse me, one second, please, Mr. Barry. I am nearly  
29 done, Chairman, I just want to confer. Mr. Perry

1 reminds me that we received further documentation  
2 yesterday. Page 5711. This relates to the previous  
3 line of questioning, not in relation to Dr. Kiely's  
4 letter. This is an e-mail which is sent I think from  
5 Superintendent Comyns and it relates to what he expects 15:03  
6 in respect of reporting of critical incidents, do you  
7 see that?

8 A. Yes, I do.

9 608 Q. The to and from in respect of the -- the sent and  
10 received or the to and from in respect of the e-mail 15:03  
11 are a little bit confusing but I think this is an  
12 e-mail that is sent out at his behest to all the  
13 various sergeants under his demand. It's sent on  
14 28/8/2012 -- no again, sorry, that is the wrong date.  
15 If you look down below it, the actual date is 3rd 15:03  
16 August 2012. Do you see that date?

17 A. Yes, I do.

18 609 Q. Okay. It's in relation to the reporting of critical  
19 incidents, correct?

20 A. That's correct. 15:03

21 610 Q. So an e-mail has come through addressed to the  
22 superintendents of various districts and it's now being  
23 forwarded on by Superintendent Comyns, that seems to be  
24 what we are looking at here?

25 A. Correct. 15:03

26 611 Q. It says: "Please ensure that all critical incidents  
27 occurring within Fermoy district are notified to  
28 Superintendent Comyns or Inspector O'Sullivan  
29 immediately after they occur. A list of incidents

1 which are deemed critical for the purposes of  
2 notification are listed below."

3

4 And you see that there, isn't that correct?

5 A. That's correct.

15:04

6 612 Q. When you were attending at that critical incident, the  
7 fire, were you or to your knowledge any of your  
8 colleagues there with you in contact with the  
9 inspector, being Inspector O'Sullivan?

10 A. Garda Henry Ward made two phone calls in my presence to  
11 Inspector O'Sullivan to notify him of what was  
12 happening.

15:04

13 613 Q. Yes. So, just looking at the wording of that  
14 particular minute which is sent out at that time, it  
15 seems that compliance was had, because as it is  
16 happening, right there in front of you, the building is  
17 on fire, you're in contact with the inspector and  
18 telling him what you are seeing at the scene?

15:04

19 A. Yes, through Garda Ward.

20 614 Q. When I say you, I mean An Garda Síochána?

15:04

21 A. Yes.

22 615 Q. You were there at the scene, but in your presence this  
23 was being relayed to Inspector O'Sullivan?

24 A. That's correct.

25 616 Q. Just bear with me, please, Mr. Barry. Thank you very  
26 much, Mr. Barry?

15:05

27 A. Thank you, Mr. Costelloe.

28

29 END OF EXAMINATION

1 CHAIRMAN: Now, Mr. McGuinness, have you any questions?

2 MR. MCGUINNESS: Yes, a few matters, Chairman.

3

4 MR. PAUL BARRY WAS THEN RE-EXAMINED BY MR. MCGUINNESS,

5 AS FOLLOWS:

15:05

6

7 617 Q. Mr. Barry, can I just ask you about the C 71 issue?

8 Now, we don't have a copy of the signed version of it

9 at present and you obviously didn't have one in your

10 own file of documents?

15:05

11 A. No, no.

12 618 Q. You included a blank template, which is slightly

13 different in form and it's not a criticism, but you do

14 appear to have kept other documents that you sent or

15 signed in your office, isn't that right?

15:05

16 A. Yes. When they were addressed or concerned me, but

17 this was -- Garda Ward as the investigating guard.

18 619 Q. Yes.

19 A. And he completed the form.

20 620 Q. Well, that is what I was going to ask you. That is the 15:06

21 way you describe it in your interview with our

22 investigators, that it was Garda Ward who completed the

23 form?

24 A. That's correct.

25 621 Q. And you don't say in any of your statements that you 15:06

26 signed it. So have you got a clear memory of signing

27 it?

28 A. I don't, actually. That's why I didn't pay any heed to

29 the form when I saw it.

1 622 Q. Okay.

2 A. But I believe I would have in the formal course.

3 623 Q. Okay. We're taking steps to try and acquire the  
4 original. Can I just ask you about your diary entries  
5 which have been referred to. If we could look at page 15:06  
6 4845. You may recall last week I opened the case  
7 conference notes, in particular now the case conference  
8 note for the conference that was held on the 22nd  
9 January, where there is reference to the member looking  
10 for and considering medical retirement? 15:07

11 A. That's correct.

12 624 Q. You appear to have been surprised that that was  
13 included in the case conference note?

14 A. Yes, because the last time I heard of that was the  
15 first entry on 21st January 2013 and I never heard 15:07  
16 anything about medical pension before or since.

17 625 Q. Yes. That's what I want to ask you about now. This  
18 first entry says:  
19

20 "AGSI meeting, Willy Gleeson said to contact solicitor 15:07  
21 re medical pension."

22 A. Yeah.

23 626 Q. So does that not reflect something that you were doing  
24 at that point in time?

25 A. No, it does not reflect. I had only one previous 15:07  
26 conversation with this AGSI president, Willy Gleeson,  
27 and that was in 2012 when I was out sick, he rang me to  
28 know what complaint I had submitted. And this was the  
29 next conversation I had with him. He was not my

1 representative and this was an AGSI meeting in a hotel,  
2 where he came up to me and said what he said. And I  
3 referenced that to the then AGSI representative,  
4 Mr. Gallagher from Clare division, who was at same  
5 function, I told him that Willy Gleeson had told me to 15:08  
6 apply to my solicitor for a medical pension.

7 627 Q. Was that something that you acted on, did you contact  
8 the solicitor in relation to the conditions under which  
9 you might get a medical pension?

10 A. No, I had no interest in looking for a medical pension. 15:08  
11 I never thought of it. That was the first I heard  
12 about it.

13 628 Q. Okay. A slightly different topic, but staying on the  
14 diary entries: This isn't a criticism, they're not  
15 very extensive diary entries, they are written in a 15:08  
16 small diary, isn't that correct?

17 A. That's all, a little pocket diary, yeah.

18 629 Q. But there's no mention of any discussion in those diary  
19 entries about Mallow Garda station being somewhere that  
20 you were prepared to suffer a transfer to? 15:09

21 A. No.

22 630 Q. And correct me if I am wrong, there doesn't appear to  
23 be any mention of Mallow in any of your doctors' notes  
24 in terms of a station under consideration by you?

25 A. No. 15:09

26 631 Q. Okay. Do you recollect discussing it with them at the  
27 time?

28 A. I don't believe I did, no.

29 632 Q. Okay. I mean, as I understand it, correct me if I am

1 wrong, Mallow is more or less equidistant from your  
2 house where you live as is Mitchelstown?

3 A. That's correct.

4 633 Q. So, I mean, if you were to transfer to Mallow or be  
5 transferred to Mallow, I presume you wouldn't move 15:09  
6 because you wouldn't have to travel any extra distance  
7 of any length?

8 A. I indicated that because of the circumstances at the  
9 time I probably would have sold my house because I was  
10 out sick for eight months and I had gone into arrears 15:10  
11 as a result of it. And I had tried to sell my land.

12 634 Q. So just in terms of the advantages of taking a transfer  
13 to Mallow, if it were offered. If you moved house  
14 you'd get your moving house expenses, isn't that right?

15 A. That's correct. 15:10

16 635 Q. And no stamp duty on a purchase, is that correct?

17 A. That's correct.

18 636 Q. And would there be other benefits?

19 A. Solicitor's fees.

20 637 Q. Solicitor's fees. So you wouldn't be out-of-pocket at 15:10  
21 all?

22 A. No, it would actually be of benefit to me.

23 638 Q. Of benefit to you. Did I understand you to say in  
24 answer to Mr. Harty that you didn't believe that they  
25 would ever transfer you to Mallow because then they 15:10  
26 wouldn't be able to target you?

27 A. Yes, that's my belief.

28 639 Q. Well, was Mallow not offered to you?

29 A. I was asked to apply for it but I indicated I would not

1 apply because I would not get public transfer then.

2 640 Q. Okay. Now, Mr. Costelloe on your behalf asked you  
3 about the transfer to Fermoy, which was mooted at the  
4 beginning -- and then initiated at the beginning of  
5 2013. You may recall just before lunch he had opened 15:11  
6 Chief Superintendent Dillane's e-mail to HRM in  
7 December, putting forward the proposition of sending  
8 you to Fermoy?

9 A. That's correct.

10 641 Q. And perhaps I misunderstood some of your answers, but 15:11  
11 did I understand you to say you hadn't been notified of  
12 that until Inspector Golden heard about it?

13 A. Yes, the one in the middle, I believe that was 2014.

14 642 Q. Yes.

15 A. The transfer appeal was already on for Fermoy at the 15:11  
16 time.

17 643 Q. Yes.

18 A. So --

19 644 Q. But I am talking about learning of the transfer being 15:12  
20 ordered. Did you not meet with Chief Superintendent  
21 Dillane on the 19th January?

22 A. I did, that's correct, but that was in relation to the  
23 transfer to Fermoy.

24 645 Q. Yes.

25 A. I was referring to the transfer to Glanmire that he 15:12  
26 told Inspector Golden about.

27 646 Q. Okay. Well, I may have picked it up wrong, but was  
28 Mallow not discussed at that meeting on the 19th  
29 January?

1 A. I can't recall now, but I know Mallow was mentioned at  
2 one of the meetings we had, I had with Chief  
3 Superintendent Dillane. Mallow or was it Glanmire at  
4 the time. Mallow and Glanmire I think.

5 647 Q. Perhaps if I could ask you to look at document in the 15:12  
6 form of a report sent by Chief Superintendent Dillane  
7 it Superintendent Comyns in Fermoy, at page 4142. It  
8 was dated 20th January. And the first paragraph says:

9  
10 "On 19th January 2014 I met with Sergeant Barry at my 15:13  
11 office at 10.45am. After enquiring after his well being  
12 I explained to him that I had decided to transfer him  
13 to Fermoy Garda Station as I required a minimum of one  
14 sergeant on each unit in the divisional headquarters.  
15 I outlined the reasons for the transfer to him and my 15:13  
16 plan for the distribution of sergeants in Cork north  
17 division."

18  
19 And you may recall, this was opened to you last week by  
20 me. The third paragraph there says: 15:13  
21

22 "During our discussion, he informed me that he did not  
23 wish to work in Fermoy and I explained to him with the  
24 shortage of manpower and especially at sergeant rank  
25 that I needed one sergeant on each unit in Fermoy and 15:13  
26 cannot afford the luxury of having three sergeants in  
27 Mitchelstown. I explained that this was in line with  
28 my overall divisional plan and I cited my vision for  
29 the Mallow district, where I planned on having one

1 sergeant on each unit in the district headquarters and  
2 only two sergeants in Kanturk and Charleville."

3  
4 If we just scroll down.

5  
6 "I further told him that if he did not wish to come to  
7 Fermoy Garda Station, I could facilitate him in Mallow,  
8 where at present there are two unit sergeant vacancies  
9 which I hope to fill in the near future. I informed  
10 him that this would be a matter completely up to  
11 himself."

12  
13 Now, is that accurate, that last sentence?

14 A. That is accurate. I can remember him saying that there  
15 was two vacancies for a sergeant in Mallow.

16 648 Q. It's really the part about facilitating you in Mallow  
17 that I am interested in here.

18 A. That is correct, he did mention that there was two  
19 vacancies or a sergeant in Mallow but I told him I  
20 would not apply for it. I will not apply for it.

21 649 Q. Yes. You see he will give evidence obviously, but it  
22 appears from the documents that he thought you should  
23 be transferred out of the division ultimately, but this  
24 would have taken you away from the Fermoy district,  
25 isn't that right?

26 A. Yes. But I'd be still in the same division, which  
27 would be -- Mallow was in the Cork north division, the  
28 same as Fermoy and Middleton.

29 650 Q. But it is out Superintendent Comyns's district?

1 A. No, it'd be a different district but the same division.  
2 I'd have been happy to go to Mallow.

3 651 Q. He then goes on to say:

4

5 "I have since been informed by human resource..." 15:15

6

7 It goes on to your bullying and harassment matter then.  
8 And he says

9

10 "The present working situation of Sergeant Barry cannot 15:15  
11 continue and in order to run the Cork north division in  
12 a cohesive manner I intend to advise commissioner human  
13 resource management I wish to have Sergeant Barry  
14 transferred to Fermoy Garda Station."

15

16 Now, you protested at the offer of Fermoy and Mallow,  
17 isn't that right?

18 A. No, I just protested Fermoy.

19 652 Q. Could we just look at 4145, because you wrote three 15:16  
20 days later, on 22nd January 2024, to the sergeant in  
21 charge:

22

23 "With reference to the above, on Sunday, 19th January  
24 2014, at approximately 10.15am I was verbally directed  
25 by Chief Superintendent Dillane to attend his office in 15:16  
26 Fermoy at approximately 10.45am. I met Chief  
27 Superintendent Dillane at the appointed time in his  
28 office, where he informed me that he intended to  
29 transfer me to either Fermoy or Mallow Garda station.

1 This news has caused me considerable stress and anxiety  
2 as I was not given a date when this proposed transfer  
3 was to take place or a good reason for same.  
4

5 I respectfully request to be informed of the reason for 15:17  
6 this proposed transfer and when it is proposed to  
7 implement same. I cannot make holiday plans or family  
8 arrangement due to lack of information re date of  
9 proposed transfer."

10  
11 was it the date of the transfer that was the only issue  
12 then? 15:17

13 A. No, it was that I was basically being told to apply for  
14 a transfer to either Fermoy or Mallow.

15 653 Q. The sentence in the middle there seems to convey that 15:17  
16 you were informed by him that he was going to transfer  
17 you, rather than you would be seek ago transfer, is  
18 that not right, the way you have expressed it yourself  
19 there?

20 A. That he intended to transfer me to either -- but he was 15:17  
21 requesting that I apply for same, that was the option  
22 put to me.

23 654 Q. Obviously that doesn't appear in your response, I mean  
24 that he was requesting you to apply. I mean, you're  
25 not suggesting here that I am not going to voluntarily 15:18  
26 apply?

27 A. No, I did not put that in my letter, no.

28 655 Q. The Superintendent then ten days after your meeting,  
29 you didn't come back to him other than through that

1 letter of protest, as I've referred to it.

2 A. Yes.

3 656 Q. But he then wrote to the assistant commissioner, if we  
4 look at page 4147. It was following that then that you  
5 were put on the bulletin, isn't that right? 15:18

6 A. That's correct.

7 657 Q. And that was subject then to the appeal. Just on  
8 another point, if we could look at page 4820. This was  
9 the report that went to Dr. Kiely following your  
10 consultation with your doctor in Cork, coincidentally 15:19  
11 on the first day of your force majeure leave, isn't  
12 that right, on the 15th April. This goes into your  
13 condition there, I think it was a locum doctor who saw  
14 you that day, not Dr. Dennehy. If we go down to the  
15 next paragraph. There's no mention of transfers there. 15:19  
16 But had you decided -- or perhaps I better ask it this  
17 way: When did you decide to initiate legal proceedings  
18 in relation to your case?

19 A. I believe it was 2015 when the application was lodged.

20 658 Q. Okay. Can I just ask you to look at page 4774. These 15:20  
21 are Dr. Kiely's practice notes and they were made  
22 available with your consent and she has obviously  
23 cooperated with the Tribunal in that regard. If we  
24 just go down to the 31/7, there's a note of a phone  
25 call there, looking for emergency PIAB report on 15:20  
26 Sergeant Barry. It says "Dr. Dennehy consultant  
27 psychiatrist gone on two week's holiday", then it  
28 recites a further phone call back to say that  
29 Dr. Dennehy's secretary phoned to say Dr. Dennehy will

1 do a report from holidays. I think that is the report  
2 that Mr. Harty was asking you about yesterday, the  
3 lengthy report for the legal proceedings?

4 A. That's correct.

5 659 Q. Now, we've seen from the plenary summons that the PIAB 15:21  
6 authorisation was issued on 3rd August 2014, but the  
7 application for a PIAB authorisation must have been  
8 made some considerable time before that in 2014?

9 A. Possibly.

10 660 Q. Does that help your recollection as to when you might 15:21  
11 have decided to take proceedings and/or apply to PIAB?

12 A. I don't know the exact date when I consulted -- I  
13 consulted initially with one solicitor and I changed  
14 solicitors then and I had to restart the process.

15 661 Q. Thank you very much, Mr. Barry. 15:21

16 A. Thank you, Mr. McGuinness.

17

18 END OF EXAMINATION

19

20 CHAIRMAN: Okay. Everybody happy then? Mr. Barry, 15:22  
21 that's quite a considerable achievement, I have to say.

22 THE WITNESS: Thank you, sir.

23 CHAIRMAN: To have mastered all the material as well as  
24 you have and to have presented yourself here in, may I  
25 acknowledge, difficult circumstances and answered 15:22  
26 question after question, day after day for all of two  
27 weeks. So I congratulate you on having sustained that  
28 and not having had to ask for a break on any one  
29 occasion.

1 THE WITNESS: Thank you, sir.

2 CHAIRMAN: This is obviously without drawing any  
3 conclusion of any kind, but I think everybody here in  
4 the room will be aware that it's not an easy thing and  
5 I think everybody here in the room will be aware that 15:23  
6 it is a very considerable achievement. So,  
7 congratulations. Thank you for cooperating with the  
8 Tribunal and thank you for your evidence.

9 THE WITNESS: Thank you, sir.

10 CHAIRMAN: Okay. All right. Thank you very much. So 15:23  
11 you're finished now with this part. Obviously you can  
12 come back. You don't have to be here every day, it's a  
13 matter for yourself entirely, but at least for the  
14 weekend it's nice that you're finished with your  
15 evidence. Now you don't have to make any more notes 15:23  
16 overnight, except such ones as you want to hand to  
17 Mr. Costelloe for cross-examining or examining any  
18 other witness. Okay?

19 THE WITNESS: Thank you, Chairman.

20 CHAIRMAN: Thank you very much, and thank you to 15:23  
21 everybody else. So very good. So, Mr. McGuinness,  
22 Tuesday, 11 o'clock.

23 MR. MCGUINNESS: Tuesday morning, Chairman.

24 CHAIRMAN: Tuesday morning, 11 o'clock. Thanks very  
25 much everybody. Very good. 15:24  
26

27 THE HEARING ADJOURNED TO TUESDAY, 31ST MAY 2022,  
28 AT 11 A.M.  
29

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