

THE TRIBUNAL OF INQUIRY INTO CERTAIN MATTERS RELATING TO
THE COMPLAINTS PROCESSES IN THE DEFENCE FORCES AND THE
CULTURE SURROUNDING THE MAKING OF COMPLAINTS AS
ESTABLISHED ON 20TH DAY OF JUNE 2024 BY S.I.304/2024

PUBLIC HEARING OF THE TRIBUNAL OF INQUIRY BEFORE
THE SOLE MEMBER, MS. JUSTICE ANN POWER,
AT THE INFINITY BUILDING, THIRD FLOOR,
GEORGE'S COURT, GEORGE'S LANE, SMITHFIELD, DUBLIN 7
ON WEDNESDAY, 1ST JULY 2026 - DAY 16

16

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1 THE TRIBUNAL RESUMED ON WEDNESDAY, 1ST JULY 2026 AS
2 FOLLOWS:

3
4 SOLE MEMBER: Good morning. Mr. McGovern.

5 MR. McGOVERN: Good morning, Judge. The next witness
6 is Mr. Thomas O'Keeffe. Mr. O'Keeffe, please.

10:31

7
8 MR. THOMAS O'KEEFFE, HAVING BEEN SWORN, WAS DIRECTLY
9 EXAMINED BY MR. McGOVERN AS FOLLOWS:

10:31

10
11 1 Q. MR. McGOVERN: Good morning, Mr. O'Keeffe.

12 A. Good morning.

13 2 Q. Thank you very much for coming here today and, also,
14 for your statement previously and you attending the
15 Tribunal previously on another occasion for interview.

10:32

16
17 For the record, Judge, can I say that Mr. O'Keeffe's
18 statement is at page 3711 and the transcript of his
19 interview is 3715.

10:32

20
21 Mr. O'Keeffe, can I start by saying that, as you are
22 probably aware by now, the Tribunal is investigating
23 the effectiveness of the complaints processes and the
24 culture within the Defence Forces in relation to
25 complaints of abuse. The Tribunal is not permitted to
26 make findings in relation to the well-foundedness of
27 complaints of abuse and, for that reason, you are
28 required to refrain from disclosing the names of any
29 alleged perpetrators in your evidence today. Where it

1 is necessary to refer to such individuals, you must do
2 so by using their rank or the pseudonym given to them
3 by the Tribunal. Do you understand that?

4 A. Yes.

5 3 Q. Thank you very much, Mr. O'Keeffe. There's quite a lot 10:33
6 of documents to get through, Mr. O'Keeffe, and I'll do
7 my best to try and put things together, put the events
8 in a chronological sequence if I can do that. You'll
9 have to bear with me if I go through different
10 documents. 10:33
11

12 First of all, by way of introduction, I think that you
13 joined the Defence Forces in November 1976 as a cadet,
14 is that correct?

15 A. That's correct. 10:33

16 4 Q. And I think you were commissioned in September of 1978
17 as a 2nd lieutenant?

18 A. That's correct.

19 5 Q. And in 1980 you were promoted to lieutenant?

20 A. Yes. 10:33

21 6 Q. In 1985 to captain?

22 A. Yes.

23 7 Q. And in 1989 to commandant?

24 A. Yes.

25 8 Q. And in 2015 you retired from the Defence Forces? 10:34
26 A. Yes, that's correct.

27 9 Q. I think I'm correct that in 1991 you were posted to the
28 Army Apprentice School in Devoy Barracks, Naas?

29 A. That would have been in 1990.

1 10 Q. 1990. But you would have been there in 1991?
2 A. Yes, I was.
3 11 Q. And your rank and position at that stage was adjutant?
4 A. That's correct.
5 12 Q. Am I correct that it's the function of the adjutant to 10:34
6 be responsible for discipline?
7 A. Yeah. If I could expand on that a little bit.
8 13 Q. Yes.
9 A. As well as being the Adjutant, I was also company
10 commander of what was called Headquarter Company, which 10:34
11 was an administrative component which dealt with
12 essentially the running of the barracks and provided
13 support to the Apprentice Company and the Apprentice
14 School.
15
16 I would have been responsible directly for the
17 discipline in Headquarter Company but I wouldn't have
18 had, say, the authorisation to conduct disciplinary
19 action against any apprentices or against an officer.
20 14 Q. All right. As I understand it, correct me if I'm 10:35
21 wrong, please, but there were three platoons which
22 together constituted a company, three platoons of
23 apprentices?
24 A. That would have been the case, yes.
25 15 Q. And they had two corporals, a platoon sergeant, a 10:35
26 platoon commander who is a lieutenant and so on, their
27 structure in each platoon?
28 A. That was the establishment. I'm not sure if they were
29 all in place at that point.

1 16 Q. All right. And standing side-by-side with that, as it
2 were, you had what you call the administrative section
3 which was where you were based?
4 A. Yes.
5 17 Q. So, although you were in the Army Apprentice School in 10:35
6 Devoy Barracks you were not part of the apprentice
7 chain of command itself?
8 A. No, I wasn't.
9 18 Q. All right. Your statement, Mr. O'Keefe, starts at
10 page 3711, it's not necessary for me to refer to it at 10:36
11 this stage but I think you say at paragraph 3 of that
12 that you were responsible for discipline.
13
14 At paragraph 4, that between September and October
15 1990, you attended an adjutant's course? 10:36
16 A. Yes.
17 19 Q. At paragraph 13 you say that you did not receive any
18 training regarding how to conduct an investigation, is
19 that right?
20 A. Eh, well I said I had no training in conducting an 10:36
21 investigation of that nature. I would have received
22 lectures on military law --
23 20 Q. Yes.
24 A. -- on that course but at that time it didn't include
25 the likes of interview skills and how an investigation 10:37
26 would be structured. I would have conducted, it's
27 called an investigation of charges so, essentially, if
28 charges are preferred against a soldier I would hear
29 those. But it wasn't, I would never have taken written

1 statements for something of that nature.

2 21 Q. So, this is not a criticism of you at all,
3 Mr. O'Keeffe, but did you not think it strange that
4 although you were responding, you were the Adjutant and
5 the function of adjutant included responsibility for 10:37
6 discipline, notwithstanding that you'd done a course
7 for adjutants that you'd never been trained in how to
8 conduct an inquiry of this nature?

9 A. No, I didn't find it strange. There was other types of
10 investigations at a higher level which there was more 10:37
11 guidelines for. What I ended up conducting was, I
12 suppose, a unit level investigation but which as far as
13 I was aware there was no separate framework, it was
14 just something I had to use my experience to put
15 together. 10:38

16 22 Q. In the course of the interview you had previously,
17 Mr. O'Keeffe, you told us that you had never conducted
18 an inquiry like this before?

19 A. No, I hadn't.

20 23 Q. Can we start at page 2729, Mr. O'Keeffe. I just 10:38
21 briefly want to refer to this and I'll come back to it
22 later on. I don't know if it's on the screen in front
23 of you, if Ms. Heavey could bring it up. That,
24 ultimately, was a letter written by you to the OC who
25 was Hayes, in relation to the investigation, is that 10:38
26 correct?

27 A. Yes.

28 24 Q. And it starts -- it's in a letter format, it's
29 addressed to the OC and it's headed:

1 "Allegations against 2 Lt. B," as he's referred to.
2
3 Paragraph 1:
4
5 "On your instruction..." 10:39
6
7 That, I presume, is the instruction of the OC,
8 Mr. Hayes?
9 A. I suppose, in Defence Forces parlance, you could also
10 express that as an order. 10:39
11 25 Q. An order, okay.
12
13 "...I carried out an investigation into the allegations
14 made by Aptce. Traynor."
15 10:39
16 A. Yeah.
17 26 Q. So you were instructed by the Officer Commanding to
18 carry out the investigation?
19 A. The part he ordered me to carried out was to interview
20 a number of apprentices, the Platoon Sergeant and also 10:39
21 to evaluate whatever medical evidence there might be to
22 substantiate the allegations.
23 27 Q. All right. And in due course, I take it that it was
24 assumed or maybe you were specifically directed that
25 you would report your findings back to OC Hayes? 10:39
26 A. Well, that's what I took it to mean, yes.
27 28 Q. And, indeed, that's what you did?
28 A. Mmm.
29 29 Q. We'll come back to your investigation and your findings

1 in due course, Mr. O'Keefe, but can I refer you,
2 briefly, to page 2864. I don't know if you had seen
3 this document before. I know it was shown you to at
4 the interview, but at the time of your investigation in
5 1991, did you see this document? 10:40

6 A. No, I hadn't seen this document.

7 30 Q. All right.

8 A. If I can suggest that this document was created at the
9 end of the sequence rather than early in the sequence.

10 31 Q. What makes you believe that, Mr. O'Keefe? 10:40

11 A. Because there are elements in this document which could
12 only have been known after the report that I did was
13 submitted and, also, after the accompanying statements
14 by apprentices were submitted.

15 32 Q. All right. We've got no evidence in relation to that 10:41
16 but you never saw this document until it was shown to
17 you at interview, is that correct?

18 A. That's the first time I saw it.

19 33 Q. All right. Can I just briefly you refer to it, I'm not
20 going to go into it in detail but it covers two pages, 10:41
21 it's in five columns, the first is numbers, the second
22 is dates, the third is complaints, the fourth is
23 comment. Four columns. It details or lists eight, I
24 know there are nine paragraphs but 9 is a repeat really
25 of a previous one. There are eight complaints made 10:41
26 against 2 Lt. B between a period of November 1989 and
27 May 1990. And four of those involve Mr. Traynor. Were
28 you aware that there were previous, or other complaints
29 against the same person you were investigating,

1 2 Lt. B?

2 A. I was aware that there was, how would I describe it, an
3 incident, not an incident but two apprentices who's
4 discharge was being sought the previous year, presented
5 a photograph of an incident where cigarettes were in 10:42
6 their noses to the General Officer Commanding at the
7 time. This resulted in a parading by GOC for 2 Lt. B.
8 So that would be no. 1. I was aware of that, yes.

9 34 Q. You were aware that that parading had taken place?

10 A. Yes. 10:42

11 35 Q. And I think could I just refer you briefly to
12 page 2831. This is a letter written by 2 Lt. B to
13 OC Hayes and I'll just refer to what you've been
14 speaking about, Mr. O'Keeffe. At the end of the page,
15 the last sentence in the final paragraph: 10:43
16

17 "The GOC immediately ordered an investigation into..."

18

19 Sorry, maybe I should have been started at paragraph 4.
20 It's concerned with three incidents, the cigarette 10:43
21 incident, of which there were in fact two, the
22 hair-cutting, the chewing, there's two cigarette
23 incidents. Were you aware of that or are you aware of
24 one, the photograph one?

25 A. My current memory is I wasn't aware of the chewing 10:43
26 incident but there were reports of that at the time but
27 I just can't -- I haven't a memory of that at the
28 moment.

29 36 Q. All right. And it says that in relation to those, the

1 hair-cutting, the chewing incident, "I", that's

2 Lt. B:

3
4 "...was paraded in front of the GOC in October 1990.

10:43

5
6 (a) He informed me that he was satisfied with the
7 results of the investigation.

8
9 (b) He considered my actions were the result of
10 over-enthusiasm and inexperience; and

10:43

11
12 (c) There was a difference between apprentice training
13 and the cadet training (which is my only previous
14 experience) and that I would have to learn to make the
15 distinction."

10:44

16
17 So, when you set about your investigation,
18 Mr. O'Keefe, were you aware that 2 Lt. B had been in
19 trouble, if I may put it that way, in relation to his
20 training methods previously?

10:44

21 A. I was aware of incident 1 in the previous document, I
22 wasn't aware of the hair-cutting or the chewing
23 incident.

24 37 Q. And were you aware, as recorded at paragraph 4(c) of
25 that document, that 2 Lt. B had, effectively, given an
26 undertaking to learn to make the distinction between
27 different types of training regimes?

10:44

28 A. I hadn't received any briefing on what he had been told
29 by the GOC, I was just aware that, as Army parlance, he

1 would have received a parading.

2 38 Q. I'd referred you already to the two-page handwritten
3 document. We don't know when that was prepared. But
4 that lists four allegations against 2 Lt. B by
5 Mr. Traynor. Can I ask you to turn, or perhaps 10:45
6 Ms. Heavey could bring up page 2727. This is, again, a
7 document produced by 2 Lt. B himself and headed
8 "Traynor D allegations" and states:
9

10 "As there are four separate allegations I will deal 10:45
11 with them in turn."
12

13 We're not concerned specifically with the allegations
14 and I'm not going into the details of those, but can I
15 put it to you that there were, and always were, four 10:45
16 separate allegations by Mr. Traynor against 2 Lt. B?
17 A. I was aware that there were four separate allegations
18 against 2 Lt. B.

19 39 Q. You were aware of that?

20 A. Yes. 10:46

21 40 Q. All right. And they are set out in that document and,
22 indeed, the previous handwritten document?

23 A. Can I refer you, Mr. O'Keefe, to the document which
24 starts at page 2719, but, specifically, at page 2721.
25 This is headed: 10:46
26
27 "An application for discharge by purchase."
28
29 It's a rather long document. It's signed on the last,

1 fifth page, by Lt. Col. Hayes. I would draw your
2 attention, if I may, to paragraph 7 of that, which is
3 at page 2721. It's recording the aftermath of
4 Mr. Traynor's breakdown when his parents attended and
5 had an interview, apparently, with Lt. Col. Hayes and 10:47
6 the allegations that were made at that time are set out
7 at paragraph 7(a), (b), (c) and (d), and once again
8 there are four separate allegations, isn't that
9 correct?

10 A. Yes. 10:47

11 41 Q. Can we go back now, if we may, to your report which is
12 page 2729, or your letter. This is a letter that you
13 wrote to your officer commanding, following your
14 investigation, is that correct?

15 A. That's following interview in the Apprentice School, 10:47
16 yes.

17 42 Q. There's no signatures on the end of it, if you go to
18 page 2730 there is a box, "Adj't. LX9," did you sign
19 that, Mr. O'Keeffe?

20 A. I can recall writing the report, I would have signed 10:48
21 it, yes.

22 43 Q. All right. And in relation to the investigation that
23 you carried out, you say at paragraph 9 of your
24 statement, you said:

25
26 "Lt. Col. Hayes instructed me to interview the 10:48
27 apprentices as well as the Platoon Sergeant in relation
28 to these allegations. I can't recall precisely why
29 these particular apprentices were chosen for interview

1 but I believe that some of the apprentices had been
2 named by Mr. Traynor, others had been close to
3 Mr. Traynor in the billets and other names had been
4 selected at random."

10:48

6 So, to be clear about this, Mr. O'Keeffe, you're
7 stating that the apprentices that you interviewed were
8 identified to you in an instruction by Lt. Col. Hayes?

9 A. The first two were identified because the names had
10 been provided by Aptce. Traynor. The others I would
11 have selected based on information I received as to
12 were, essentially, where their bed spaces were and if
13 they were close to Aptce. Traynor's bed space. And
14 there were others I think it's described in my report
15 as random, yeah.

10:49

10:49

16 44 Q. Am I correct then that you interviewed apprentices
17 other than ones identified by OC Hayes?

18 A. Yes.

19 45 Q. You say in addition to receiving instruction from
20 Col. Hayes, at paragraph 13 of your statement you say
21 that you received advice from Cmdt. Coffey as to how to
22 proceed with your investigation. Can you tell us about
23 that, what advice did you receive from Cmdt. Coffey?

10:49

24 A. I was aware that Cmdt. Coffey had previously served in
25 the Military Police so I sought advice on how to
26 conduct an investigation. He advised me that I
27 shouldn't conduct it alone, that I should have somebody
28 else with me. He also advised me to give the
29 interviewees the option of making a written statement,

10:50

1 a verbal statement, if you like, that they wouldn't
2 have to sign that they could just recount, or making no
3 statement. And these options were offered to all the
4 interviewees.

5 46 Q. I think in the course of your interview previously, 10:50
6 Mr. O'Keeffe, you said that the documents that you were
7 furnished with didn't include the statements of the
8 apprentices, is that correct?

9 A. Initially, no they did not.

10 47 Q. And have you now seen those statements? 10:50
11 A. I've seen statements by two apprentices and one
12 statement by the Platoon Sergeant, yes.

13 48 Q. The statements from the two apprentices that you've
14 seen, am I correct that they were furnished or supplied
15 to the Tribunal by the Minister rather than the Defence 10:51
16 Forces?

17 A. I have been informed of that, yeah.

18 49 Q. Am I correct, Mr. O'Keeffe, that in the course of your
19 interview you didn't interview Mr. Traynor?

20 A. No, I didn't interview Mr. Traynor. 10:51

21 50 Q. I mean, he was the person making the complaints, was he
22 not?

23 A. He was. It was my understanding that he had been
24 interviewed already by Lt. Col. Hayes and at this point
25 had left the barracks. 10:51

26 51 Q. But you'd been instructed by OC Hayes to conduct an
27 investigation. Would the starting point for any
28 investigation not have been to speak to the person
29 who's making the complaints?

1 A. The person had left the barracks, I suppose, under
2 difficult circumstances. Had I been instructed to
3 interview him I would have, but as it was, I was
4 instructed or ordered to interview the two named
5 apprentices and then others I chose myself. 10:52

6 52 Q. Let's be clear about this, Mr. O'Keeffe; are you saying
7 that you were instructed not to interview Mr. Traynor?

8 A. No, I was not. He wasn't -- at the time I commenced
9 interview, he wasn't available. He had left the
10 barracks. 10:52

11 53 Q. I understand he left the barracks and indeed he had
12 left the Defence Forces, I don't think there's any
13 issue about that. But if he was making the complaints,
14 I would have thought that he would have been anxious to
15 cooperate with any investigation. Did you make any 10:52
16 attempts to contact Mr. Traynor?

17 A. No, I didn't.

18 54 Q. All right. And the allegations against 2 Lt. B,
19 included that he had kicked Mr. Traynor and that his
20 mother made complaints that she had seen bruising on 10:53
21 him; did you interview Mrs. Traynor?

22 A. I don't think that that information that she had seen
23 bruising on him was available at that time.

24 55 Q. All right. Am I right that, leaving aside the
25 Traynors, that you didn't interview 2 Lt. B? 10:53

26 A. No, I did not.

27 56 Q. He's the man against whom the complaints were being
28 made; did you not think it pertinent to get his
29 version?

1 A. Eh, interviewing 2 Lt. B was not part of my orders.

2 57 Q. It wasn't. So, who was giving those orders?

3 A. Lt. Col. Hayes.

4 58 Q. We know that there were four allegations made by

5 Mr. Traynor against 2 Lt. B, your report only mentions 10:53

6 two of those. If you look at the second page of your

7 report, page 2730, "Conclusions" paragraph 5:

8

9 "Conclusions

10 10:54

11 (a) In relation to the alleged kicking statement and

12 going on [blank's] statement who was the only one to

13 claim to have seen this, I am satisfied that although

14 some contact may have taken place, it was certainly no

15 more than a gesture to Aptce. Traynor to maintain his 10:54

16 posture and I am satisfied that no pain or injury was

17 caused to him."

18

19 Can I just stop there. So, can I just understand the

20 reasoning of that, Mr. O'Keefe. On the one hand 10:54

21 you're satisfied that contact was made between

22 2 Lt. B's foot and Mr. Traynor's torso but yet you make

23 no finding in relation to that?

24 A. I didn't see it as my purpose to, as you call it, make

25 a finding in that I felt I was just laying out the 10:55

26 facts and that it was up to my CO then to make a

27 judgement on that.

28 59 Q. Would you have considered an officer using his foot to

29 contact a soldier who's prone on the ground to be

1 appropriate behaviour?

2 A. No, I wouldn't have considered it appropriate
3 behaviour.

4 60 Q. But you didn't make any findings in that regard?

5 A. Sorry, could you explain what you mean by "findings"? 10:55

6 61 Q. You didn't find that that was inappropriate behaviour?

7 A. I felt that it was up to me to relay the facts as I
8 found them and supported by the statements and not to
9 make a judgement on the appropriateness or otherwise.

10 62 Q. Is that what you'd been instructed or directed to do in 10:55
11 the course of your inquiry?

12 A. I've no memory of that, but that was my understanding.

13 63 Q. All right. Your conclusion (b), Mr. O'Keefe, this is
14 a separate kicking incident, the first, as I
15 understand, took place on the square and the second was 10:56
16 in 2 Lt. B's office when he was being, it was certainly
17 suggested to him that he would sign a discharge. You
18 say at paragraph (b):
19

20 "I could find no evidence to substantiate 10:56
21 Aptce. Traynor's claim to have been put into the
22 press-up position and forced to sign his discharge. No
23 one mentioned that Aptce. Traynor had even talked about
24 it."
25 10:56

26 was that one of the allegations that was being made by
27 Mr. Traynor?

28 A. Yes, I think that was the second allegation.

29 64 Q. And once again, certainly Mrs. Traynor would have been

1 in a position to confirm injuries or bruises to
2 Mr. Traynor had she been asked, but that wasn't done,
3 was it?

4 A. No, but I did seek -- I did check Mr. Traynor's medical
5 book, which in Army parlance would have been called an 10:57
6 LA 30, and actually my notes on what I found there are
7 actually in the Tribunal documents, mostly with my
8 handwriting. I could find no evidence in that that any
9 bruising had been reported by him to the local Medical
10 Aid Post. Likewise, because the billets were quite 10:57
11 open, I felt if there had been such bruising it might
12 have been seen by some of his colleagues, but none said
13 that they saw it. And, also, the Platoon Sergeant
14 denied that such an event took place.

15 65 Q. All right. That's two allegations. What about the 10:58
16 other two, Mr. O'Keefe?

17 A. At this point, at this remove, I can't remember why
18 they weren't included. It's possible that I had been
19 informed of admissions by 2 Lt. B to the other two.

20 66 Q. The other two complaints that were made was that 10:58
21 Traynor was ordered by 2 Lt. B to pack his bags, that
22 he was going down as ticked, and the last was that he
23 would not be allowed to pass his exams. Did you
24 investigate either of those complaints?

25 A. I would have given every interviewee the option of, 10:58
26 basically, telling the interview panel if there was any
27 other incident that they were aware of in relation to
28 Lt. Traynor -- sorry, in relation to Mr. Traynor.

29 67 Q. In relation to the examination results, it's worth

1 noting, it's at page 2727, we've already referred to
2 the four allegations, it's a letter by Mr. Lt. B
3 himself and at (d) he says:

4
5 "Allegation 4: Constant verbal threat that he..." 10:59

6
7 That's Mr. Traynor.

8
9 "...would not be allowed to pass his examination
10 (spring 1990)." 10:59

11
12 It's worth noting this is an allegation not that he
13 wouldn't pass but that he wouldn't be allowed to pass.
14 You didn't investigate that?

15 A. I actually don't see that written on this document. 10:59

16 68 Q. It's not in that document, if you go back to the
17 document I referred you to at page 2727. I referred
18 you to this earlier. It's not on the screen. It's a
19 letter from 2 Lt. B to the OC setting out the four
20 allegations that were made against him and no. (d) 11:00
21 allegation 4:

22
23 "Constant verbal threats that he [Traynor] would not be
24 allowed to pass his examination..."

25
26 That was one of the allegations that you didn't
27 investigate?

28 A. Not specifically.

29 69 Q. So, is this the final draft of your report,

1 Mr. O'Keeffe, that you sent to OC Hayes?
2 A. I think so, yes.
3 70 Q. Sorry?
4 A. I think so.
5 71 Q. You think so? 11:01
6 A. Mmm.
7 72 Q. Were there other drafts?
8 A. At this stage, I've no memory of how many drafts were
9 produced.
10 73 Q. You have no memory of how many, do I take it from that 11:01
11 that there were other drafts but you don't recall
12 exactly how many?
13 A. The process of preparing documents at that time was, I
14 would have written them out longhand and passed them to
15 the barrack typist and possibly make corrections 11:01
16 thereafter.
17 74 Q. So who would make the corrections?
18 A. Myself.
19 75 Q. You would?
20 A. Yeah. 11:01
21 76 Q. And would you receive advice or directions from anyone
22 in relation to those directions?
23 A. In relation to this letter, I don't think so.
24 77 Q. You don't think so. All right. Were you aware,
25 Mr. O'Keeffe, that during the course of your 11:02
26 investigations in May 1991 that Lt. 2B was in
27 communication directly with OC Hayes?
28 A. I was not aware at that time.
29 78 Q. You are now but you weren't then, is that correct?

1 A. No.

2 79 Q. All right. At page 2831, there's a letter again
3 written by 2 Lt. B to OC Hayes. Can I, first of all,
4 draw your attention to the fact of the date at the top,
5 16th May 1991. Is that the same date as your report? 11:02
6 Sorry, your report is 15th May, isn't that right, 1991?

7 A. No, it's not, it's 16th.

8 80 Q. You report is 15th May?

9 A. I think they're both the same date.

10 81 Q. I think the copy of the letter we've just seen that you 11:03
11 wrote to OC Hayes on page 2724 is dated 15th May, okay?
12 And at page 2831, the letter to OC Hayes from Lt. 2B is
13 dated the 16th the day after?

14 SOLE MEMBER: Mr. McGovern, would you mind drawing up
15 the original document that you mentioned there, because 11:03
16 he doesn't seem to agree with you. -

17 MR. LEHANE: I think it's actually the 16th, sole
18 Member.

19 82 Q. MR. MCGOVERN: Can we look, Mr. O'keeffe, page 2724
20 again. That's your report, is that the letter you 11:03
21 wrote to OC Hayes?

22 A. I'm...

23 83 Q. I'm sorry, the page I have is 2724. It's 2729. I beg
24 your pardon, it's page 2729.

25 A. I think that date is the 16th. 11:04

26 SOLE MEMBER: I see that.

27 84 Q. MR. MCGOVERN: The 16th. Oddly enough, the copy I have
28 is dated the 15th but there you are. So your report is
29 dated 16th May?

1 A. Yeah.

2 85 Q. Thank you for bringing that to my attention. So if we
3 go then to 2831, and that's a letter from 2 Lt. B to
4 OC Hayes and it's also dated 16th May. So what I was
5 asking you, were you aware that at the time you were 11:04
6 conducting your investigation or thereabouts, that
7 2 Lt. B was communicating directly with OC Hayes?

8 A. No, I was not aware.

9 86 Q. Can I just draw your attention to something, I'm not
10 going to dwell on this, I'll come back to it later, 11:05
11 perhaps, but that letter from 2 Lt. B, Mr. O'Keefe,
12 does not refer anywhere that I can see to Mr. Traynor
13 or his allegations, or your investigation?

14 A. I can -- I don't know this for certain but I can
15 speculate, based on some of the documents in the 11:05
16 folders that included in some of the statements given
17 by apprentices was a reference to the cigarette chewing
18 and the cigarettes in noses incidents and my opinion is
19 that when these were seen by Lt. Col. Hayes he looked
20 for an explanation from 2 Lt. B, which resulted in this 11:05
21 letter. Again, I don't know, this is just my surmising
22 based on a reading of the documents.

23 87 Q. All right. Were you aware, apart from your
24 investigation, of a Ministerial Query around that time?

25 A. No, I have no memory of a Ministerial Query. 11:06

26 88 Q. All right. So you don't know the circumstances, then,
27 in which this letter was written by 2 Lt. B to OC Hayes
28 on 16th May?

29 A. I can't give evidence to that effect, I'm only

1 speculating.

2 89 Q. That's fair enough, I'm not going to ask you to

3 speculate.

4

5 Can I ask you to go to page 2724. If you go to the 11:06

6 second page of that at 2725, it's signed by

7 Cmdt. Coffey and it's, again, addressed to OC Hayes.

8 Were you aware at the time, Mr. O'Keefe, that when

9 your investigations were going on that Cmdt. Coffey was

10 communicating directly with OC Hayes? 11:07

11 A. I would have expected that he probably would have but I

12 wasn't aware of what was contained in this letter.

13 90 Q. All right. The letter is dated 15th May, which is the

14 day before your report, isn't that correct?

15 A. Yes. 11:07

16 91 Q. And it details allegations and if we go to the second

17 page, 2725, paragraph 4, I'll just read this:

18

19 "The situation whereby there is only one lieutenant in

20 the case of Lt. B in a company of 157 young apprentices 11:07

21 who are only partially trained and are confined over a

22 period of three years is wrong. It is essential to

23 have a platoon commander with each platoon. 2 Lt. B

24 was put in an invidious positing in that having tried

25 his best to be the Platoon Commander to three platoons 11:08

26 at once, he was found that he had to refute and defend

27 himself against allegations made by or arising out of

28 statements by a disgruntled..."

29

1 Presumably apprentice.
2
3 "No officer is perfect and if the members of any
4 platoon are interviewed invariably those who are
5 dissatisfied will find cause for complaint with their 11:08
6 platoon commander. If the officers are inexperienced,
7 enthusiastic and overtaxed then the results are
8 predictable. In this case one incident where there was
9 an element of truth was joined with several allegations
10 to paint a false and erroneous picture of 2 Lt. B." 11:08
11
12 And the final paragraph, paragraph 5 reads:
13
14 "I have no hesitation in stating that in my experience
15 2 Lt. B has been an excellent officer. If he were to 11:09
16 be punished or seen to be punished as a result of
17 allegations made by Aptce. Traynor, discipline in the
18 Army Apprentice School Company would be badly
19 undermined."
20 11:09
21 Now, first of all, can I ask you, Mr. O'keeffe, when
22 did you first see that letter?
23 A. When I received the discovery documents.
24 92 Q. And that's a few weeks or months ago?
25 A. Before the first interview, yes. 11:09
26 93 Q. All right. When you were conducting your
27 investigation, were you aware that Cmdt. Coffey was
28 communicating directly with OC Hayes?
29 A. I wasn't aware but they communicated regularly so I

1 wouldn't have been surprised if they were doing so.

2 94 Q. All right. And were you surprised to learn that
3 Cmdt. Coffey was not only communicating with the OC in
4 the course of the investigation, but he was making very
5 specific recommendations?

6 A. I was not aware that he was making these
7 recommendations.

8 95 Q. At paragraph 15 of your statement, I don't think it's
9 necessary to call this up, but you say:

11:10

L1 "Once I concluded my investigation, I did not receive
L2 any formal updates telling me what had happened.
L3 However, Lt. Col. Hayes kept me appraised of
L4 developments informally."

15 11:10

L6 So, after you sent your letter on 16th May to OC Hayes,
L7 what further communications or discussions did you
L8 have?

19 A. Sorry, can you just repeat the question please.

20 96 Q. Yeah. We've seen your letter with your conclusions 11:11
21 that you sent to OC Hayes on 16th May. What further
22 dealings had you got with OC Hayes after you sent that
23 letter in relation to Mr. Traynor and his allegations?

24 A. My memory is vague on this but I think he would have
25 told me that he would have communicated with The
26 Curragh Command Headquarters and the GOC.

27 97 Q. Were you aware of those discussions between OC Hayes
28 and the GOC?

29 A. I have -- again my memory is vague but I would have

1 been aware that there were some discussions ongoing,
2 yes.

3 98 Q. All right. The GOC am I correct, was a Mr. Wall?
4 A. Yes, at that time.

5 99 Q. There's a document at page 2876, if Ms. Heavey could 11:11
6 call that up, please. I think you were shown this
7 document, Mr. O'Keefe, at interview?
8 A. Yes.

9 100 Q. Can you tell us, firstly, when did you first see that
10 document? 11:12
11 A. I first saw that document when I received these
12 documents in discovery in April.

13 101 Q. That's April of this year?
14 A. Of this year, yeah.

15 102 Q. Thank you. It's headed "GOC," that's GOC Wall, is that 11:12
16 correct?
17 A. That's the only GOC that was relevant at that time.

18 103 Q. In 1991?
19 A. Yeah.

20 104 Q. It's a handwritten document, it seems to be a memo of 11:12
21 some sort. Do you recognise the handwriting on that?
22 A. That's Lt. Col. Hayes's handwriting.

23 105 Q. The OC?
24 A. Yeah.

25 106 Q. Can I draw your attention to the numbers, the red 11:12
26 numbers at the bottom of the page, if Ms. Heavey could
27 bring it up a bit. Those numbers may not mean anything
28 to you, Mr. O'Keefe, but they are the codes that the
29 Defence Forces apply to the documents that we were

1 furnished with in relation to Mr. Traynor. So, there
2 are four paragraphs and it starts at the top, no. 1:
3
4 "Effect of investigation on Lt. 2B and Cpy."
5 11:13
6 Company, I presume.
7 A. That would be the abbreviation for company, yes.
8 107 Q. Thank you.
9
10 "He should NOT..." 11:13
11
12 The word not is in block capitals.
13
14 "...be removed immediately (suggest Aug).
15 11:13
16 Break in period for replacement.
17
18 Keep current responsibilities platoon command separate
19 platoon commander from [something]."
20 11:13
21 okay. And then it refers to a blank report and it's
22 been blocked out but my understanding is that's
23 referring to Traynor report. 3:
24
25 "Ministerial Query." 11:14
26
27 Do you recall I asked you a while ago did you know
28 anything about a Ministerial Query?
29 A. No, I did not.

1 108 Q. All right. And then 4 is "other incidents." Can I
2 just break for a moment and ask you to look at
3 page 2882. I don't know if you ever saw that document,
4 Mr. O'Keeffe?

5 A. I only saw that document when it arrived in the 11:14
6 discovery documents.

7 109 Q. It says:
8
9 "Notes re Ministerial Query."
10 11:14

11 The reason I'm referring to it now is because the
12 previous document in paragraph referred to a
13 Ministerial Query.
14

15 "1. There has been no recent occurrence of this nature 11:14
16 in the [Army Apprentice School].
17

18 2. There was an occasion in November 1989 where in an
19 effort to stamp out smoking in the billets following a
20 fire in the barracks, an inexperienced officer, just 11:15
21 commissioned, did require an apprentice who had been
22 found smoking in his billet to place the butts from the
23 ashtray in his mouth in order to demonstrate to him the
24 bad taste of cigarettes and to make an example of him
25 in front of other apprentices." 11:15
26

27 I'll skip down to paragraph 5:
28

29 "The officer concerned was paraded by the then GOC and

1 spoken to regarding his behaviour in this matter."

2
3 That's going back to the original investigations by
4 Mr. Lenaghan and so on, before your investigation,
5 isn't that right, the Traynor investigation? 11:15

6 A. Looking at the date that would seem to be the incidents
7 that -- just based on 2 Lt. B's letter, it was part of
8 the reason that he received a parading from the GOC.

9 110 Q. Yeah. And we also -- we have seen the letter earlier
10 from 2 Lt. B himself to OC Hayes which mentions the 11:16
11 cigarettes incident but doesn't mention the Traynor
12 allegations or, indeed, your investigation. So, if you
13 go back to the previous document, 2876, Mr. O'keeffe,
14 do you know when a meeting might have taken place
15 between OC Hayes and GOC Wall in relation to 2 Lt. B? 11:16

16 A. I'm not able to say from this document.

17 111 Q. All right. But events, would you agree with me, seem
18 to have happened fairly quickly. Mr. Traynor had his
19 breakdown on 11th May; your report is dated 16th May;
20 events are moving on fairly rapidly, aren't they? 11:17

21 A. The document dates would indicate that, yeah.

22 112 Q. So, this document, although it's undated, it talks
23 about moving 2 Lt. B out of the Army Apprentice School;
24 would that discussion have taken place following your
25 report? 11:17

26 A. Well, there is mention of the OC report, I'm not sure
27 whether that's my report or another one. Then there's
28 mention of other incidents, it's not sure what they are
29 or what they are.

1 113 Q. It also mentions the Ministerial Query?
2 A. Yes.
3 114 Q. Which seems to refer to the very first allegations?
4 A. Yeah.
5 115 Q. I suggest to you, Mr. O'Keefe, that this document was 11:17
6 prepared following your report into Mr. Traynor's
7 allegations about what happened on 11th May of '91?
8 A. It could be from that period.
9 116 Q. It, therefore, predates the incident involving
10 Oliver Mullaney in June of '91? 11:18
11 A. Yes. There's no mention of that in this document,
12 certainly.
13 117 Q. No mention of that at all. So, it appears, therefore,
14 from the documents that the decision to move 2 Lt. B
15 was made following the Traynor incident in May; were 11:18
16 you aware of that?
17 A. I was not aware of that.
18 118 Q. But, further, the decision was made to postpone that
19 removal until August?
20 A. That's what seems to be suggested in this document, 11:18
21 yes.
22 119 Q. Why do you think a decision would be made to postpone
23 the removal until August?
24 A. I don't know the answer to that.
25 120 Q. August would be the summer holidays for the 11:19
26 apprentices, wouldn't it?
27 A. Apprentices generally got their leave, block leave in
28 August, yes.
29 121 Q. So, if 2 Lt. B were to be removed in August, that would

1 be the least disruptive and apparent?

2 A. Sorry, I don't understand what you're asking there.

3 122 Q. All right. I'll put it another way. To wait until
4 August to remove 2 Lt. B, wasn't that, basically, what
5 2 Lt. B himself and Cmdt. Coffey had been canvassing 11:19
6 for?

7 A. Sorry, I'm not aware that there was any canvass for a
8 move.

9 123 Q. I accept that you didn't see -- you accept that you
10 didn't see the letters from 2 Lt. B and Cmdt. Coffey at 11:19
11 the time, but that's what they were seeking, were it
12 not?

13 A. Sorry, I'm a bit confused. I'm aware of Cmdt. Coffey's
14 letter indicating that no action should be taken
15 against 2 Lt. B but I wasn't conscious that he was 11:20
16 looking for a move for 2 Lt. B as well.

17 124 Q. Cmdt. Coffey was saying that no discipline should be
18 either taken against him or be seen to be taken against
19 2 Lt. B, isn't that correct?

20 A. That's what's in the letter, yeah. 11:20

21 125 Q. That's fine. Can I ask you to look, please,
22 Mr. O'Keeffe, at document 4413. 4413 and 4414. This
23 is, again, a document produced by 2 Lt. B. It appears
24 to be in the form of a memorandum to himself. It's
25 stated at paragraph 1: 11:21
26

27 "I have decided while Aptce. Traynor's incident is
28 still fresh in my mind that it may be important in the
29 future to note some observations."

1 All right. It's not clear whether this document was
2 ever sent to the Defence Forces but it certainly
3 appears to have been prepared by 2 Lt. B at the time,
4 in or around the time of June '91. At paragraph 1(c)
5 he says:

11:21

6
7 "I am not happy with the behaviour of barrack
8 Adj. Cpt. O'Keefe T. I do not consider that he
9 contracted a fair investigation and he may have
10 prejudiced my case."

11:21

11
12 And then he goes on to give four examples of his
13 concern. He says:

14
15 "He had several apprentices brought in, the number of
16 which I'm unsure. He asked them directly if they had
17 any complaints to make about me! This is in my opinion
18 gave a CARTE BLANCHE to any apprentice who had a minor
19 gripe with no relevance to the investigation. This
20 spread around the barracks very quickly, quick enough
21 for stories to be fabricated and lies told, a 'witch
22 hunt' of sorts."

11:21

11:22

23
24 I'll just stop there for a moment. This may be a
25 personal observation but if you're conducting an
26 investigation you would ask people to state what they
27 recall rather than putting words in their mouth. I
28 don't have a criticism on that. It goes on the second
29 item:

11:22

1 "I consider that Cpt. O'Keefe acted in a very
2 irresponsible and unprofessional manner. In fact, two
3 of his letters had to be corrected by the then OC
4 Col. W Hayes. The use of language in his letters was
5 considered incorrect and misleading by the CO."

11:23

6
7 Can I just stop there. We looked at earlier,
8 Mr. O'Keefe, your report which is dated 16th May --

9 A. Mm-hmm.

10 126 Q. -- page 2729, and I asked you about drafts and final
11 versions and you said it was handwritten and then typed
12 and corrected. I just want to concentrate and think
13 about this for a moment. Lt. 2B is stating that your
14 letter to Col. Hayes, the Officer Commanding, was
15 corrected on two separate occasions. Can I just break
16 that down. First of all, the final letter that you
17 wrote to OC Hayes in May, how many drafts were there of
18 that letter?

11:23

19 A. At this remove, I cannot recall but there wouldn't have
20 been too many, I would imagine.

11:24

21 127 Q. But more than one?

22 A. I simply can't recall.

23 128 Q. Okay. And when the original drafts were prepared, you
24 said they were commented on and amended, did you
25 receive any comments about the content of that report
26 from OC Hayes?

11:24

27 A. I've no memory of receiving any report or any comments
28 from Lt. Col. Hayes in relation to that report.

29 129 Q. 2 Lt. B is stating that not only was your letter to

1 OC Hayes amended, but it was done twice. What do you
2 say --
3 MR. LEHANE: Sorry, Sole Member, he's referring, if
4 Mr. McGovern could just read out, it says:
5 11:25
6 "In fact two (2) of his letters," plural, it's not one
7 letter twice. He just might be, in fairness to the
8 witness, accurate in terms of putting it.
9 SOLE MEMBER: Thank you, Mr. Lehane. It's letters
10 plural, I think is what Mr. Lehane is drawing your 11:25
11 attention to, Mr. McGovern?
12 130 Q. MR. MCGOVERN: Two of his letters. But we only know of
13 one letter. We've only been furnished with one letter,
14 that's the one that I referred you to earlier. So,
15 were there other such letters, plural as pointed out by 11:25
16 my Friend?
17 A. I have no memory of there being two letters.
18 131 Q. Or, alternatively, that there was one letter but more
19 that one draft of that letter and that those drafts
20 were amended on two occasions? 11:25
21 A. Like I say, I have no memory of how many drafts there
22 would have been produced.
23 132 Q. Specifically, can I ask you, Mr. O'keeffe, was the
24 letter that you finally sent to OC Hayes, was that in
25 any way influenced by advice you were getting from 11:26
26 OC Hayes?
27 A. Again, I have no memory of -- sorry, if I can just
28 clarify what you mean. Are you saying that he was
29 suggesting that I make certain alterations?

1 133 Q. Well, that's what 2 Lt. B appears to be stating in this
2 memo?
3 A. Lt. Col. Hayes's process obviously was to amend
4 documents as he went along. So, it wouldn't have been
5 out of the order but, certainly, conducted several 11:26
6 amendments to his own documents and at various times he
7 would have asked me to amend mine. But I've no
8 specific recollection that he asked me to conduct
9 amendments to this particular document.

10 134 Q. But it wouldn't be unusual? 11:27
11 A. It would not have been unusual, no.

12 135 Q. The third complaint, and again I don't think this is
13 material or germane, but the third complaint, just for
14 the record, made by 2 Lt. B at the time is:
15 11:27
16 "I was not furnished with the Adjt.'s report despite
17 assurances by Cpt. O'Keeffe that one would be
18 provided."
19

20 The fourth one, I think, is of more importance: 11:27
21
22 "I informed Cpt. O'Keeffe on several occasions that I
23 was unhappy with his conduct of the investigation."
24

25 If I just stop for a moment to consider this. During 11:27
26 the course of your investigation you told us that you
27 did not interview 2 Lt. B?
28 A. Yes.

29 136 Q. Yeah. But 2 Lt. B is stating in this memo that during

your investigation, on several occasions, he spoke with you and expressed unhappiness with the conduct of your investigation; is that correct?

A. I've no memory of such a conversation, although I have a memory of his unhappiness around that time.

11:28

137 Q. Okay. So, you were aware that 2 Lt. B was unhappy with
your investigation?

A. The specifics of why he was unhappy are no longer in my memory.

138 Q. Forget about the specifics of why he was unhappy for
the moment, let's just think about how did you know
that he was unhappy?

11:28

A. Ehm, I can't recall a specific conversation or conversations but I can recall his unhappiness.

139 Q. All right. And was that expressed to you in person?

11:28

A. Again, I've no recollection of that. It's just a memory that at around that time he wasn't particularly happy with me.

140 Q. All right. And, again, 2 Lt. B says that:

"I informed Cpt. O'Keefe on several occasions..."

So, I'm putting to you that there was more than one conversation between you and Lt. 2B during the course of your investigation.

11:29

MR. LEHANE: Sorry, Sole Member, I'm really reluctant to interrupt my Friend but the letter doesn't say during the investigation the letter says:

1 "I informed Cpt. O'Keefe on several occasions that I
2 was unhappy with his conduct of the investigation."

3
4 It has been put to the witness that it he was during
5 the investigation.

11:29

6 SOLE MEMBER: Yes. Thank you.

7 141 Q. MR. McGOVERN: Can I bring you down to paragraph (e),
8 Mr. O'Keefe. I will just read that:

9
10 "I wish to place on record my gratitude and thanks to
11 OC Lt. 2B W Hayes and Aptce. Cpy. Cmdt. A Coffey.
12 These two officers supported me and stood by me. They
13 conducted an elaborate and thorough investigation."

11:29

14
15 I'll just stop there for the moment. 2 Lt. B is
16 referring to an investigation by OC Hayes and
17 Cmdt. Coffey rather than your investigation. Was there
18 a separate investigation by Hayes and Coffey in
19 addition to your one?

11:30

20 A. Well, the results of the interviews and research that I
21 conducted would have fed into Lt. Col. Hayes's report
22 to the GOC so there would have been some investigation
23 conducted by him, including the interview with
24 Aptce. Traynor and, also, he would have received
25 reports from, as I now know, from 2 Lt. B and
26 Cmdt. Coffey. But I'm not aware that there was a
27 separate, parallel investigation.

11:30

28 142 Q. So, the reference by 2 Lt. B to an investigation by
29 Hayes and Coffey, did you think that was the same

1 investigation rather than a separate one?

2 A. well, I considered what I was doing part of

3 Lt. Col. Hayes's overall unit investigation, I don't

4 know about Cmdt. Coffey.

5 143 Q. Thank you. Paragraph (e) continues: 11:31

6

7 "I did not make my fears about Cpt. O'Keefe known to

8 the OC. However, I am happy that I orally explained

9 and/or conveyed these fears."

10 11:31

11 Those two sentences appear to contradict each other, on

12 the one hand he says he didn't make his fears known, on

13 the other hand he does convey them.

14

15 "In any case, I think the OC saw through the Adjt.'s 11:32

16 behaviour."

17

18 what do you think 2 Lt. B meant by that?

19 A. I'm afraid --

20 MR. LEHANE: Sorry, Sole Member, how can he answer a 11:32

21 question of what somebody else would have thought when

22 that person is going to be giving evidence.

23 MR. McGOVERN: In fairness to the witness, I think he's

24 entitled to comment, if he so wishes.

25 THE WITNESS: I don't think I can. 11:32

26 MR. McGOVERN: That's fair enough.

27 SOLE MEMBER: Thank you.

28 144 Q. MR. McGOVERN: That document, the memo, records two

29 things. First of all, that 2 Lt. B was unhappy with

1 your investigation, and, secondly, that he was
2 expressing gratitude to OC Hayes and Coffey for their
3 support. Can I refer you now to page 4460. It's,
4 again, a document produced by 2 Lt. B and it's
5 addressed to the OC as the AAS, as the Army Apprentice 11:33
6 School, which would have been Lt. Col. Hayes. It's
7 dated 20th June 1991, he's saying that he's... I'll
8 just read it:

9
10 "1. I wish to apply for a transfer from the Army 11:33
11 Apprentice School to McDonagh Barracks.

12
13 2. My grounds are:

14
15 (a) I have spent two years in the AAS and I feel it is 11:33
16 a time to move on."

17
18 And if I can skip down to paragraph (c):

19
20 "I also realise that my request comes relatively soon 11:33
21 after the recent tragic end of Aptce. Mullaney in
22 barracks. I wish to disassociate myself from any
23 involvement in the incident. However, I do not wish to
24 be made a sort of 'scapegoat'. To this end I must also
25 request that the transfer be temporarily delayed (until 11:34
26 August if possible)."

27
28 And over the page, 4461, at the bottom of the page,
29 paragraph 4:

1 "I wish to thank you my commanding officer..."
2
3 who is OC Hayes.
4
5 "And my Company Commandant..." 11:34
6
7 which would be Coffey.
8
9 "I hope that they do not find that I have let them
10 down." 11:34
11
12 I can understand the fact, Mr. O'Keeffe, that 2 Lt. B
13 might have been unhappy with your report, but why do
14 you think on two separate occasions 2 Lt. B would
15 express gratitude to OC Hayes and Cmdt. Coffey? 11:35
16 MR. LEHANE: Again, the same point, Sole Member, just
17 in relation to that, in fairness the witness to tell
18 him that -- just to tell the witness rather than moving
19 on.
20 SOLE MEMBER: Yes. I think the point is taken. 11:35
21 145 Q. MR. McGOVERN: Mr. O'Keeffe, I'm going to put two
22 things to you and I'll invite you to comment. Before I
23 do that, I just want to, so that you can consider and
24 take into account in your answer all of the things I've
25 put to you, I'm going to do a quick summary. Firstly, 11:35
26 it's correct, is it not, that you were asked by
27 OC Hayes to investigate the allegations of abuse of
28 Damien Traynor by 2 Lt. B?
29 A. I was asked to interview apprentices and the Platoon

1 Sergeant and check out the medical evidence in relation
2 to that, yes.

3 146 Q. So, you're making a distinction between interview and
4 investigate, are you?

5 A. That's what I specifically did. 11:36

6 147 Q. Right. Okay. Secondly, that the results of your
7 interviews or investigation, or whatever we call it,
8 were to be sent forward to OC Hayes, isn't that right?

9 A. That's correct.

10 148 Q. (3) you were unaware that 2 Lt. B had been paraded by 11:36
11 the GOC in October '90, specifically in relation to his
12 training methods?

13 A. No, I was aware of that.

14 149 Q. You were aware of that?

15 A. Yeah. 11:36

16 150 Q. But were you aware that he had given an undertaking,
17 effectively, to change those training methods?

18 A. Not specifically, but I would expected that would be
19 the outcome of parading, that whatever had happened
20 wouldn't occur. 11:37

21 151 Q. Okay. Fourthly, although Mr. Traynor made four
22 separate complaints of abuse against 2 Lt. B, your
23 report or letter only deals with two of those, isn't
24 that so?

25 A. If I can clarify that there would have been, it's not 11:37
26 included in the report but I think the interviews would
27 have had, if you like, open questions to ascertain if
28 there had been any, ehm, evidence or knowledge of the
29 other two.

1 152 Q. okay. According to your statement that you furnished
2 to the Tribunal, OC Hayes instructed you in relation to
3 what apprentices you should interview?
4 A. Specifically, the two that had been mentioned by
5 Mr. Traynor. 11:37

6 153 Q. Yeah. And, also, from your statement, no. 6, you
7 received advice from Cmdt. Coffey in relation to how to
8 proceed with your inquiry, investigation or interview,
9 whatever term?

10 A. Yes, I received advice about the, I suppose, the 11:38
11 methodology and, I suppose, structure of the
12 interviews.

13 154 Q. Seventh, you did not interview Mr. Traynor or his
14 mother?

15 A. Both, I understood, had already been interviewed by 11:38
16 Lt. Col. Hayes.

17 155 Q. All right. (8) you did not interview 2 Lt. B?

18 A. I understood that he was making separate submissions to
19 the OC at the barracks, Lt. Col. Hayes.

20 156 Q. (9) according to 2 Lt. B, that at the time of your 11:38
21 investigation he was informing you on several occasions
22 that he was unhappy with the conduct of your
23 investigation?

24 A. I don't recall the specific conversations but I was
25 aware of his unhappiness. 11:38

26 157 Q. (10) at the time of the investigation and unknown to
27 you, 2 Lt. B was writing directly to OC Hayes, doesn't
28 that appear to be the case?

29 A. That appears to be the case, yeah.

1 158 Q. (11) at the time of the investigation, and again
2 unknown to you, Cmdt. Coffey was communicating directly
3 with OC Hayes; doesn't that appear to be the case?
4 A. I would have expected in relation to the events that
5 happened that there would have been some communication 11:39
6 between Cmdt. Coffey and Lt. Col. Hayes but I wasn't
7 aware of the specifics.
8 159 Q. And, specifically, Cmdt. Coffey was recommending that
9 2 Lt. B should not be disciplined or even be seen to be
10 disciplined. 11:39
11
12 (12) again, according to 2 Lt. B, your letter was
13 corrected by OC Hayes as the language used was
14 incorrectly misleading on two occasions.
15 A. I have no memory -- 11:40
16 MR. LEHANE: Sorry, Sole Member, it's the same point
17 earlier on, the summary there is that the point that
18 was interrupted in respect of letter/letters plural in
19 the correspondence from Lt. 2B.
20 SOLE MEMBER: Could you repeat what you said there, 11:40
21 Mr. McGovern?
22 MR. MCGOVERN: Yes. According to 2 Lt. B in the memo
23 and letter he wrote, that OC Hayes corrected your
24 letter to him?
25 SOLE MEMBER: I think the point Mr. Lehane is making is 11:40
26 that the reference is to "letters" on two occasions
27 rather than "letter."
28 MR. MCGOVERN: well, we don't know how many versions of
29 that letter. We don't know where it's letter or drafts

1 of letter.

2 SOLE MEMBER: It's on two occasions he corrected

3 letters.

4 MR. McGOVERN: All right. So at some stage corrections

5 were made at the suggestion of OC Hayes to your letter? 11:40

6 MR. LEHANE: Sorry, we don't know that it's two

7 letters, it doesn't say the letters relating to this

8 investigation.

9 MR. McGOVERN: Presumably we're going to hear evidence

10 from 2 Lt. B about this. 11:41

11 MR. LEHANE: well, this is the point, I'd like to hear

12 the evidence from 2 Lt. B if it's going to be put to

13 this witness, because it's leading to something that

14 evidence will be given and I think that should be put

15 to him. 11:41

16 SOLE MEMBER: well, Mr. McGovern has just indicated

17 that he will. Thank you.

18 160 Q. MR. McGOVERN: Your letter of 16th May doesn't include

19 any findings in relation to 2 Lt. B, isn't that

20 correct? 11:41

21 A. As you describe, findings I take it you mean

22 recommendations?

23 161 Q. Either recommendations or a finding of fact that there

24 was abuse or otherwise?

25 A. I did make a finding that some contact had taken place 11:41

26 on the square incident and, also, I would have called

27 it a conclusion, and my other conclusion was there was

28 no evidence to support the second allegation at that

29 time.

1 162 Q. (14) the final decision in relation to what was to
2 happen to 2 Lt. B, wasn't that a decision that was made
3 jointly by OC Hayes and the General OC wall?
4 A. As the General Officer Commanding I would have expected
5 him to, obviously, be the final arbiter of the 11:42
6 decision.
7 163 Q. And you've seen the shorthand written memo saying that
8 2 Lt. B should be removed but not until August. And
9 you say that was in OC Hayes's handwriting?
10 A. Yes. 11:42
11 164 Q. And that was what, effectively, Cmdt. Coffey had been
12 advocating for, that there wouldn't be seen to be any
13 disciplinary proceedings.
14
15 Mr. O'Keeffe, I'm now going to put two things to you. 11:43
16 I want to preface that by making it clear that I'm not
17 in any way criticising you personally, or even your
18 report, but taking all of those things into account, I
19 have to suggest to you that the entire of the
20 investigation, not simply your interviews or your 11:43
21 report, but the entire investigation, from beginning to
22 end, was a cover-up.
23 MR. LEHANE: Sole Member, just in terms of that, that's
24 being expressed as a concluded fact. It's been put to
25 him based on the 14 or 15 points, some of which have 11:43
26 had to be corrected, that as a concluded fact he was
27 involved in a cover-up. You're the person who has to
28 adjudicate on whether that happened or not. So I would
29 ask Mr. McGovern, and I know he's doing his best, to

1 rephrase the question.

2 165 Q. MR. McGOVERN: I'm suggesting to you, Mr. O'Keefe,
3 that that's what happened in reality; that the entire
4 thing, from beginning to end, was a cover-up for what
5 happened in relation to Mr. Traynor? 11:44

6 A. I don't believe so.

7 166 Q. All right. Can I go back to your statement and the
8 final page of that, Mr. O'Keefe, at page 3714.
9 Paragraph 17:
10 11:44

11 "I am satisfied that I carried out my investigation as
12 I was directed to do."
13

14 Isn't that what you told the Tribunal in your
15 statement? 11:45

16 A. Yes.

17 167 Q. You recall at interview, Mr. O'Keefe, I commented on,
18 perhaps, the peculiar wording of that?
19 MR. LEHANE: Sorry, Sole Member, given - and I'm very
20 reluctant to do this - but given the significance of 11:45
21 the statements that are being made, if Mr. McGovern is
22 going to refer to the interview, if he might put the
23 portion of the interview up on the screen for the
24 witness to see what he said on a previous occasion.

25 168 Q. MR. McGOVERN: Forget about the interview, I'm going to 11:45
26 do it now but it's the same thing. Let's just look at
27 paragraph 17 in the first instance:
28

29 "I am satisfied that I carried out my investigation as

1 I was directed to do."
2
3 Full stop. You're not saying, Mr. O'Keefe, that you
4 carried out the investigation in accordance with
5 Defence Force Regulations, are you? 11:45
6 A. I can't say that because at that time there was no unit
7 level format for conducting an investigation of this
8 nature, let alone an investigation into allegations of
9 bullying. So that in general terms I was in keeping
10 with, I wasn't in conflict with Defence Forces 11:46
11 Regulations, but Defence Forces Regulations didn't
12 provide a format for that type of investigation.
13 169 Q. All right.
14 A. So, essentially, I carried it out based on my
15 experience and based on the orders I received from my 11:46
16 commanding officer in terms of what I had to do.
17 170 Q. And the orders you received from your commanding
18 officer, would you identify that commanding officer?
19 A. Lt. Col. Hayes.
20 MR. McGOVERN: Thank you. 11:46
21 SOLE MEMBER: Thank you. Mr. Lehane.
22 MR. LEHANE: I think with the normal sequence I'll go
23 next, Sole Member.
24 SOLE MEMBER: Yes.
25
26 MR. THOMAS O'KEEFE, WAS CROSS-EXAMINED BY MR. LEHANE
27 AS FOLLOWS:
28
29 171 Q. MR. LEHANE: I think with the normal sequence I'll go

1 next, Sole Member. I think it's now the afternoon.
2 It's still morning. Good morning, Mr. O'Keefe.
3 A. Morning.
4 172 Q. I'm going to deal with --
5 SOLE MEMBER: Mr. Lehane, I'm sorry for interrupting 11:46
6 you, but before you begin I am conscious that it may be
7 a long morning and that the stenographer may need a
8 break. If we go till 12:00 and then we'll take a break
9 just to give the stenographer a break. Thank you.
10 MR. LEHANE: And Mr. O'Keefe isn't under 11:47
11 cross-examination at this point anyway.
12 SOLE MEMBER: He isn't?
13 MR. LEHANE: He isn't. Well, I haven't started.
14 SOLE MEMBER: would you prefer to the take the break
15 now? 11:47
16 MR. LEHANE: we'll give the stenographer a break now
17 and we'll take it that Mr. O'Keefe is under
18 cross-examination.
19 SOLE MEMBER: we'll take it that he is. Okay. Thank
20 you very much. We'll rise for ten minutes. Thank you. 11:47
21
22 THE TRIBUNAL ADJOURNED BRIEFLY AND RESUMED AS FOLLOWS:
23
24 SOLE MEMBER: Thank you, now, Mr. Lehane.
25 12:01
26 MR. THOMAS O'KEEFFE, WAS CROSS-EXAMINED BY MR. LEHANE
27 AS FOLLOWS:
28
29 173 Q. MR. LEHANE: Mr. O'Keefe, I'm going to be asking you

some questions now. I'm going to be dealing with three broad topics and we'll move through this hopefully relatively quickly. The first topic I want to deal with, Mr. O'Keefe, is in terms of knowledge, okay? You'll agree with me, you can only speak to things you saw, you heard, you were aware of directly at the time?

12:02

A. Yes.

174 Q. A considerable period of time this morning was spent asking you about correspondence that was written by other people addressed to other people; do you remember that?

12:02

A. Yes.

175 Q. Okay. You were asked about letters from Cmdt. Coffey
to Col. Hayes, do you remember that?

A. I do.

12:02

176 Q. You were asked about correspondence between Col. Hayes
and the General Officer Commanding, do you remember
that?

A. I do, yes.

177 Q. You were asked about correspondence between Lt. 2B and
Col. Hayes, do you remember that?

12:02

A. Yes.

178 Q. And you were asked about correspondence that I think
was unaddressed from Lt. 2B as well --

A. Yes.

12:02

179 Q. -- setting out complaints in relation to you. I know
you said this to Mr. McGovern as you were going along,
but just to be very clear; you weren't aware of any of
that correspondence at the time, were you?

1 A. No, I was not.

2 180 Q. And the first time you became aware of that
3 correspondence was in the context of this inquiry?

4 A. That's right.

5 181 Q. When you were furnished with documentation? 12:03

6 A. Yes.

7 182 Q. In terms of what you actually can speak to, things that
8 you were involved in, that you did, that you saw or you
9 heard, can I move then to your investigation, if I may,
10 the second topic that I want to deal with. Is that 12:03
11 okay?

12 A. Yeah.

13 183 Q. Okay. I should say, Mr. O'Keefe, I appreciate this is
14 a stressful experience and if you want me to slow down
15 or stop at any point let me know. It's not pleasant 12:03
16 but I have to ask you the questions.

17

18 In terms of your investigation, am I correct in
19 understanding you were asked by Col. Hayes to carry out
20 this investigation? 12:03

21 A. I was, yes.

22 184 Q. And that were you told by Col. Hayes to speak to
23 apprentices and a platoon sergeant?

24 A. Specifically, I was given the names of two apprentices
25 which Mr. Traynor had told Lt. Col. Hayes were 12:04
26 potentially witnesses to one of the events. And then I
27 selected other apprentices based on their proximity to
28 Mr. Traynor in the billet, and others on a random
29 basis.

1 185 Q. And you were asked about why you didn't interview
2 Mr. Traynor and I think you said to the Sole Member
3 that he was no longer in the Defence Forces. But would
4 you agree with me, you were aware, from Col. Hayes what
5 the allegations Mr. Traynor was making? 12:04

6 A. I was fully aware.

7 186 Q. So that was the reference point, as it were, for your
8 investigation?

9 A. Yes.

10 187 Q. And just in terms of how you carried out your 12:04
11 investigation, and, again, the Sole Member has
12 available to her now your letter, but, also, some of
13 the working documentation in terms of it. Could you
14 just, again, just summarise to me how it was you went
15 about doing that? 12:05

16 A. From memory, the first people that -- first of all, I
17 conducted the interviews in my office, the Adjutant's
18 office in Devoy Barracks, Naas, which was in the
19 Headquarters Block. For the interviews I would have
20 had either a sergeant major or a lieutenant who was 12:05
21 based in the Apprentice School with me. I would have
22 called in the witnesses and asked them what information
23 they could provide in relation to the allegations.

24 188 Q. Okay. So just to stop there. In terms of the way,
25 because we were asked questions about the training you 12:05
26 had received in the conduct of investigations and your
27 qualifications in relation to it; but just in terms
28 what you said to the witnesses, or the people you were
29 talking to, you bring them in and you ask them what

1 information they could provide in relation to the
2 allegations?

3 A. Yes.

4 189 Q. So very much an open-ended question?

5 A. It was pretty open, yes. 12:06

6 190 Q. which could invite any answer?

7 A. In theory, yes. Yeah, it could.

8 191 Q. And the reason I'm just asking you about that is I know
9 one of the complaints made about you in the letter that
10 was written on 6th June 1991 by Lt. 2B, again you 12:06
11 didn't see it at the time but you'll remember
12 Mr. McGovern was reading it out, was that Lt. 2B said,
13 and this is at, at least my copy, Sole Member, 4413,
14 paragraph 1(c):

15 12:06

16 "He asked them..."

17

18 As you in you asked them, the people you were talking
19 to directly:

20 12:06

21 "...if they had any complaints to make about me! This
22 in my opinion gave a CARTE BLANCHE to any apprentice
23 who had a minor gripe with no relevance to the
24 investigation."

25 12:06

26 okay?

27 A. Yeah.

28 192 Q. Just to pause there and we'll ignore the comment on it.
29 He's criticising you or the criticism there is that you

1 were giving people carte blanche. But, again, carte
2 blanche meant they could say whatever they wanted to
3 when you asked them about it?

4 A. I felt that was part of the orders I was given from
5 Lt. Col. Hayes. 12:07

6 193 Q. Okay. So, asking these open questions, inviting the
7 people you were speaking to to tell you about any
8 complaints that they had about you, what did you do
9 with that information? Again, they could have said
10 anything to you? What did you do with that information 12:07
11 then?

12 A. My report would have been confined to the specific
13 allegations made by Mr. Traynor. But I think -- sorry,
14 if I can carry on? I would have retained -- I think a
15 number of them would have made statements which they 12:07
16 would have signed and I would have countersigned and a
17 number made verbal statements, they didn't wish to make
18 a written statement but they provided information. All
19 of those reports, along with the interview with the
20 Platoon Sergeant would have accompanied the summary 12:08
21 report to the Commanding Officer. So he would have
22 received all of those.

23 194 Q. Okay. And, again, you told the Sole Member that in
24 addition to interviewing the individuals that you've
25 referred to there, the apprentices and the Platoon 12:08
26 Sergeant, you carried out another exercise in terms of
27 reviewing documentation and I think that documentation,
28 do you remember what it was that you looked at?

29 A. I would have looked at, I suppose, in the Army we would

1 call it the LA 30 which would be the soldier's medical
2 book.

3 195 Q. And why did you look at the soldier's medical book the
4 LA 30 in this case?

5 A. To see if there was any evidence of injuries, reporting 12:08
6 sick consistent with the reports contained in the
7 allegations.

8 196 Q. So you looked the records, the medical records?

9 A. The medical records which would have included, let's
10 say, annual, medical, or if there was an individual 12:08
11 occasion where he would have reported to the Medical
12 Aid Post, there would have been a description of what
13 the reason for the visits for the Medical Aid Post was,
14 plus an outcome noted by the Medical Officer there.

15 197 Q. Okay. So you look at the medical records, as you've 12:09
16 described, the LA 30s. You conduct the interviews with
17 the apprentices that you select, the apprentices you've
18 been directed to talk to and the apprentices you
19 selected yourself, yes?

20 A. Yeah. 12:09

21 198 Q. And the Platoon Sergeant?

22 A. Yeah.

23 199 Q. What did you do then?

24 A. I would have collated the report and passed the report
25 along with the supporting documents to the Commanding 12:09
26 Officer.

27 200 Q. Just in terms of your exercise in writing the report I
28 want to be very clear here, given the nature of what
29 has been put to you and I'll come to this later on.

1 was this report the product of your own work?

2 A. Eh, my own and the personnel, the Sergeant Major and

3 the Lieutenant who accompanied me at the interviews.

4 But --

5 201 Q. Sorry, I'm interrupting you. Sorry? 12:10

6 A. I would have been the scribe, yes, I would have been

7 written the report.

8 202 Q. The scribe, that's a term of art or slang term in the

9 Army, is it?

10 A. Would I have written the report. 12:10

11 203 Q. As in you wrote the report?

12 A. Yeah.

13 204 Q. Did anyone tell you what to put in the report?

14 A. No.

15 205 Q. Did anybody suggest that your report should have a 12:10

16 particular outcome?

17 A. Absolutely not.

18 206 Q. Did Col. Coffey tell you what you should put in the

19 report?

20 A. No, he did not. 12:10

21 207 Q. Did Col. Coffey suggest a particular outcome in terms

22 of what you should put in your report?

23 A. Sorry, if you can go back, did Cmdt. Coffey or

24 Col. Hayes.

25 208 Q. I'm going to deal with both of the them. 12:10

26 A. You said Col. Coffey.

27 209 Q. Sorry.

28 A. . Coffey did not, no.

29 210 Q. Okay. Did Col. Hayes suggest a potential outcome for

1 your report?

2 A. No, he did not.

3 211 Q. Did he express a preference for what he would like to
4 see contained in your report?

5 A. He did not. 12:11

6 212 Q. Did you understand from just his demeanour or how he
7 was carrying on that he would appreciate a particular
8 report, i.e. he mightn't have said it expressly but you
9 would have understood from his demeanour that he had a
10 particular outcome? 12:11

11 A. No. He did not, no.

12 213 Q. Did anybody else in officialdom tell you what they
13 would like to see in your report?

14 A. Within Devoy Barracks, the only other senior person
15 would have been the Lieutenant Colonel in charge of the 12:11
16 school and he did not communicate anything to me
17 either, no.

18 214 Q. So nobody told you what you should be setting out in
19 your report --

20 A. No. 12:11

21 215 Q. -- in terms of the conclusion. It was put to you by
22 Mr. McGovern at the conclusion of a number of points,
23 and I don't plan on going through them individually
24 because I'll have a submission in a different forum to
25 make later on, Mr. O'Keefe. But it was put to you at 12:12
26 the end of those 14 points that there was a cover-up;
27 do you remember that?

28 A. I remember that, yeah.

29 216 Q. Now, cover-up, I'm sure you'll agree with me, is a

1 fairly serious statement to make, isn't it?

2 A. I felt so, yeah.

3 217 Q. And to be engaged in a cover-up means that somebody is
4 concealing something, hiding something, obscuring
5 something from view; that's what a cover-up is, isn't 12:12
6 that right?

7 A. Yes.

8 218 Q. You're categoric in your evidence, are you?

9 A. I am. I'd also like to point to a document which we
10 touched on this morning but it wasn't, there wasn't 12:12
11 sufficient notice given to it which is the chronology
12 document.

13 219 Q. Yes.

14 A. That details a series of eight allegations against
15 2 Lt. B. 12:13

16 220 Q. Yes.

17 A. I'm not sure, would it be appropriate if I could
18 point --

19 221 Q. I think this is at 2864, if the Registrar wants to put
20 it up on the screen. Is this the document you're 12:13
21 talking about?

22 A. Yeah. If we go further. If you look at the very top
23 there's a much stamp, but probably not too clear on
24 this page where it says:
25 12:13
26 "Staff in confidence."
27
28 what does that mean?

29 A. It would be a privacy marking for a document that would

1 be sent to a higher authority.

2 222 Q. okay.

3 A. And it's on the top and bottom of that document. If

4 you go to the very bottom of page 2 please.

5 223 Q. Yes. 12:13

6 A. Okay. It's redacted but the very bottom line says:

7

8 "FWD by OC..."

9

10 "FWD" would be a military acronym, if you like, for 12:14

11 forward or forwarded and I'm taking it it's in

12 Col. Hayes's writing, it's from OC to GOC Curragh

13 Command. The date is actually obliterated by the page

14 numbering but in the document I have it says "May '91."

15 224 Q. okay. 12:14

16 A. So what I would point to that is that is an indication

17 that all the information in relation to allegations

18 over a number of events are in that document and it was

19 put before the GOC of The Curragh Command.

20 225 Q. So, again, you're saying that all of the relevant 12:14

21 information was in that, is that right?

22 A. It's suggested to me --

23 226 Q. But chronologically?

24 A. It's suggested the chronology, I didn't see the

25 document going so I can't say for certain but it's 12:14

26 suggested to me by the fact that -- the document has

27 been prepared for being sent to a higher authority and

28 also the note in Col. Hayes's handwriting as to when it

29 went.

1 227 Q. okay. I think, in fairness, the Sole Member will have
2 a note of this, this was one of the documents that you
3 told the Tribunal earlier on that you didn't see at the
4 time?
5 A. I didn't see at the time, no. 12:15
6 228 Q. So you saw that as part of the Tribunal exercise?
7 A. I saw that as part of the tranche of documents I
8 received.
9 229 Q. I know it's an obvious answer but I'll have to ask.
10 You said there a number of times it's in Col. Hayes's 12:15
11 handwriting, how do you know it's in Col. Hayes's
12 handwriting?
13 A. I recognise it.
14 230 Q. Based on?
15 A. I worked with Col. Hayes for two years in 1991 to '92. 12:15
16 At the time, though I haven't seen it for a while, I
17 would recognise it from that time.
18 231 Q. In terms of -- I mean you're being categoric in your
19 response to the statement that was put to you that you
20 were involved in concealing, obscuring or covering up 12:15
21 matters; can I ask you, how does that make you feel to
22 have that put to you in a public inquiry?
23 A. I have to say it's a horrific experience. I feel
24 completely -- shocked initially and then completely
25 feel that I have been accused in the wrong. 12:16
26 232 Q. And, again, it's something that other people have been
27 asked, you know, again I'm conscious, Mr. O'Keefe,
28 that you served your country from 1976 until your
29 retirement at the rank of commandant with distinction.

1 You served within Ireland and outside of Ireland, isn't
2 that right?

3 A. That's correct, yes.

4 233 Q. And I think you served overseas in the Lebanon 1984 and
5 1985, is that right? 12:16

6 A. Correct.

7 234 Q. What's your response, how does that make you feel to be
8 accused of that here today?

9 A. Ehm...

10 SOLE MEMBER: I think the witness has already answered 12:17
11 that question, Mr. Lehane. You've asked him.

12 MR. LEHANE: I think that's fair. Just bear with me
13 for one second, Sole Member. I'm conscious,
14 Mr. O'Keefe, I had a lot of questions that I don't
15 have to ask because Mr. McGovern took you through them 12:17
16 so I just want to double-check my own notes.

17 THE WITNESS: Okay.

18 MR. LEHANE: Again, I think you've dealt with in your
19 evidence your commentary on the letter that was written
20 by Lt. 2B on 6th June, this is the undated one where he 12:17
21 expressed his unhappiness with your investigation, and
22 you've given your evidence to the Sole Member just in
23 terms of your interactions with Lt. 2B in answer to
24 questions there and I think also the Tribunal has the
25 point about the letters plural as well. So I think, 12:18
26 Sole Member, in those circumstances I think that's
27 sufficient.

28 SOLE MEMBER: Thank you, Mr. Lehane. Now, the next
29 person to put questions to the witness, I think, is

1 Mr. Masterson.

2
3 MR. THOMAS O'KEEFFE, WAS CROSS-EXAMINED BY
4 MR. MASTERSON AS FOLLOWS:

5 12:18
6 235 Q. MR. MASTERSON: I'm very much obliged. Mr. O'Keefe,
7 my name is Louis Masterson and I appear on behalf of
8 several former members of the Army Apprentice School.
9 I just have a number of questions that I want to put to
10 you and a bit like Mr. Lehane, much of my questioning 12:18
11 will be truncated by Mr. McGovern's questions that he
12 put to you.

13
14 I think you have agreed that your report dealt with
15 only two of Aptce. Traynor's four allegations, isn't 12:19
16 that correct?

17 A. Ehm, specifically, two, yes.

18 236 Q. And those specifics ones were the kicking in the
19 square, if I can describe it as that, and the alleged
20 forced discharge signature allegation? 12:19

21 A. Yeah.

22 237 Q. And in your interview with Mr. McGovern and
23 Mr. O'Hanlon previously, I think you said that you
24 cannot recall being asked to confine your investigation
25 in any way. Oh, sorry, I beg your pardon, you cannot 12:19
26 recall being asked to confine -- yeah, to confine the
27 investigation in that way. What I mean to say is, to
28 the two allegations rather than investigating the four.

29 A. I can't recall at this time.

1 238 Q. At this time. But I think you would accept,
2 ultimately, that you did confine it just to the two?
3 A. Yeah.

4 239 Q. Was your investigation, in effect, just an
5 information-gathering exercise? 12:20
6 A. To some extent in that it was interviews with
7 apprentices and the Platoon Sergeant to try and find
8 information that could substantiate the allegations.

9 240 Q. And the outcome of that was to simply inform your
10 superior officers of the facts? 12:20
11 A. Yes.

12 241 Q. Were you ever invited to make recommendations on your
13 findings?
14 A. No, I was not.

15 242 Q. You told Mr. McGovern in your interview, not today, but 12:20
16 in your interview that your report was a summary of the
17 statements and the statements went to Col. Hayes along
18 with your report, do you recall that?
19 A. Yes.

20 243 Q. If the statements themselves recorded allegations 3 12:21
21 through to 6, so that is four allegations, why do your
22 written conclusions only address the two; that is the
23 kicking and the forced discharge?
24 A. Well, I would have looked for, I suppose, general
25 information on allegations other than those. I can't 12:21
26 explain that at this point. It is possible that I
27 received some instruction to concentrate on those --

28 244 Q. Can I --
29 A. Sorry, if I can finish. But I don't have a memory of

1 it at this point.

2 245 Q. Okay. I'm sorry for my interruption, I thought you had
3 finished and I beg your pardon.

4

5 Two of the four allegations were ones which 2 Lt. B had 12:22
6 made admissions, do you recall that?

7 A. Yes.

8 246 Q. Was it ever indicated to you, either directly or
9 indirectly, that admitted allegations were best left
10 uninvestigated? 12:22

11 A. I can't recall.

12 247 Q. That's fine. Mr. O'Keeffe, I appreciate these were 35
13 years ago. I often find it difficult to remember what
14 I did yesterday and I think 35 years ago is a big ask
15 so I appreciate if you don't recall anything and that's 12:22
16 fine.

17

18 You mentioned, I think, today to Mr. McGovern that as
19 part of your investigation you examined
20 Aptce. Traynor's LA 30, that is his medical file; do 12:23
21 you remember that?

22 A. That was his medical book. There was a separate
23 central medical file which would be retained by the
24 Army Medical Corps.

25 248 Q. Sorry, that's my ignorance. You examined his LA 30? 12:23

26 A. Yes, I did.

27 249 Q. Mr. O'Keeffe, did you ever consider, in the course of
28 your investigation, that Damien Traynor may have been
29 afraid to report any medical issues such as bruising or

1 he may have been fearful of seeking medical advice?

2 A. I had no reason to form that view.

3 250 Q. That's fine. You said in your interview that your
4 instruction was to interview the apprentices as well as
5 the Platoon Sergeant, is that correct? 12:23

6 A. I had two named apprentices which their names had been
7 provided by Mr. Traynor. And I also selected others.

8 251 Q. My next question may have been answered already, but
9 did anyone explain to you why that instruction stopped
10 short of interviewing the two main people, I would 12:24
11 describe those as the Complainant and the Respondent,
12 so Aptce. Traynor and 2 Lt. B?

13 A. I took it that the Complainant had already been
14 interviewed by Lt. Col. Hayes and I'm not certain at
15 this stage why 2 Lt. B wasn't interviewed by me. I 12:24
16 think I would have expected that he would have
17 communicated, been communicating directly with the
18 Commanding Officer.

19 252 Q. But you didn't see it as part of your remit to
20 interview him? 12:25

21 A. I didn't see it as part of my remit, no.

22 253 Q. Mr. O'Keeffe, the investigation, I think, began on 12th
23 May, is that correct, roughly, to the best of your
24 recollection?

25 A. The dates on the statements of, I think the final 12:25
26 statement was -- of the statements I have, one was
27 signed the 16th, some on the 16th so I think the 14th
28 might be the best estimate of when that started.

29 254 Q. My understanding and I may be wrong, my understanding

1 is that the investigation started on 12th May and
2 concluded on 16th May; would that accord with your
3 recollection?

4 A. I think the interview started on the 14th.

5 255 Q. Okay. But it concluded, effectively, on 16th May? 12:25

6 A. Yes.

7 256 Q. I have to say I have to put it to you that that is
8 quite a short period of time within which to
9 investigate matters that I think perhaps in hindsight
10 what I would have suggested at the time were very 12:26
11 serious matters; do you accept, in hindsight, that such
12 a short period of time in conducting your investigation
13 was not adequate?

14 A. No, I don't accept that. I think for, I suppose, the
15 limited instructions that I was given, we did establish 12:26
16 that there was some substance to the first allegation.
17 I don't think any more time would have changed the
18 outcome that we would have had for the second
19 conclusion we reached. And, also, in terms of the
20 apprentices we were interviewing, we found towards the 12:27
21 end that we were getting less and less information from
22 the interviewees.

23 257 Q. Did you ever consider the fact that you were getting
24 less and less information might have been because they
25 were fearful? 12:27

26 A. I did not consider that at the time, no.

27 258 Q. You said in your interview, Mr. O'Keefe, that you
28 didn't feel you had the authority to interview 2 Lt. B
29 or Aptce. Traynor; do you recall that?

1 A. Eh, I think so, yes.

2 259 Q. Did you ever raise that lack of authority with either
3 Col. Hayes or Cmdt. Coffey, have I got those ranks
4 correct?

5 A. I was answering to Lt. Col. Hayes and I did not raise 12:28
6 it with him.

7 260 Q. Did you ever consider asking for your authority to be
8 extended?

9 A. No, I didn't consider that.

10 261 Q. Did you ever seek to raise issue with the parameters of 12:28
11 your investigation?

12 A. I'm sorry, I'm not quite sure what you mean.

13 262 Q. You have indicated in your interview that you gave with
14 Mr. McGovern and Mr. O'Hanlon that you didn't feel you
15 had authority, and indeed in fact today you've 12:28
16 highlighted certain parameters that were placed upon
17 you in your investigation; did you ever seek to raise
18 issue with those parameters with your superiors?

19 A. Sorry, could you just give me a moment. I'm sorry for
20 having to ask you again, what do you mean by 12:29
21 "parameters"?

22 263 Q. Let me see if I can put it an alternative way. I'll
23 move on. It's probably the best course of action.
24

25 You've accepted that there was contact between 12:29
26 Lt. B's boot and Mr. Traynor's torso, isn't that
27 correct?

28 A. Yes.

29 264 Q. And such contact by a commissioned officer could never

1 be described as acceptable practice, isn't that
2 correct?

3 A. Correct.

4 265 Q. But how is it, then, that your report found no findings
5 of inappropriate behaviour? 12:29

6 A. Because that wasn't within the remit of my report. I
7 was asked to verify, insofar as I could, the
8 allegations, which I did. It would have been above my,
9 I suppose, above my rank and appointment to -- because
10 such things, if I can just explain further, I would 12:30
11 have expected that that sort of allegation would be
12 brought up along by the Commanding Officer to the GOC,
13 and then consultation would take place with the Command
14 Legal Officer as to what action would be taken at that
15 point. That was my -- that was what I remember 12:30
16 thinking at the time.

17 266 Q. That fits quite neatly with the previous question that
18 I moved on from when I said the parameters. You've
19 used the word "within the remit" of your investigation.
20 Did you ever seek to, or did you ever consider 12:31
21 requesting permission to expand the remit of your
22 investigation?

23 A. In the context of who I was and what I was doing, I was
24 captain in a military unit answering to, or carrying
25 out the orders from Lt. Col. Hayes. No, I didn't 12:31
26 consider -- I felt that I had a specific role and that
27 others had other roles and that's how the system would
28 work. So...

29 267 Q. And, Mr. O'Keeffe, I should say I'm not seeking to cast

1 any criticism on you, I'm just trying to assist the
2 Tribunal in establishing the effectiveness of these
3 procedures.

4 A. Mm-hmm.

5 268 Q. Can I refer you then to the second allegation that you 12:31
6 investigated which is the forced discharge signature
7 matter, if I can put it in those terms. In your report
8 you indicated that there was no evidence to
9 substantiate it; do you recall that?

10 A. I do. 12:32

11 269 Q. Did you ever take any steps, such as putting the
12 allegation to 2 Lt. B?

13 A. Not as part of the investigation but I was aware, prior
14 to the commencement of the investigation that these
15 allegations were already known. I was aware that he 12:32
16 was refuting the allegation.

17 270 Q. Mr. McGovern has referred us today to the handwritten
18 document which, just for the record is at page 2876 in
19 which you've indicated it is written in Col. Hayes's
20 handwriting. And it directs that 2 Lt. B not be 12:32
21 removed immediately but removed in August; do you
22 recall that?

23 A. I recall that document, yes.

24 271 Q. Can you recall whose decision was it to defer,
25 ultimately to defer the move until August? 12:33

26 A. My only information on this particular proposed move,
27 if you like, is what I'd seen in this document. So, I
28 can't provide any more information on that.

29 272 Q. That's fine.

1 A. I wasn't aware of it at the time. I've only seen it in
2 discovery.

3 273 Q. That's absolutely fine. My last question,
4 Mr. O'Keefe, and I'm very grateful for generously
5 giving your time this morning; would you accept that a 12:33
6 deferral of this kind for administrative convenience,
7 if I can put it that way, sits awkwardly with the
8 complaint process that is supposed to prioritise the
9 welfare of those people that made complaints?

10 A. In thinking about it this morning, there was possibly 12:33
11 another reason why the deferral was to take place until
12 August, which is to allow 2 Lt. B to pass out, to
13 conduct a passing out of one of the other platoons that
14 he had charge of. Again, I don't know this, I'm
15 just -- the thought just struck me. I can't comment 12:34
16 any further.

17 MR. MASTERSON: I'm very much obliged. Thank you for
18 your time this morning, Mr. O'Keefe.

19 SOLE MEMBER: Thank you, Mr. Masterson. Does anybody
20 else wish to put a question to Mr. O'Keefe? 12:34

21 MR. HOGAN: I have no questions for Mr. O'Keefe.

22 SOLE MEMBER: No questions, Mr. Hogan. Anybody else?

23

24 MR. THOMAS O'KEEFFE, WAS CROSS-EXAMINED BY MS. McGRATH
25 AS FOLLOWS: 12:34
26

27 274 Q. MS. McGRATH: Good afternoon, one very brief question,
28 please. Good afternoon, Mr. O'Keefe, can I just ask
29 you very briefly one issue. I appear on behalf of the

1 Minister for Defence and I just want to ask you about
2 that Ministerial Query that was opened to you this
3 morning. Do you remember that earlier this morning
4 with Mr. McGovern?

5 A. I remember that, yes. 12:35

6 275 Q. And that Ministerial Query, again, if it could just be
7 put on the screen, there's notes on a Ministerial Query
8 and it's at page 2882 of the book. Now, we do see a
9 reference there in the second paragraph to a date, it's
10 the only date in the document, would you accept that, 12:35
11 Mr. O'Keeffe?

12 A. I can see that, yes.

13 276 Q. And we don't know who these were composed by and the
14 document is not dated. Now, you said in your evidence
15 that you had never seen this before until the 12:35
16 discovery, is that right?

17 A. That's correct.

18 277 Q. And I think in answer to Mr. McGovern you were asked
19 did you know that a Ministerial Query had come in or
20 was live or had been made. And you answered that you 12:35
21 did not?

22 A. I did not, no.

23 278 Q. And I think you're talking about the period of May,
24 isn't that right, of 1991, when you were doing your
25 investigation? 12:36

26 A. Yeah, yeah. Okay, yeah.

27 279 Q. And now, just in relation to that query, if Ms. Heavey
28 could go to page 2876 then and this is the handwritten
29 note and it again refers there at no. 3 to the

1 Ministerial Query, isn't that right?

2 A. It's noted at no. 3, yes.

3 280 Q. You were asked about this and, I think, the extent of
4 your assistance to the Tribunal seems to be to the
5 effect that you identified the writing as being that of 12:36
6 Lt. Col. Hayes, is that right?

7 A. Yes.

8 281 Q. Okay. Now, I think you were asked in your direct
9 examination about this document and it was put to you
10 that the Ministerial Query appears to refer to the very 12:36
11 first allegation, which was the ones there in August
12 1989, and you were also asked that therefore the
13 decision to move Lt. B appears to relate to the
14 Damien Traynor incident in May. Now, I don't think you
15 were able to answer any of those fully, is that right, 12:36
16 because you didn't know anything about this?

17 A. I didn't know anything about the Ministerial Query, no.

18 282 Q. I think the correct person to ask about what he's
19 referring to is Lt. Col. Hayes but you may or may not
20 be aware, that an apprentice, Mr. Brian Murphy, did 12:37
21 give evidence to the Tribunal and he talked about his
22 father writing a letter in June 1991 which is sometime
23 after, over a month after your investigation, is that
24 right?

25 A. June would have been after the investigation, yes. 12:37

26 283 Q. Okay. I don't know whether you were ever aware of such
27 a letter or if you have been following the transcripts
28 of the evidence?

29 A. I have done my best, yeah, to follow them.

1 284 Q. okay.

2 A. Sorry, if I can just ask, is this the -- did this

3 result in a visit from the GOC and the OC to

4 Mr. Murphy's parents?

5 285 Q. Yes. 12:37

6 A. Okay.

7 286 Q. I think it will be for Lt. Col. Hayes to clarify

8 whether the Ministerial Query he references there is

9 that issue; would you accept that?

10 A. I can recall the visit to Mr. Murphy's parents taking 12:38

11 place but I didn't know it was in relation to a

12 Ministerial Query.

13 287 Q. okay. Okay. So, in effect, you're not in a position

14 to be able to put this any further is that the case?

15 A. I'm not, no. 12:38

16 MS. McGRATH: Okay. Thank you.

17 SOLE MEMBER: Thank you, Ms. McGrath.

18 MR. McGOVERN: Judge, if I may there's just a couple of

19 matters arising out of the examination of the witness.

20 SOLE MEMBER: Yes. 12:38

21

22 MR. THOMAS O'KEEFFE WAS RE-EXAMINED BY MR. McGOVERN AS

23 FOLLOWS:

24

25 288 Q. MR. McGOVERN: Mr. O'keeffe, firstly, Mr. Lehané put it 12:38

26 to you that there was correspondence between other

27 parties, apart from yourself, that I had put to you in

28 your examination, I think that's correct. Just for

29 clarity's sake, the documents I put to you concerned

1 matters that you were dealing with and the only purpose
2 of that was to give you an opportunity to comment on
3 it. You made that clear.

4 A. Okay.

5 289 Q. Secondly, reference was made to the handwritten 12:39
6 document at page 2864, and in reply to Mr. Lehane you
7 said that that was created in May of 1991, is that
8 correct?

9 A. Sorry?

10 290 Q. Call up, page 2865. 2864 and 2865. You drew attention 12:39
11 to a stamp at the top of the first page and the bottom
12 of the second page, is that correct?

13 A. I think it's on top and bottom of all pages on the copy
14 I have.

15 291 Q. Yes. And what does that say? 12:39

16 A. It says "staff in confidence."

17 292 Q. And you also referred to a date of May 1991, is that
18 right?

19 A. At the bottom of the second page.

20 293 Q. Where do you find that date? 12:39

21 A. It's actually obliterated by the page numbering but
22 it's actually visible on the copy of the document that
23 I have, that it says "May '91".

24 294 Q. Could you just point to the screen, where that date is?

25 A. It's obliterated by the page numbering. 12:40

26 295 Q. But you can read that, can you?

27 A. I'm able to read it -- I was able to read it on the
28 copy of the document that I have.

29 296 Q. Can I just ask you about that. This is perhaps just a

1 comment for the Tribunal more than a question for you,
2 Mr. O'Keeffe. But this issue has come up before.
3 There's a document called the rules or procedures of
4 the Tribunal which provide that documents should not be
5 referred to in evidence unless they have been furnished 12:40
6 to the Tribunal. So can I ask you, Mr. O'Keeffe, were
7 you given a document, other than the ones that you were
8 furnished with by the Tribunal?

9 A. No.

10 297 Q. Well, where do you get the date from or how can you 12:41
11 make out the date from the copy you said you have?

12 A. It's clearer on the copy that I have. I think it was
13 taken from the first tranche of documents that I
14 received before my interview with you. I can provide
15 that document to the Tribunal. 12:41

16 298 Q. That would be helpful. Finally, Mr. O'Keeffe, I
17 prefaced my remarks at the end, I want to make this
18 clear if I haven't done already, that I was not making
19 any personal criticism of you, your investigation or
20 your report but, rather, I was saying that taken as a 12:41
21 whole, I was putting to you, or suggesting to you that
22 the investigation was a cover-up. And I'm happy to put
23 that on the record and can I just repeat what I said to
24 you at the interview of 29th April of this year, which
25 is at page 3750. If Ms. Heavey has that. 3750. 12:42
26 Starting at line 10:

27
28 "I am going to be clear about this, I am not
29 necessarily blaming you for that, I am just saying the

1 investigation was a cover-up. Can I emphasise that the
2 legal team do not make any decisions, our function, as
3 I said at the beginning, is inquisitorial, to try and
4 establish the facts. The Judge will ultimately make
5 the decisions, I want to make that part very clear. 12:42
6 But on one reading of the documents that we have seen
7 you effectively did what you were asked to do. Would
8 you like to comment on that?"

9
10 I'm happy to put that on the record and state, 12:43
11 Mr. O'Keefe, I'm not blaming you, personally, for
12 anything, I'm simply saying that the documents could be
13 interpreted as suggesting that the entire investigation
14 was a cover-up. I simply put to you in reply, I think
15 you said to Mr. Masterson, you said, and I hope I've 12:43
16 written this down correctly, you said you were an
17 officer in an military unit carrying out orders from
18 your OC. And for the record, I accept that that's the
19 case. Thank you.

20 A. Excuse me, can I reply to that? 12:43

21 SOLE MEMBER: Yes.

22 MR. McGOVERN: Of course.

23 THE WITNESS: Just to say that while you might say
24 you're not necessarily blaming me, nevertheless I was
25 part of a Defence Forces unit which you are saying was 12:43
26 involved in the cover-up and I just have to reject
27 that.

28 MR. McGOVERN: Very well. Thank you.

29 MR. LEHANE: I was just saying, and it's a matter for

1 submission really not the witness, but the last bit
2 there:

3
4 "We have seen you effectively did what you were asked
5 to do."

12:44

6
7 It wasn't put to him today, at least in my
8 recollection, that he was directed by somebody to
9 behave in a particular manner. But I think the witness
10 responded to Mr. McGovern's comment.

12:44

11
12 we've dug up, just because Mr. McGovern -- the
13 documents that were sent to the witness in advance of
14 the hearing and the "May" is -- that were given to us
15 by the Tribunal, the blue book and it's on that so I'll
16 give that to Mr. McGovern afterwards.

12:44

17 SOLE MEMBER: Thank you, Mr. Lehane.

18
19 MR. THOMAS O'KEEFFE WAS QUESTIONED BY THE SOLE MEMBER,
20 AS FOLLOWS:

12:44

21
22 299 Q. SOLE MEMBER: If we can just start with the documents
23 point, I have to say I understood the chronology,
24 Mr. O'Keefe, that you went through. Could you just,
25 from the document that you have and the document that
26 you have been given, the part that says "forwarded by
27 OC," do you have the document you've been given there?

12:44

28 A. I don't have it.

29 300 Q. Could we bring up that document, please, 2865, it's the

1 end of that list, of that long chronology. And I
2 understood that when you were giving your evidence you
3 read out what that said. Could you do that again?
4 Forwarded by OC?

5 A. "FWD" would be Defence Forces shorthand for forwarded 12:45
6 by OC and I'm making an assumption that it's OC AAS,
7 Army Apprentice School. To GOC and again I'm assuming
8 that that says GOC Curragh Command and underneath the
9 page numbering it says "May '91."

10 301 Q. You made both of those assumptions in your direct 12:45
11 evidence, because in your direct evidence my note is
12 that you read it clearly:
13
14 "Forwarded by OC to GOC Curragh Command."
15 12:45

16 And then the date was beside it.

17 A. Well, the fact that it's in Col. Hayes's handwriting,
18 that's the only thing that makes sense to me.

19 302 Q. But the document that you were given, was it redacted?
20 A. Oh, it was redacted, yeah. 12:46

21 303 Q. It's exactly the same as this?
22 A. It's just that the date is visible on the copy that I
23 have.

24 304 Q. Okay. Thank you very much for that. Can I take you to
25 some other questions I have arising from -- can you 12:46
26 keep that document open for the moment, please. That
27 is a chronology of events, I've heard you say --
28 chronology of complaints I should say, and I heard you
29 say that it was created after you had submitted your

1 report and you gave indications as to how you had come
2 to that view?

3 A. Yes, I have reasons for coming to that view.

4 305 Q. The reason, if I understand correctly, is because of
5 the "staff in confidence" on the top and bottom of the 12:46
6 document, is that right?

7 A. Yes.

8 306 Q. And the other reason you gave, I think, was that
9 because it has "May 1991" but it doesn't give a date in
10 May. What were the other reasons that lead you to 12:46
11 believe this was created after 16th May, when you
12 submitted your report?

13 A. Because the names are redacted but Col. Hayes has named
14 four witnesses to the square incident, which he could
15 only have got after receiving my report. And he also 12:47
16 mentions in relation to the haircut --

17 307 Q. Could you take me to where he names the four people
18 that you're talking about?

19 A. It's not on this. I think it's earlier, it might be on
20 the first page. 12:47

21 308 Q. Yes.

22 A. Okay. It's no. 3.

23 309 Q. "Aptce. C kicked in ribs by 2LTB while in press-up
24 position."
25 12:47

26 A. "Supported by statements from [apprentice] and to a
27 degree [the second apprentice], refuted by [other
28 apprentices]."
29

1 Those names would only have been available after he had
2 received my report and the supporting statements.

3 310 Q. Have you been given, or have you seen the statements
4 which I understood you said accompanied your report up
5 the line to OC Hayes? 12:47

6 A. From the apprentices, only two of those statements have
7 emerged.

8 311 Q. Yes. And have you seen any of the other statements?

9 A. I haven't but there is another document in discovery
10 which is handwritten notes titled "apprentice 12:48
11 statements" which I believe are summaries written by
12 Lt. Col. Hayes of those particular statements.

13 312 Q. And have you -- my understanding is, and correct me if
14 I'm wrong, that you actually furnished the individual
15 statements of the ten apprentices that you interviewed, 12:48
16 is that correct?

17 A. Six made formal statements and signed it and four more
18 just wished to make comments, if you like, or verbal
19 statements.

20 313 Q. You took a note of those? 12:48

21 A. I took a note of those.

22 314 Q. So those six statements and four comments were
23 forwarded by you?

24 A. Yes.

25 315 Q. Have you seen them since, apart from the two typed-up 12:48
26 statements?

27 A. No I haven't.

28 316 Q. Did you ask to see the other statements?

29 A. In my original statement to the Tribunal I pointed that

1 out and subsequently a search discovered the other
2 two -- sorry, the two that have been found to date.

3 317 Q. But did you ever seek an explanation as to where the
4 other statements were and why they weren't here?

5 A. Through the CSSO I have pointed it out every time I met 12:49
6 them that...

7 318 Q. And did you get an answer as to where the statements
8 were?

9 A. I --

10 MR. McCANN: We can't be going, Sole Member, we can't 12:49
11 be going --

12 SOLE MEMBER: I'm not looking to cross into legal
13 advice but I am wondering where the statements are and
14 who can explain to me why statements that were part of
15 an investigation weren't discovered. Can you assist 12:49
16 me?

17 MR. McCANN: That's a perfectly fair question, I don't
18 know the answer to it.

19 SOLE MEMBER: You don't know the answer to it.

20 MR. McCANN: Not off the top of my head. 12:49

21 319 Q. SOLE MEMBER: That's fair enough. I'm not asking you
22 in any way to discuss matters of legal advice. I'm
23 asking you factual questions about the existence of
24 these statements. You don't know where they are, is
25 that correct? 12:49

26 A. I haven't seen them since I left.

27 SOLE MEMBER: You haven't seen them since you left.
28 Thank you. Perhaps we will be able to find a witness
29 who will explain where the rest of those statements

1 are. Thank you.

2 MR. McCANN: we'll do our very best.

3 320 Q. SOLE MEMBER: Thank you very much, Mr. McCann. On this
4 chronology of complaints, Mr. O'Keeffe, and I believe
5 from your evidence you have confirmed that you had seen 12:50
6 Mr. Traynor being confined to barracks on a number of
7 occasions, is that right?

8 A. Ehm...

9 321 Q. It's in your statement?

10 A. I would have been aware, yeah. 12:50

11 322 Q. You were aware?

12 A. Yeah.

13 323 Q. And did you see Mr. Traynor after the events which have
14 been described by him as a breakdown, after his
15 breakdown? 12:50

16 A. No, I did not.

17 324 Q. But you met his parents the next day, is that correct?

18 A. No.

19 325 Q. I thought --

20 A. I only met his parents later in the process when I 12:50
21 received £2,000.

22 326 Q. That was the day after, they came on the Sunday and you
23 met them on the Monday?

24 A. Yeah. That was my only reason -- that was my only
25 time -- that was the only time that I met them. 12:50

26 327 Q. Okay. But you never saw the condition in which
27 Mr. Traynor was after his parents -- when his parents
28 had come to collect him, as it were, on the Sunday?

29 A. No, no, I did not.

1 328 Q. Am I correct in saying that you were aware of the
2 chewing incident at the time you were asked to conduct
3 the investigation?
4 A. No, no. I was aware of the other cigarette incident.
5 329 Q. You were aware of the photograph with the cigarettes 12:51
6 but you had no knowledge of the --
7 A. I had no knowledge before I started the investigation.
8 But based on the notes that are in the documents, there
9 was obviously some indication given by some of the
10 apprentices there. 12:51
11 330 Q. So as you were conducting your investigation, this
12 information came out, is that correct?
13 A. Yes.
14 331 Q. Not only was there the cigarette incident but there was
15 also -- not only was the photograph with the cigarettes 12:51
16 in the apprentice's nose and ears but also the incident
17 that Mr. Lenaghan described, you became aware of that?
18 A. I became aware of that, yeah. Just if I might add, I
19 forgot this, when I was asked about this subsequently,
20 in my last interview I had forgotten about it 12:52
21 completely. It's only looking at the summarised
22 reports that I must have been aware of it at that
23 point.
24 332 Q. You must have been aware of that. You were then being
25 asked to investigate a kicking incident, the kicking of 12:52
26 an apprentice?
27 A. Yes.
28 333 Q. Did these incidents cause you alarm?
29 A. I can't remember offhand but I'm sure I felt some

1 unease.

2 334 Q. You felt some unease. Were you in any way concerned,
3 as a captain in this unit were you in any way concerned
4 for safety of the young apprentices?

5 A. I felt, at the time, there was a lot of allegations and 12:52
6 I certainly would have been more aware of the
7 possibility, given that the allegations have been made,
8 that such a thing could occur. Prior to the
9 allegations being made I wouldn't have countenanced
10 that such a thing would have occurred. 12:53

11 335 Q. Were you concerned for the safety of the apprentices
12 when you came across the information which you've told
13 us you came across; were you concerned for their
14 safety?

15 A. Before I answer could I say that from the 12:53
16 investigations both by myself and Lt. Col. Hayes it
17 would seem that the last allegation dated from the
18 previous year. So, earlier in 1990 and, subsequently,
19 2 Lt. B had been paraded by the GOC. So, I might have
20 taken some comfort from the fact that these were old 12:53
21 allegations and weren't ongoing. We'd no indication
22 that they were ongoing. Nevertheless, I would have had
23 concerns, yes.

24 336 Q. You did have concerns?

25 A. I would still have had concerns, yes. 12:53

26 337 Q. So you're a captain in a unit and you're telling the
27 Tribunal you were concerned for the safety of the young
28 subordinates, the minors or the apprentices, I should
29 say, within the unit?

1 A. I think in my -- generally, I would have had limited
2 contact with the apprentices but the only occasion
3 where I would not would have been when I was orderly
4 officer where I would have been in a position to
5 control the barracks which would have included visiting 12:54
6 apprentice billets. So I think I was more alert to --
7 I was more alert, if I could say, for the safety of
8 apprentices, yes.

9 338 Q. Thank you. You said:
10
11 "I was a captain in a military unit answering to or
12 carrying out orders of Lt. Col. Hayes."
13

14 A. Yeah.

15 339 Q. What, if anything, would have triggered you to alert 12:54
16 your superior to the fact that you had concerns about
17 the safety of the young apprentices?

18 A. Well, I think there was -- that the allegations would
19 have been of concern themselves, I would have thought
20 that the Commanding Officer would have similar 12:55
21 concerns, given --

22 340 Q. Did you ask him, did you feel that you could say to
23 him, 'Why are we dealing with allegations of this
24 nature?'

25 A. I did not say that to him, no. 12:55

26 341 Q. We know that values like integrity and duty and honesty
27 and all of those things and loyalty are part of the
28 values of the Defence Forces; where did you see those
29 values expressed in the context of the events that were

1 being investigated and the events which you say you'd
2 become aware of?

3 A. In terms of what I felt at the time? I have a memory
4 of conducting the investigation and I felt it was
5 something that needed to be -- the apprentices needed 12:56
6 to speak to somebody and I felt I was able to do that
7 by virtue of my appointment. So I felt the Defence
8 Forces' values were upheld in that, they were given, I
9 suppose, an opportunity to tell their story. I also
10 felt that in terms of values, like, information on -- 12:56
11 from what I've seen since, information on the
12 allegations were passed up along the line so I felt
13 that would have been in keeping with values. I'm
14 sorry, I'm kind of losing the thread of your question
15 there. 12:57

16 342 Q. I'm wondering what it would take for a person, in a
17 position like yours, who has concerns for the safety of
18 minors, who's been asked to investigate four
19 allegations, well, who reports on two of four
20 allegations, what would it have taken for you, or did 12:57
21 you feel to raise your concerns about the safety of the
22 apprentices?

23 A. You're asking me, like, what would have been a trigger
24 point?

25 343 Q. what would it have taken -- you've told me that you had 12:57
26 concerns for the safety of the apprentices when you'd
27 come across a number of different allegations that were
28 being investigated. You tell me, I think, that you
29 were taking comfort from the fact that these

1 allegations were going up the line?

2 A. well, also the fact that the indications we received
3 were that they were in the past and that possibly the
4 ones we received predated the disciplinary action that
5 2 Lt. B had been subjected to. So --

12:58

6 344 Q. The parading, is it?

7 A. The parading, yes. So, it wasn't clear to me that they
8 were still continuing but I certainly was going to be
9 vigilant from that point on.

10

12:58

11 I'm not sure -- in response directly to your question,
12 I'm not sure what would have, let's say, triggered a
13 kind of a red flag. But I was certain that my
14 commanding officer was also aware and also had
15 concerns.

12:58

16 345 Q. Was it your understanding that these allegations were
17 triggering red flags around the unit?

18 A. Eh, I think it had already happened, I think, from
19 the -- certainly from my recollection, the parading
20 over the cigarette incident would have been a red flag.

12:59

21 346 Q. The fact that the documentation appears to disclose
22 that the day before you submitted your report on
23 16th May, Cmdt. Coffey was communicating to OC Hayes -
24 and I know we will have both witnesses - what was to be
25 done. Does that strike you as unusual, that you're in
26 the middle or you're preparing a report into specific
27 events you were asked to investigate, and the day
28 before you prepare that report, somebody senior to you
29 is communicating with another person senior to you and

12:59

1 saying 2 Lt. B cannot be punished because, what?
2 Because of the consequences? Because of how that would
3 look or the consequences of that; does that surprise
4 you?

5 A. I wasn't aware of that. 13:00

6 347 Q. I know at the time, does it surprise you now?

7 A. It surprises me that it was communicated that way.

8 348 Q. Can I ask you, generally, to describe your impression
9 of Devoy Barracks at the time in question. What was it
10 like working in Devoy Barracks? How did the 13:00
11 apprentices appear?

12 A. I have to say I was in Devoy Barracks from 1991 to 1995
13 and in general it was a very happy and pleasant
14 experience. A lot of people got involved with extra
15 curricular activities, in terms of organising sport. 13:01
16 There was -- a lot of the focus was obviously on the
17 school year, but there was a tendency by most people to
18 involve apprentices in primarily sporting activity.
19 There was also recreational activity available. What
20 I'm reading in the transcripts doesn't gel with my 13:01
21 recollection of what things were like.

22 349 Q. And can I take you back to the investigation that you
23 were asked to conduct. It's my understanding,
24 listening to your evidence this morning, Mr. O'Keeffe,
25 that you didn't see yourself as the chief investigator, 13:01
26 is that correct?

27 A. I didn't, because other aspects of the investigation
28 would have been conducted by Lt. Col. Hayes.

29 350 Q. So you were given three specific tasks, as I

1 understood: To interview the apprentices, two of whom
2 were named and you were at liberty to interview anyone
3 else in the Apprentice School, is that right?
4 A. That's what I felt, yeah.
5 351 Q. The second one was to check the LA 30 record? 13:02
6 A. Yes.
7 352 Q. To check the medical record of Mr. Traynor?
8 A. Mm-hmm.
9 353 Q. And what was the third?
10 A. To interview the Platoon Sergeant. 13:02
11 354 Q. To interview the Platoon Sergeant, that's correct. Did
12 you see that as just part of a jigsaw, that it wasn't
13 -- that you weren't investigating those allegations?
14 A. I think I did, yes.
15 355 Q. Did you feel free to say, 'I would like to speak to the 13:02
16 young apprentice Damien Traynor's mother' since she had
17 made allegations as well and you were aware of that,
18 were you?
19 A. I was aware -- the parents, both of them made the
20 allegations. But it wasn't that I didn't feel free I 13:02
21 didn't feel it was within the scope of what I was
22 doing.
23 356 Q. Okay. So you were ordered to do something, as you said
24 this morning?
25 A. Sorry, if I can continue. 13:03
26 357 Q. Of course.
27 A. I suppose I had limited experience of military law and
28 I was aware that interviewing civilian witnesses was
29 probably something beyond the scope, that it could

1 happen but there was generally a kind of a process and
2 that would have to be possibly part of a bigger set-up,
3 if you like, either a court of inquiry or a
4 court-martial. But I didn't feel I could interview
5 civilian witnesses. 13:03

6 358 Q. You didn't. And did you feel free to ask OC Hayes
7 whether or not Damien Traynor's mother, who had made
8 allegations, was going to be interviewed?

9 A. I just didn't consider it.

10 359 Q. You didn't consider it? 13:03

11 A. I didn't consider it.

12 360 Q. You mentioned at one stage that:

13

14 "The process was to amend documents as he went along
15 and at various times he would have asked me to amend 13:04
16 mine."

17

18 I heard your evidence in relation to your report. What
19 kind of amendments would OC Hayes ask you to make from
20 time to time? 13:04

21 A. It could be anything. It could be anything from
22 something grammatical to changing the word to something
23 similar. It went on all the time and I kind of took it
24 that that was part of his process.

25 361 Q. Could you think of an example of a word that you might 13:04
26 have had in a document which OC Hayes would have said,
27 'No, I'm asking you to change that word'?

28 A. I can't, I'm afraid I can't.

29 362 Q. Is your evidence to the Tribunal that from time to time

1 he would ask you to change your documents and those
2 requests changed from correcting a grammatical error to
3 changing certain words that you had used and he would
4 ask you to use different words?

5 A. Yes. The process was -- people mightn't appreciate 13:04
6 there was no word processors, we were working on pen
7 and ink and limited typing resources. So, generally,
8 if I brought in a letter he would correct it with his
9 own, and I would bring it back then to the typist for
10 that correction to be implemented. 13:05

11 363 Q. So are you saying that he would settle your letters,
12 you would bring in a draft to him --

13 A. Yeah.

14 364 Q. -- and that he would then settle the letter, make
15 changes to it and then it would go for typing? 13:05

16 A. Yes.

17 365 Q. And is it your evidence that the report that you
18 prepared, and which was typed up, that that didn't
19 undergo that type of process you've just described?

20 A. I simply can't recall but I don't think so but I have 13:05
21 no memory of that sort of amendment going on. But,
22 again, I just can't remember.

23 366 Q. Would you, invariably, have brought a draft to
24 OC Hayes, or just when you chose to bring a draft, for
25 him to settle? 13:06

26 A. Well, if it was a letter for his signature.

27 367 Q. That's different, yes.

28 A. Absolutely. Not necessarily for one of my own, but
29 certainly I would bring it to him but he could then

1 point out to me that he might like something expressed
2 in a different way.

3 368 Q. In one of your documents?
4 A. In one of my documents, yes.

5 369 Q. Finally, can I take you to the conclusion in your 13:06
6 report, it's on page 2730 and it's your conclusion in
7 relation to the alleged kicking incident of
8 Aptce. Traynor. You say:
9

10 "In relation to the alleged kicking incident and going 13:06
11 on [somebody's] statement who was the only one to claim
12 to have seen this, I am satisfied that although some
13 contact may have taken place, it was certainly no more
14 than a gesture to Aptce. Traynor to maintain his
15 posture." 13:07
16

17 How were so satisfied that it was no more than a
18 gesture?

19 A. Based on the statement I received from the eyewitness.

20 370 Q. Can you recall which statement? The first apprentice 13:07
21 who said he had seen it?

22 A. Of the two statements that I had, one said that that he
23 heard it and one said that he had seen it.

24 371 Q. And that led you to conclude it was a gesture?
25 A. He said something like that. He didn't lose position, 13:07
26 that he did deliver a kick but he didn't lose position
27 and he didn't fall.

28 372 Q. And you say it was certainly no more than a gesture to
29 maintain posture and you were satisfied that no pain or

1 injury was caused to him. And the basis of that level
2 of satisfaction was that you had checked the LA 30, is
3 that correct?

4 A. That's correct.

5 373 Q. And what if an apprentice hadn't gone to the doctor, 13:08
6 for fear or whatever reason, would you have thought it
7 necessary to talk to the apprentice before being so
8 satisfied that there was no injury?

9 A. If the apprentice was available, yes.

10 374 Q. If he was available but your evidence in this case is 13:08
11 that he wasn't available?

12 A. Yes.

13 375 Q. You did give evidence, I think, Mr. O'Keefe, to the
14 effect that this was -- whilst you would have conducted
15 investigations in your capacity as adjutant, you had no 13:08
16 guidelines, you had no procedures, you had no format in
17 place, I think was the word you used, in relation to
18 that?

19 A. Yeah. The instructions would have been if somebody
20 was -- if somebody had been the subject of a charge 13:09
21 for, say, something like absence.

22 376 Q. Yes.

23 A. That I would have had experience of investigating that
24 but that would have been a one-to-one conversation. I
25 wouldn't have taken a statement. It would be verbal 13:09
26 evidence. So I think what I meant there was I had no
27 experience of actually taking statements, a number of
28 statements and carrying out interviews to arrive at
29 that.

1 377 Q. Are you saying that there were no procedures you could
2 follow, nowhere you could go to check, well if a
3 complaint or an allegation of this kind of behaviour is
4 made, I know where to turn to find out how do I go
5 about it. Is that what you're saying? 13:09

6 A. That's what I'm saying. I subsequently would have
7 conducted investigations under the A7 process, which
8 had a very structured laid out set of procedures. But
9 I didn't have anything --

10 378 Q. Five years earlier you're saying that -- 13:10

11 A. I think A7 would have come in maybe --

12 379 Q. 1996, is that correct?

13 A. I think around the early 2000s, I think.

14 380 Q. Well, I think Chapter 1 and Chapter 2, Chapter 1
15 certainly in February '96 as a policy document came in 13:10
16 and I think in the same year an earlier version of
17 Chapter 2 came in?

18 A. Okay.

19 381 Q. But you're saying, five years earlier, there was
20 nothing, no procedure, no process that you could follow 13:10
21 to assist you on processing, as part of the processing,
22 that you're investigating to assist you in this?

23 A. Yes, I'm saying that.

24 SOLE MEMBER: Okay. Thank you very much, Mr. O'Keefe,
25 for your evidence. We'll rise now and we don't have 13:10
26 another witness this afternoon. We'll see you tomorrow
27 at 10:30. Thank you.

28 THE TRIBUNAL THEN ADJOURNED UNTIL THURSDAY, 2ND JULY
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