

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

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1921, ON 17 FEBRUARY 2017

SOLE MEMBER: MR. JUSTICE PETER CHARLETON, JUDGE OF THE  
SUPREME COURT

HELD IN DUBLIN CASTLE  
ON FRIDAY, 21ST JULY 2017 - DAY 14

14

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

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1 THE HEARING RESUMED, AS FOLLOWS, ON FRIDAY, 21ST JULY  
2 2017:

3  
4 **MR. DONAL MCGUINNESS:** Chairman, the next witness is  
5 Chief Superintendent Sheridan. He is in the building. 12:00  
6 If I could just be given a minute to get him.

7 **CHAIRMAN:** Sure. Superintendent McGinn, did we finish  
8 him? We did.

9 **MS. LEADER:** The next witness is Chief Superintendent  
10 James Sheridan. His statement to the investigators is 12:01  
11 in volume 10 of the materials at page 3113.

12  
13 CHIEF SUPERINTENDENT JAMES SHERIDAN, HAVING BEEN SWORN,  
14 WAS DIRECTLY EXAMINED BY MS. LEADER:

15 12:02  
16 1 Q. **MS. LEADER:** Chief Superintendent Sheridan, I  
17 understand you retired from An Garda Síochána at the  
18 end of 2015, is that correct?

19 A. That is correct, Chairman. On the 23rd October 2015.

20 2 Q. And at that time you were at the rank of chief 12:02  
21 superintendent, is that correct?

22 A. That is correct.

23 3 Q. And you had been chief superintendent in the  
24 Cavan-Monaghan division formally from 2012, but you had  
25 been there since 2011, is that correct? 12:02

26 A. I had been there, I think, from December 2011 and was  
27 formally appointed I think in February 2012.

28 4 Q. And if you could prior to that give a summary of your  
29 career in An Garda Síochána?

1 A. I joined An Garda Síochána in August of 1977. My first  
2 station was Omeath in County Louth, I went there in  
3 January 1978. I transferred to Dundalk in 1981, and I  
4 served in Dundalk from 1981 as a guard, detective  
5 guard, sergeant, detective sergeant, up to 199 -- up to 12:03  
6 2000, when I was promoted to inspector. I spent a few  
7 months in Santry, and I returned to Dundalk as  
8 inspector. I was appointed detective inspector in  
9 Dundalk. I was promoted to superintendent in July of  
10 2005 and I was appointed detective superintendent for 12:03  
11 the Northern Region, and I returned to Dundalk in  
12 December 2005 as the district officer for Dundalk  
13 district. I was promoted to chief superintendent in  
14 2010 and I was appointed to Sligo-Leitrim division, and  
15 then I transferred to Cavan-Monaghan division, as I 12:04  
16 have outlined, Chairman. And during the periods, one  
17 of the -- while I was in Sligo-Leitrim for a ten-month  
18 or nearly twelve-month period, I had responsibility for  
19 Donegal division also, and during my period in  
20 Cavan-Monaghan division I also had, for a nine- or 12:04  
21 ten-month period, had also responsibility for Donegal  
22 division.

23 5 Q. So, generally speaking, Superintendent, prior to you  
24 being appointed to the Cavan-Monaghan division, what  
25 was your knowledge of Sergeant McCabe and the various 12:04  
26 policing issues that he had raised?

27 A. Well, to be honest, I had very little knowledge of  
28 them. Sergeant McCabe came to Dundalk, I'm not sure, I  
29 think it was during the '80s at some stage. I would

1 have known him there briefly. I wasn't on the same  
2 unit as him, but I would have known him there, yeah.

3 6 Q. And did you have knowledge of the issues he was  
4 raising --

5 A. No, I didn't have, no. 12:05

6 7 Q. -- with regard to policing?

7 A. Not any detailed knowledge in any way of any of the  
8 issues, other than what would be out in the public  
9 domain.

10 8 Q. Okay. And in relation to Mr. D, did you know Mr. D 12:05  
11 prior to your appointment in Cavan-Monaghan division?

12 A. No, Chairman. I never even heard of him prior to my  
13 appointment to the Cavan-Monaghan division.

14 9 Q. Okay. So when you were appointed to the Cavan-Monaghan  
15 division, did you apprise yourself of the policing 12:05  
16 issues that were being raised by Sergeant McCabe at  
17 that time?

18 A. Well, Sergeant McCabe wasn't in the division when I  
19 arrived there, so really, I was trying to look forward,  
20 not back, Chairman. 12:06

21 10 Q. Okay. Well, were you aware of Superintendent McGinn's  
22 investigation and Assistant Commissioner Byrne's?

23 A. I had some -- I didn't have an intimate knowledge of  
24 it. I was aware that it had gone on, and whatever.  
25 But at that stage, I hadn't really any knowledge of 12:06  
26 what all the issues were.

27 11 Q. Okay. So did you meet Sergeant McCabe at any time,  
28 maybe if we could say prior to 2014?

29 A. I was involved in two investigations of complaints that



1 Sergeant McCabe had made.

2 12 Q. Okay. I think one of those related to a missing  
3 computer, is that correct?

4 A. No. That wouldn't be correct.

5 13 Q. Okay. 12:06

6 A. They were separate issues in relation to complaints  
7 that Sergeant McCabe had made around 2010/2011. I was  
8 in the Sligo-Leitrim division at that time.

9 14 Q. And you were involved in their investigation?

10 A. Yeah. 12:07

11 15 Q. I think if we could bring you forward then to 2014,  
12 Mr. Guerin was asked by the Government to conduct a  
13 scoping exercise in relation to Sergeant McCabe's  
14 complaints, is that correct?

15 A. That is correct, Chairman, yes. 12:07

16 16 Q. Okay. And obviously they centred in your division, in  
17 relation to matters which concerned your division at  
18 that time?

19 A. That is correct, Chairman, yes.

20 17 Q. Okay. And you were appointed, I think, liaison officer 12:07  
21 for An Garda Síochána in relation to Mr. Guerin's  
22 investigation?

23 A. That is correct, Chairman, yes.

24 18 Q. And as liaison officer, what were your  
25 responsibilities? 12:07

26 A. My responsibility was really to get the documentation  
27 that Mr. Guerin was requesting and to deliver it to  
28 him.

29 19 Q. Okay. And I think to that end, Mr. Guerin was supplied

1 with documentation on his report on the 11th March  
2 2014, does that accord with your memory of matters?

3 A. That would be correct, Chairman, yes.

4 20 Q. Okay. And I think you told our investigators it was  
5 from that exercise that you became familiar with a 12:08  
6 complaint of criminal misconduct made against  
7 Sergeant McCabe, is that correct?

8 A. That is correct, Judge, yes.

9 21 Q. And could you tell the Tribunal what you understood to  
10 be the case in relation to that allegation of criminal 12:08  
11 misconduct?

12 A. Well, I read the file. Prior to disclosing the file to  
13 Mr. Guerin, I read the file, and so I familiarised  
14 myself with it, Chairman.

15 22 Q. Okay. And when you say you read the file, we now know 12:08  
16 there were two actual files in the Monaghan office:  
17 there was Superintendent Cunningham's file which he had  
18 in his locker and there was another file which was in  
19 your office, I think, Chief Superintendent, is that  
20 correct? 12:09

21 A. That's correct. I read the file. It was the file that  
22 had been submitted to the DPP, Chairman.

23 23 Q. And in that file was contained a covering report,  
24 copies of statements and the exhibits referred to in  
25 the statements and the appendices referred to by 12:09  
26 Superintendent Cunningham in his report, is that  
27 correct?

28 A. That would be correct, Chairman, yes.

29 24 Q. Now, did you at any time speak to

1 Superintendent Cunningham in relation to his  
2 investigation?

3 A. No, no, Chairman.

4 25 Q. And was there any particular reason for that?

5 A. I didn't see any necessity to do so. 12:09

6 26 Q. Okay. He was in the same office as you and --

7 A. Well, he was in the same building, yeah.

8 27 Q. The same building?

9 A. He's on the next floor to me, yeah.

10 28 Q. Okay. And that file was handed to Mr. Guerin in order 12:09  
11 for him to conduct his scoping exercise, is that  
12 correct?

13 A. That is correct, Chairman, yes.

14 29 Q. I think it wasn't one of the matters that he was  
15 specifically required to look into, is that correct? 12:10

16 A. That is correct. There was a number of -- and then  
17 there was an all-embracing one, really, that look for  
18 any files that had relevance or -- I can't remember the  
19 exact words, but I know that it was any other matters,  
20 or whatever, in relation to Bailieboro between 2006 and 12:10  
21 2008, I think.

22 30 Q. And did you make a decision to give the file to  
23 Mr. Guerin under that subheading?

24 A. Yeah. That's correct, Chairman, yes.

25 31 Q. And did you consult with any of your superiors in 12:10  
26 relation to that decision --

27 A. No.

28 32 Q. -- in An Garda Síochána?

29 A. No, Chairman, no.

1 33 Q. Okay. You had no discussion with Assistant  
2 Commissioner Kenny?  
3 A. No.  
4 34 Q. He was the appropriate assistant commissioner at that  
5 stage? 12:11  
6 A. No, I hadn't.  
7 35 Q. Or the Commissioner at that time?  
8 A. No, absolutely not.  
9 36 Q. And the Commissioner at that time, I think, in March  
10 2014, would have been the former Commissioner Callinan, 12:11  
11 is that correct?  
12 A. I'm not sure of the dates, to be honest, Chairman, but  
13 I didn't have any discussion with the Commissioner,  
14 whoever it was.  
15 37 Q. Okay. And did you have any discussion generally with 12:11  
16 the Commissioner or the assistant commissioner with  
17 regard to what documentation was being handed over to  
18 Mr. Guerin?  
19 A. No.  
20 38 Q. Okay. Now, I think we have heard yesterday from 12:11  
21 Superintendent McGinn that he received a HSE/Tusla  
22 referral in relation to Ms. D on the 7th May 2014.  
23 A. That's correct, yes.  
24 39 Q. And that referral was forwarded to you with a report on  
25 the 8th May 2014? 12:12  
26 A. That is correct, Chairman, yes.  
27 40 Q. And I think you may have received it; do you know when?  
28 A. I don't know exactly, but I know it's, I think, marked  
29 into the office on the 12th, but from recollection I

1 think that's --

2 41 Q. Just to start with chief superintendent, I suppose this  
3 was extremely proximate to the exercise you had  
4 undertaken with regard to the Guerin Inquiry, isn't  
5 that correct? 12:12

6 A. That is correct, yes.

7 42 Q. And did it cause you any surprise that this referral  
8 was now coming in, in May, which was two months after  
9 you had made discovery in relation to the original  
10 complaint made against Sergeant McCabe? 12:12

11 A. Are you saying when I got it?

12 43 Q. Yes. Did it cause you --

13 A. Well, it was a surprise, absolutely, a surprise, yeah.

14 44 Q. And did you speak to anybody about it at that time?

15 A. No, other than Superintendent McGinn. 12:13

16 45 Q. Okay. All right. First of all, maybe, if I took you  
17 to Superintendent McGinn's letter to you, and it's at  
18 page 1756 of the materials. It should come up on the  
19 screen in front of you. And Superintendent McGinn  
20 explains that a referral was received from Tusla, 12:13  
21 notifying Gardaí of a retrospective adult disclosure  
22 having been made by an alleged victim named Ms. D. And  
23 did you know on reading that who Ms. D was and what the  
24 complaint was?

25 A. I did, yes. 12:13

26 46 Q. Immediately?

27 A. Yeah.

28 47 Q. And then it explains who Ms. D was, and in relation to  
29 the referral it says:

1  
2  
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29

*"It concerns a disclosure by Ms. D that when she was aged six to seven years old she was sexually assaulted by a man she named as Maurice McCabe."*

12:14

Then Superintendent McGinn goes on to explain who Sergeant McCabe is, and also he explained:

*"In an unknown date in 2007, Ms. D, with the support of her parents, made a formal complaint of sexual assault to Gardaí and named the perpetrator as Maurice McCabe."*

12:14

And he gives a reference there.

A. That's correct, yes.

48 Q. And you're obviously familiar with that complaint that she had made to the Gardaí?

12:14

A. I was, Chairman, yes.

49 Q. Because of your dealings with the file --

A. Yeah.

50 Q. -- with Mr. Guerin. And then he explains that:

12:14

*"The allegation was investigated from Monaghan Garda Station by the then-Inspector Noel Cunningham. A file was given to the DPP, who directed no prosecution."*

12:14

Superintendent McGinn then explains that there was no file held in Bailieboro and he then makes his recommendation:

1           *"In light of the referral received on foot of Ms. D's*  
2           *disclosures to a professional, I feel it is appropriate*  
3           *to have the investigation reviewed. I suggest that the*  
4           *file and investigation in its entirety be reviewed at*  
5           *officer level within An Garda Síochána or that it be* 12:15  
6           *referred to the Cold Case Unit in BCI. In any case, if*  
7           *a review of the case is to be conducted, I suggest it*  
8           *be conducted external of the personnel with the*  
9           *Cavan-Monaghan division."*

10  
11           So that was Superintendent McGinn's suggestion and  
12           recommendation to you. Now, do you remember at that  
13           stage did you actually read the notification of  
14           suspected child abuse --

15           A. I did. 12:15

16   51   Q. -- that is contained with it?

17           A. I did, yes.

18   52   Q. And that's at page 1758 of the materials. You see it's  
19           in front of you, I think.

20           A. Yes. 12:16

21   53   Q. And it explained that:

22  
23           *"Laura Brophy, counsellor with Rian counselling*  
24           *service, reported the following information to the*  
25           *Child and Family Agency in August 2013."* 12:16

26  
27           And it says:

28  
29           *"Ms. D attending counselling with Rian. During the*

1           *course of counselling, she alleged that she experienced*  
2           *sexual abuse in childhood and that this abuse involved*  
3           *digital penetration, both vaginal and anal."*  
4

5           Now, was this something new to you, Chief  
6           Superintendent? 12:16

7           A.    Absolutely.

8    54   Q.    And did this cause a reaction in relation --

9           A.    Well, when I read the whole referral in its entirety,  
10           where it says on the following page that she had made a 12:16  
11           statement to the Gardaí --

12   55   Q.    Yes.

13           A.    -- and that it had been investigated --

14   56   Q.    If that can be brought up in front of you at page 1759,  
15           if it is of assistance to you. 12:16

16           A.    -- I knew then that there was something wasn't right  
17           about all of this.

18   57   Q.    Yes. So you are telling the Tribunal you knew at that  
19           stage that there was something wrong?

20           A.    Absolutely. 12:17

21   58   Q.    Is that correct?

22           A.    Absolutely.

23   59   Q.    And what did you do with regard to -- that you thought  
24           something was awry at that stage?

25           A.    Well, Superintendent McGinn communicated with me that 12:17  
26           he had spoken or was speaking to Mr. D and he was  
27           finding out if Ms. D had made this allegation, and he  
28           subsequently informed me that she had not.

29   60   Q.    Okay. So if I could just go back there. You said



1 Superintendent McGinn had communicated with you in  
2 relation to his conversation with Mr. D?

3 A. That's correct, yes.

4 61 Q. Right. Okay. And what else, what did he say after  
5 that, Superintendent McGinn, to you? 12:17

6 A. Well, he advised me that Ms. D had not made that  
7 allegation, the allegation of penetration, digital  
8 penetration.

9 62 Q. Superintendent McGinn told you that?

10 A. Yeah. 12:18

11 63 Q. Okay. Now, have you any note of those conversations,  
12 Chief Superintendent?

13 A. I haven't, Chairman, no.

14 64 Q. And do you have any note of when those conversations  
15 took place? 12:18

16 A. Well, it would have been prior to me writing to the  
17 assistant commissioner on the 14th May --

18 65 Q. On the 14th?

19 A. -- 2014.

20 66 Q. Okay. Was there one conversation or was there two 12:18  
21 conversations, can you remember?

22 A. Well, it may have taken -- I had a management meeting  
23 in Monaghan on the 13th May, and it may be at that that  
24 it took place, I haven't got a note of it, but it  
25 definitely took place and he definitely informed me of 12:18  
26 that, and he also advised me that he was going to make  
27 contact with the HSE in relation to it.

28 67 Q. So he was, into the future, going to make contact with  
29 the HSE --

1 A. Yeah.

2 68 Q. -- in relation to the matter?

3 A. Mm-hmm.

4 69 Q. And he knew at that stage that Ms. D had never made  
5 that allegation? 12:19

6 A. That is correct, yes.

7 70 Q. That is correct. And you think that conversation may  
8 have taken place on the 13th?

9 A. That's my recollection. But it definitely took place  
10 before the 14th, when I wrote to the assistant 12:19  
11 commission.

12 71 Q. To the assistant commissioner. Now, I think you were  
13 here yesterday when Superintendent McGinn gave  
14 evidence?

15 A. I was here for some of it. I may not have been here 12:19  
16 for all of it, but I was here for some of it, Chairman.

17 72 Q. While I don't think he was absolutely sure about the  
18 matter, he, in his evidence, had no recollection of  
19 speaking to you about the referral. He tended to say  
20 that everything he had to say was written in his letter 12:19  
21 to you of the 8th May 2014?

22 A. Well, it's my recollection that he definitely did speak  
23 to me about it and he did advise me that Ms. D had not  
24 made the allegation that was contained in this  
25 referral. 12:20

26 73 Q. Okay. Just to be, I suppose, as fair to you as  
27 possible, Chief Superintendent, he thinks he had two  
28 conversations with Mr. D, the first most probably on  
29 the 8th May where he informed Mr. D of the referral and

1 showed him the referral, and then had a subsequent  
2 conversation face-to-face with Mr. D, most probably on  
3 the 12th May when they were both at a meeting, when he  
4 was informed that the referral was not correct?

5 A. Well, I don't know about that. All I know is that he 12:20  
6 did inform me that he had spoken to Mr. D and that  
7 Mr. D had advised him that Ms. D had not made that  
8 allegation.

9 74 Q. Okay. And you're absolutely happy you had that  
10 conversation with Superintendent McGinn? 12:21

11 A. Yeah, I'm definitely happy I had that conversation,  
12 yeah.

13 75 Q. So at that stage when you had the conversation with  
14 Superintendent McGinn, what you had established was  
15 that you had a referral which was incorrect, that 12:21  
16 referral related to something the Gardaí had already  
17 investigated in 2008, isn't that correct?

18 A. 2007.

19 76 Q. 2007.

20 A. Yeah. 12:21

21 77 Q. 2007, I beg your pardon. So, in one way, Chief  
22 Superintendent, there was nothing more for you to do in  
23 relation to the matter; it had already been  
24 investigated in 2007?

25 A. Yeah. 12:22

26 78 Q. If you understand?

27 A. Absolutely. The allegation had been investigated in  
28 2007, but obviously I wanted to establish how this  
29 error occurred in the referral.

1 79 Q. Okay. And I suppose I will say this to you at the  
2 outset: a suggestion is being made that this referral  
3 was used as an opportunity to put new life into the old  
4 allegation made against Sergeant McCabe and use it to  
5 do him down in some way? 12:22

6 A. Well, as far as I'm concerned, I utterly reject that  
7 and nothing could be further from the truth.

8 80 Q. Okay.

9 A. When I got that referral, I have to say it probably was  
10 disbelief, to be honest, when I read it. I tried to 12:22  
11 bottom out what or how it happened, and that was my  
12 sole motivation. I certainly, it was never my  
13 intention nor would I engage in what you alleged.

14 81 Q. I suppose it is true to say at that particular time  
15 that Sergeant McCabe was making a number of complaints 12:23  
16 in relation to policing in a district which you were  
17 responsible for, isn't that correct?

18 A. Well, the complaints were, as far as I am concerned,  
19 were prior to me going into the division. I didn't  
20 have any issues with Sergeant McCabe in relation to any 12:23  
21 complaints he was making, to be honest. He had made  
22 these allegations long before I had come in there. I  
23 had never been in the division prior to that. And for  
24 anybody to suggest that I would use this in any other  
25 way than trying to get to the bottom of how it 12:23  
26 happened, is ludicrous.

27 82 Q. Okay. And it wouldn't in any way have been used as a  
28 way of maybe stopping any future inquiry into policing  
29 in your district? At that time Mr. Guerin was

1 reporting to the Taoiseach, and the Minister for  
2 Justice resigned on the 8th May, so that was very  
3 proximate?

4 A. I don't understand the question, to be honest.

5 83 Q. Yes. I will rephrase it, Chief Superintendent. It was 12:24  
6 likely at that stage that there would be an inquiry of  
7 some sort into policing in Bailieboro, isn't that  
8 correct?

9 A. Yeah, that's correct, yeah.

10 84 Q. Yes. 12:24

11 A. Yeah.

12 85 Q. And you, at that stage, had received a piece of  
13 information from an outside authority saying that  
14 Sergeant McCabe had been accused of an extremely  
15 serious criminal offence, isn't that correct? 12:24

16 A. Well, it contained -- if you read it, it obviously  
17 contained a very serious criminal offence, yes, if you  
18 accept it. But as I said, I had information which said  
19 that Ms. D did not make this allegation.

20 86 Q. Yes. 12:24

21 A. It was still there, contained in a document that had  
22 been provided by another organisation.

23 87 Q. Yes.

24 A. And I felt it was -- that I was obligated to inquire to  
25 see how this could occur. That was my sole motivation. 12:25

26 88 Q. Okay. And the other matters which were going on in  
27 relation to Sergeant McCabe had no impact on your  
28 further actions you took in relation to the  
29 notification from Tusla?

1 A. Absolutely not.

2 89 Q. Okay. All right. So you say on the 14th May, is that  
3 correct, you wrote to the assistant commissioner with  
4 regard to the referral from Tusla?

5 A. That is correct, Chairman, yes. 12:25

6 90 Q. And on your evidence here today, you knew that referral  
7 contained inaccurate information because Superintendent  
8 McGinn had told you that probably at a meeting the day  
9 before?

10 A. That is correct, Judge, yes. That's my recollection of 12:25  
11 it.

12 91 Q. Yes. And that letter is contained at page 1764 of the  
13 materials. It should be just brought up in front of  
14 you there, Chief Superintendent. Now, it's a letter  
15 headed "*Private and Confidential*" and it's addressed to 12:26  
16 the assistant commissioner in the Northern Region. And  
17 it says:

18

19 "*Re: Tusla referral Ms. D.*"

20 A. That's correct, yes. 12:26

21 92 Q. And then you say:

22

23 "*I refer to the above and attach correspondence from*  
24 *the district officer Bailieboro dated 8th May 2014.*"

25 A. That's correct, yes. 12:26

26 93 Q. Now, the attached correspondence, what are you talking  
27 about there?

28 A. That is the referral.

29 94 Q. Just the referral?

1 A. Yeah.

2 95 Q. And did you attach the letter from Superintendent  
3 McGinn?

4 A. Yeah, I probably did, yeah. I can't be certain of  
5 that, but it is possible that I did. 12:26

6 96 Q. You don't know, but you --

7 A. Yeah, I would imagine that I probably did, but I'm not  
8 certain of that.

9 97 Q. Okay. And then you say:  
10 12:26

11 *"The allegations contained in the attached referral*  
12 *have been the subject of a previous Garda investigation*  
13 *which resulted in the Director of Public Prosecutions*  
14 *directing no prosecution against the alleged offender,*  
15 *Mr. McCabe."* 12:27

16 A. That's correct.

17 98 Q. Now, you've already told us this morning that you knew  
18 the allegations in the attached referral had never been  
19 made by Ms. D, isn't that correct?

20 A. That's correct, yeah. 12:27

21 99 Q. Now, why, at that stage, didn't you tell the assistant  
22 commissioner that the allegations contained in the  
23 attached referral had actually never been made by  
24 Ms. D?

25 A. Well, perhaps I should have, but I was trying to 12:27  
26 establish how the actual error occurred, and  
27 Superintendent McGinn was to communicate with the HSE  
28 in that regard. And, in hindsight, perhaps I should  
29 have put it in.

1 100 Q. But surely it was extremely important to set out that  
2 the allegations which you were causing more inquiries  
3 to be made with the HSE, be set out clearly, that they  
4 were incorrect. Surely it was of paramount importance  
5 that you, informing your superiors, informed them as 12:28  
6 well that those allegations were incorrect?  
7 A. Well, I accept perhaps I should have put it in, but I  
8 was still conducting or having inquiries conducted to  
9 try and establish how it got to be in that referral in  
10 the first place. 12:28  
11 101 Q. Okay. Now, you go on in the next paragraph and you  
12 say:  
13  
14 *"It is my understanding that Ms. D has made a complaint*  
15 *based on the allegations set out in the attached* 12:28  
16 *referral form to the following parties."*  
17 You see that, Chief Superintendent?  
18 A. Yeah.  
19 102 Q. Did you at that time think that Ms. D had made a  
20 complaint based on the digital allegations, if I can 12:28  
21 put it that way --  
22 A. No.  
23 103 Q. -- to the following parties, the following parties  
24 being Micheál Martin and GSOC?  
25 A. No, not in relation to the digital penetration. 12:29  
26 104 Q. Why didn't you say that in the letter?  
27 A. I accept, in hindsight, I probably should have put it  
28 in, but, as I say, there was no -- there was no malice  
29 in what I did. I was still trying to get to the bottom



1 of how it happened to be in the referral in the first  
2 place, and I accept, in hindsight, that I possibly  
3 should have put it in there.

4 105 Q. Okay. You told the assistant commissioner that Ms. D 12:29  
5 made a complaint to Micheál Martin, TD, and that he had  
6 subsequently referred the matter to An Taoiseach,  
7 Mr. Kenny, and also to the An Garda Síochána Ombudsman  
8 Commission. How did you know those two pieces of  
9 information, Chief Superintendent?

10 A. It would be from the media reporting what had been 12:29  
11 going on in relation to it, I imagine.

12 106 Q. Okay. And maybe perhaps in relation to the GSOC  
13 investigation, would you have been informed as a matter  
14 of course in relation to that, do you think?

15 A. I have no recollection of getting any notification 12:30  
16 about it. Certainly, I have definitely no recollection  
17 of getting any -- if I did, I certainly don't recall  
18 it.

19 107 Q. Okay. So you think it was a media source of knowledge  
20 that you inserted that piece of information into the 12:30  
21 letter to the assistant commissioner?

22 A. That's correct, Judge, yes.

23 108 Q. And then you say:  
24  
25 *"In the circumstances, I recommend that we await 12:30  
26 further communication from the parties listed above  
27 prior to commencing a review of this investigation. A  
28 full copy of the Garda investigation file is available  
29 at this office."*

1 A. That's correct, Judge.

2 109 Q. Do you see that? So the one thing you don't say there,  
3 Chief Superintendent, is that you had directed  
4 Superintendent McGinn to inquire from the HSE in  
5 relation to how they had made a mistake, and you also 12:31  
6 don't refer, and I suppose I am putting it again to  
7 you, to the mistake in the notification. Why do you  
8 think that is the case?

9 A. Well, I accept, as I say, in hindsight, that I should  
10 have mentioned what the error in it was. It's my 12:31  
11 understanding and recollection that Superintendent  
12 McGinn took it on his own volition to talk to the HSE  
13 to find out what happened or to make them aware of this  
14 error.

15 110 Q. So it wasn't on direction from you that he was -- 12:31

16 A. My recollection is that he took it on himself to make  
17 contact with them.

18 111 Q. But my understanding, and I may be incorrect about  
19 this, Chief Superintendent, is that you were anxious to  
20 find out how such a mistake had been made and you had 12:31  
21 directed Superintendent McGinn to make inquiries in  
22 relation to the matter?

23 A. Well, maybe I did, but it's my understanding that at  
24 the time he said he would ring the HSE, and that's my  
25 recollection of it. I don't have a note of it, but 12:32  
26 that is my recollection of it.

27 112 Q. Because on one reading of this letter, Chief  
28 Superintendent, it would appear that you were sending  
29 false allegations and incorrect allegations made by

1 mistake on to an assistant commissioner, a superior  
2 officer, in the knowledge that they were incorrect but  
3 not referring to the fact that they were incorrect. Do  
4 you understand what I am saying to you?

5 A. I understand what you are saying, yes. 12:32

6 113 Q. And that maybe this would support the theory, and it is  
7 a theory, Chief Superintendent, that this incorrect  
8 allegation was being deployed to more senior officers  
9 at a time when your district was more than likely be  
10 subject to an investigation by the commission of 12:33  
11 inquiry. Do you understand what I am saying to you?

12 A. I understand what you are saying.

13 114 Q. Yes.

14 A. But nothing could be further from the truth. I was  
15 trying to find out how this error occurred. I accept, 12:33  
16 in hindsight, that perhaps I should have outlined in  
17 the report what this information was, but there was  
18 certainly no malice in anything that I was doing in  
19 relation to this matter.

20 115 Q. Okay. Now, I think Mr. Walsh of the assistant 12:33  
21 commissioner's office acknowledged that piece of  
22 correspondence to you, is that correct?

23 A. No, not to me. He may to the assistant commissioner,  
24 possibly.

25 116 Q. Yes. 12:34

26 A. It wouldn't come directly to me.

27 117 Q. Very well. Then on the 20th May I think you received a  
28 piece of correspondence from Superintendent McGinn  
29 again in relation to the matter, is that correct?

1 A. That is correct.

2 118 Q. That's at page 1776 of the materials. You will see  
3 that Superintendent McGinn, on that date, sent to you  
4 an amended referral was forwarded for your information?

5 A. That's correct, yes. 12:35

6 119 Q. Now, in relation to that, that amended referral is a  
7 referral from Ms. Brophy, is that correct?

8 A. That's correct, yes.

9 120 Q. What, at that time, was your understanding in relation  
10 to the two agencies, Rian and Tusla? 12:35

11 A. I wasn't familiar really with what the relationship was  
12 between Tusla and Rian.

13 121 Q. And Rian. Did you understand that they were two  
14 separate agencies albeit working under the HSE's  
15 umbrella? 12:35

16 A. Yeah, that would be my understanding of it. But I  
17 wasn't totally familiar with how they operated.

18 122 Q. Okay. And on that date, do you think Superintendent  
19 McGinn sent you a copy of Laura Brophy's letter?

20 A. That is correct, yes. 12:36

21 123 Q. So enclosed with that letter from Superintendent McGinn  
22 was Ms. Brophy's letter which appears at 177, is that  
23 correct?

24 A. That's correct.

25 124 Q. That's a letter addressed to Superintendent McGinn,  
26 dated 16th May 2014? 12:36

27 A. That's correct, yes.

28 125 Q. And you will see that Ms. Brophy explains the error, is  
29 that correct?

1 A. That I made to the --

2 126 Q. Yes. She says:

3

4 *"Following our telephone conversation today, I am*

5 *writing to confirm that the report I made to the social* 12:36

6 *work service in Cavan on the 9th August 2013 contained*

7 *an administrative error that I wish to address."*

8 A. Yeah, that's correct.

9 127 Q. *"On page 1 of the original report I sent on behalf of*

10 *Ms. D, under the title 'Description of Abuse' the* 12:37

11 *sentence which begins with 'Ms. Y informed me' and ends*

12 *with '...she said anything' is incorrect information*

13 *and should be disregarded, and I have amended the*

14 *report to include the correct information as given to*

15 *me by Ms. D and I have enclosed the correct report with* 12:37

16 *the letter."*

17 A. That's correct, yes.

18 128 Q. Yes. So did that satisfy you, that piece of

19 information, in relation to the error?

20 A. No, it didn't, because it didn't, it didn't explain how 12:37

21 it -- it said an administrative error, but it didn't

22 say how it happened or --

23 129 Q. Okay. In relation to that?

24 A. It did say there was an error, but it didn't say how

25 the error happened. 12:37

26 130 Q. Okay. And I think that amended report date, which is

27 dated 14th May 2014, was enclosed and was signed by

28 Ms. Brophy on that date?

29 A. That is correct, yes.

1 131 Q. And did you understand that to be a notification from  
2 Tusla?

3 A. Well, as such, yes. It was a correction of what had  
4 come initially, yes.

5 132 Q. Okay. So, in your mind, was that the correction of the 12:38  
6 notification dated 2nd May, which you had received on  
7 the 8th May?

8 A. Yes, that is correct.

9 133 Q. Okay. Now, I think that caused you to write to the  
10 assistant commissioner again on the 22nd May, is that 12:38  
11 correct?

12 A. That's correct, Judge.

13 134 Q. And that letter should appear at page 1781 of the  
14 materials. And again, you write to the assistant  
15 commissioner in the Northern Region. Just to take you 12:38  
16 back to your first letter to the assistant  
17 commissioner, which was the 14th May, what caused you  
18 to notify him in the first place in relation to the  
19 matter?

20 A. Well, it would be normal reporting procedures within An 12:39  
21 Garda Síochána.

22 135 Q. Okay. Well, I take it, Chief Superintendent, that the  
23 assistant commissioner wouldn't be notified of every  
24 retrospective disclosure of sexual abuse?

25 A. Yeah, and neither would I, to be honest. 12:39

26 136 Q. I understand that.

27 A. Yeah.

28 137 Q. So why, in this particular case, was the assistant  
29 commissioner notified?

1 A. Well, obviously because it related to a member of An  
2 Garda Síochána.

3 138 Q. Simply because of that --

4 A. Yeah.

5 139 Q. -- is that correct? And did it have anything to do 12:39  
6 with the fact that Sergeant McCabe at that stage was  
7 receiving a lot of media attention; a Minister for  
8 Justice had resigned and a Commissioner of An Garda  
9 Síochána had fairly recently resigned?

10 A. Absolutely not. This was a matter that was dropped in 12:40  
11 on top of us and we had to manage it. It was simple --  
12 that's the way I look at it, and, you know, I was  
13 trying to get to the bottom of it.

14 140 Q. So in the letter of the 22nd May you say:  
15  
16 *"Reference above and further to previous correspondence*  
17 *of this office dated 14th inst. the previous referral*  
18 *contained incorrect information and should therefore be*  
19 *withdrawn and replaced with the attached."*

20 Is that correct? 12:40

21 A. That is correct, yes.

22 141 Q. And what do you think was attached to that letter?

23 A. The referral that had come in --

24 142 Q. The Laura Brophy?

25 A. The Laura Brophy referral, yes. 12:40

26 143 Q. Yes. Okay. Do you think her letter was enclosed with  
27 that?

28 A. Yeah. It's my understanding it would be, yes.

29 144 Q. It would be?

1 A. Yeah.

2 145 Q. But you're not sure, are you?

3 A. Well, I can't say for definite, but I believe that it

4 would be.

5 146 Q. Okay. And then you say: 12:41

6

7 *"This is a referral made by Tusla relating to an*

8 *incident which was reported to and investigated by An*

9 *Garda Síochána in 2006/2007. The Director of Public*

10 *Prosecutions directed that there should not be a* 12:41

11 *prosecution in the case."*

12 A. That's correct.

13 147 Q. *"The attached referral does not disclose any new*

14 *information/evidence in regard to these matters, and*

15 *therefore at this time does not require any further* 12:41

16 *action by An Garda Síochána."*

17

18 You see that there?

19 A. That's correct, yes.

20 148 Q. So, in one way, Chief Superintendent, this letter, in 12:41

21 your mind, contained no new information that you had

22 from the 18th, if you understand what I am saying?

23 Because you knew on the 18th --

24 A. Yeah.

25 149 Q. -- on your evidence, that the referral was not correct? 12:41

26 A. That's correct, yes.

27 150 Q. Yes. So why did you wait until the 22nd to tell the

28 assistant commissioner that?

29 A. Well, her letter may not have -- the referral and the



1 letter arrived into the station, to the office -- I  
2 haven't got the dates, but it may well have been --  
3 it's dated, what date? Superintendent McGinn's report  
4 is dated?

5 151 Q. Well, Superintendent McGinn seems to have sent the 12:42  
6 corrected Laura Brophy referral and the letter from  
7 Laura Brophy to you on the 20th May?

8 A. Okay.

9 152 Q. Yes. But what I am saying to you is something slightly  
10 different, Chief Superintendent. You had known that 12:42  
11 information was incorrect from the moment you saw it?

12 A. Yeah.

13 153 Q. Because you were familiar with the file?

14 A. Mm-hmm.

15 154 Q. So why did you wait until you got the documentation 12:42  
16 from Laura Brophy to tell the assistant commissioner  
17 that it was not correct?

18 A. Well, that's the first confirmation I have from the HSE  
19 that it was -- that an error had been made.

20 155 Q. Yes. 12:43  
21 A. I had no confirmation from the HSE prior to that that  
22 an error had been made.

23 156 Q. Okay. And that's the only reason you didn't tell the  
24 assistant commissioner that the error -- the referral  
25 was incorrect? 12:43  
26 A. Yeah, that's correct, yeah.

27 157 Q. Now, then you repeat that:  
28  
29 *"It is my understanding that Ms. D had made a complaint*

1           *based on the allegations set out in the attached*  
2           *referral form to the following parties."*

3  
4           Then you repeat Mr. Micheál Martin, who subsequently  
5           referred the matter to An Taoiseach, Mr. Kenny, and the 12:43  
6           Garda Síochána Commission. And you tell the assistant  
7           commissioner:

8  
9           *"A full copy of the Garda investigation file is*  
10          *available at this office."* 12:43

11  
12          And you add that you *"Also wish to advise that a*  
13          *complete copy of the Garda investigation file was*  
14          *disclosed to the Guerin Inquiry."*

15          A. That's correct, yes. 12:43

16   158   Q. You had looked after that matter?

17          A. That's correct, yeah.

18   159   Q. Why is it that you hadn't told the assistant  
19          commissioner about the disclosure to the Guerin Inquiry  
20          on the 14th May, do you know? 12:44

21          A. I don't know. There's no particular reason that I can  
22          offer for that. Obviously -- like, when I was doing  
23          the disclosure to Guerin, I was dealing with what he  
24          was looking from me, what he had looked for, then there  
25          was additional stuff he looked for, and I was getting 12:44  
26          that. I wasn't having to check with anybody in  
27          relation to it. It was my job, if he wanted  
28          documentation, to disclose it to him, and that was only  
29          by way of aside that I was advising the assistant

1 commissioner that I had provided him with a copy of it.

2 160 Q. Okay. Obviously, some thought went into that letter  
3 because handwritten draft of that letter appears at  
4 page 1762 of the materials. Is that your handwriting?

5 A. Yeah. Well, obviously I would have written it and 12:44  
6 given it to typist to type it, that would be --

7 161 Q. Your norm? Is that your normal?

8 A. Well, a lot of the time it would be if I was in the  
9 office and I had time to do that type of --

10 162 Q. Okay. So that's -- 12:45

11 A. That's my writing, yeah.

12 163 Q. That's your handwriting?

13 A. Yeah, absolutely, yeah.

14 164 Q. And that's the draft of that. You also sent a copy of  
15 that to Superintendent McGinn in Bailieboro. Was there 12:45  
16 any particular reason for that, Chief Superintendent?

17 A. Well, just to advise him of what I had said in relation  
18 to it and that there was no further Garda action was  
19 necessary.

20 165 Q. Okay. And that's another distinction from your 12:45  
21 correspondence of the 14th May to the assistant  
22 commissioner. You hadn't sent that to Superintendent  
23 McGinn. Was there any --

24 A. Well, no, because I was still waiting for -- in  
25 relation to the HSE to see what they had to say in 12:45  
26 relation to what had happened, or whatever.

27 166 Q. Okay. Now, on that same day Ms. Fiona Ward from Rian  
28 wrote to you in relation to the error Laura Brophy had  
29 made, isn't that correct?

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

2 167 Q. And that letter appears at page 1782 of the materials.  
3 And she outlines that:

4  
5 *"It has come to my attention that due to an* 12:46  
6 *administrative error a report relating to allegations*  
7 *of retrospective abuse which pertain to the above-named*  
8 *containing incorrect information was sent to your*  
9 *station by the Child and Family Social Work Services."*

10 12:46

11 It had actually been sent to Bailieboro and sent on to  
12 you, isn't that correct?

13 A. Yes.

14 168 Q. And she had been *"advised by the regional data*  
15 *controller to request that all copies of the incorrect* 12:46  
16 *report be returned to me as director of the service as*  
17 *soon as possible."*

18  
19 And she asked that you arrange to have all copies of  
20 the incorrect report returned to her and she gave you a 12:47  
21 stamped addressed envelope for that. Isn't that  
22 correct?

23 A. That's correct, yes.

24 169 Q. Now, what actions did you take on foot of receiving  
25 that letter, can you remember? 12:47

26 A. I caused an email to be sent to the assistant  
27 commissioner and the superintendent in Bailieboro  
28 looking for return of the original documentation.

29 170 Q. Okay. And they were the two parties that you knew to

1           have a copy of the original referral?

2           A.    That's correct, yes.

3 171 Q.    Yes.  So I think an email appears at page 1784 of the  
4           materials, and I think that's from the Monaghan  
5           divisional office.  And it seems to be Karen Duffy, is   12:47  
6           it, who sent that email, am I correct?

7           A.    No, Patricia Maguire.

8 172 Q.    Patricia Maguire.  It's printed off of her computer, is  
9           that --

10          A.    Well, Karen Duffy would have been the assistant           12:48  
11          commissioner's secretary in Sligo.

12 173 Q.    In Sligo?

13          A.    Yes.

14 174 Q.    So Patricia Maguire sent it to Karen Duffy and  
15          Superintendent McGinn?   12:48

16          A.    That's correct.

17 175 Q.    What she says:

18

19                   *"Reference above and attached correspondence received*  
20                   *from the HSE dated the 22nd inst."*   12:48

21

22          So can you tell me what the HSE correspondence dated  
23          22nd inst. is there?

24          A.    That was the previous letter from --

25 176 Q.    Fiona Ward, is that correct?   12:48

26          A.    -- Fiona Ward requesting return of the documentation.

27 177 Q.    Now, what she says then is:

28

29                   *"The report in question is dated 13th August 2013.  And*

1 *if you could confirm that all copies of same have been*  
2 *retracted and destroyed. If an original copy is on*  
3 *hand, please forward same to this office so that it can*  
4 *be returned to the HSE."*

12:48

6 Now, at this stage there were three reports, I think,  
7 in being in relation to the matter. There was Laura  
8 Brophy's original report, isn't that correct, which had  
9 been sent to the HSE?

10 A. That's correct, yeah.

12:49

11 178 Q. Had you ever seen that report?

12 A. No.

13 179 Q. No.

14 **CHAIRMAN:** That's the one over the telephone, is that  
15 the one, yes?

12:49

16 **MS. LEADER:** That is the first report that Laura Brophy  
17 sent to the HSE, written.

18 **CHAIRMAN:** I see. Not the telephone one?

19 **MS. LEADER:** Yes, not the telephone one.

20 **CHAIRMAN:** Okay.

12:49

21 180 Q. **MS. LEADER:** And then there had been the Tusla 2nd May  
22 report, isn't that correct, which contained the  
23 digital, if I can put it that way, allegation which had  
24 been sent to Bailieboro?

25 A. That's correct.

12:49

26 181 Q. Then there had been a corrected report from Laura  
27 Brophy which was dated 14th May 2014, is that correct?

28 A. That's correct, yes.

29 182 Q. So what report did you think Fiona ward was talking

1 about when she wanted a report back?

2 A. It was the one of the 2nd May.

3 183 Q. 2nd May?

4 A. Dated 2nd May.

5 184 Q. 2nd May? 12:50

6 A. Yeah.

7 185 Q. So could you explain to me the reference in that email  
8 to the report in question being dated 13th August 2013?

9 A. Well, I didn't obviously type this.

10 186 Q. Yes, I understand that. 12:50

11 A. And I understand that there will be evidence that  
12 there's a typographical error in relation to that. I  
13 wasn't in the office that day, but obviously it would  
14 have been checked with me whether the email should go  
15 out or what was the story on that, but I wasn't in the 12:50  
16 office on that day.

17 187 Q. Okay. So your impression, was it that the report dated  
18 2nd May had to be returned, is that correct?

19 A. Yeah.

20 188 Q. And Ms. Maguire has to answer to the 13th August -- 12:50

21 A. Yeah.

22 189 Q. -- insertion. And you also ask in the email:  
23  
24 *"I would be obliged if you be revert to this office in  
25 early course, forwarded please."* 12:51

26 A. That's correct, yes.

27 190 Q. And your intention was that the 2nd May report be  
28 handed back, is that correct?

29 A. That's correct.

1 191 Q. Now, you understand at this stage, Chief  
2 Superintendent, that Tusla or the HSE had written to  
3 Superintendent Cunningham in August, on the 15th August  
4 2013 [sic] inquiring of Superintendent Cunningham about  
5 his original investigation? 12:51

6 A. I had no knowledge of that.

7 192 Q. You had no knowledge of that?

8 A. Absolutely not.

9 193 Q. Okay. You hadn't spoken to Superintendent Cunningham  
10 about the matter, am I correct in saying, you said that 12:51  
11 earlier on?

12 A. Absolutely not, absolutely not.

13 194 Q. Did you at any stage consult the original file in  
14 relation to the matter, Superintendent Cunningham's  
15 file? 12:52

16 A. No, absolutely not.

17 195 Q. Were you aware it was there?

18 A. I wasn't, to be honest.

19 **CHAIRMAN:** 15th August 2014, isn't it?

20 **MS. LEADER:** Yes. Sorry, I -- 12:52

21 **CHAIRMAN:** Don't worry. 15th August 2014. I beg your  
22 pardon for interrupting, Ms. Leader, but just to go  
23 back to 1784, if you wouldn't mind. I am just  
24 mystified as to where the date of the 13th August 2013  
25 in that email comes from. I don't know whether the 12:52  
26 chief superintendent can help us on that.

27 A. Well, I can't be certain, Chairman. I think there's a  
28 reference to 9th August in some correspondence that  
29 came in, but I think Patricia Maguire will be available



1 to clarify.

2 **CHAIRMAN:** There is also a reference to 9th August, but  
3 why going back to 2013, as you didn't know about it  
4 back then.

5 A. Well, I didn't know about it. I don't know why. I 12:52  
6 didn't type this --

7 **CHAIRMAN:** Yes.

8 A. And I wasn't in the office on that day.

9 **MR. O'HIGGINS:** Chairman, could I indicate --

10 **CHAIRMAN:** Yes. 12:53

11 **MR. O'HIGGINS:** -- I hope this is of assistance -- on  
12 page 3266 of the materials, there's a statement or -- I  
13 suppose you'd say a statement from Patricia Maguire  
14 provided on the 21st July, or at least dated 21st July,  
15 and she says that: 12:53

16  
17 *"Reference to the above and email correspondence*  
18 *forwarded on the 29th May, I am to report that a date*  
19 *on the email 13th August 2013 is a typographical error*  
20 *and should have read 9th August 2013. The date the 9th 12:53*  
21 *August 2013 was referenced in correspondence from HSE*  
22 *dated 22nd May '14 and which was attached to the*  
23 *email."*

24  
25 And that is her position on it. But I understand she 12:53  
26 is going to be giving evidence.

27 **CHAIRMAN:** Yes. But that didn't go to the Gardaí, that  
28 just went to the social work people.

29 **MR. MCDOWELL:** That's today's date.

1           **MR. O'HIGGINS:** Yes. Sorry, this is sent to the  
2           Disclosures Tribunal Coordination Office, this  
3           communication.

4           **CHAIRMAN:** Sorry, this is getting worse, not better,  
5           and I'm sure it's all my fault. What do you mean, what 12:54  
6           is today's date?

7           **MR. MCDOWELL:** It's signed by Sergeant Maguire today.

8           **CHAIRMAN:** Oh, yes. Well, we are working all the time.  
9           Sorry, Ms. Leader, you were at the point where you were  
10          asking about the email at 1784. 12:54

11          **MS. LEADER:** Yes.

12          **CHAIRMAN:** And what the superintendent knew or did not  
13          know on that day, and I think the last thing the chief  
14          superintendent said was he did not know that the HSE  
15          had written on the 15th August 2014 to Superintendent 12:54  
16          Leo McGinn asking for a meeting and giving three phone  
17          numbers.

18          A. Superintendent Cunningham.

19          **CHAIRMAN:** Yes, Superintendent Cunningham.

20   196    Q.   **MS. LEADER:** Maybe if page 1699 of the materials could 12:54  
21          be brought up in front of you, and that's the HSE's  
22          letter, Keara McGlone's letter to Superintendent  
23          Cunningham, dated 15th August 2013.

24          **CHAIRMAN:** Yes, Superintendent Cunningham on the 15th  
25          August. 12:55

26          **MS. LEADER:** Yes.

27   197    Q.   When did you first find out about that letter, Chief  
28          Superintendent?

29          A.    In the last few weeks.

1 198 Q. Okay.

2 A. I have never known about that letter, ever.

3 199 Q. Okay. I suppose if I can -- did you swear an affidavit  
4 of discovery in relation to the Séan Guerin inquiry?

5 A. Yes, I would have, yes. 12:55

6 200 Q. Yes, yes. And being a very senior policeman and very  
7 experienced in matters of court and that matter, you  
8 would have been careful to make sure at that time that  
9 all relevant matters were included in that affidavit,  
10 is that correct? 12:55

11 A. That's correct, yes, I did my utmost to find all  
12 documentation relating to all matters that he was  
13 looking for.

14 201 Q. And that letter, at that stage, did not, even though  
15 directly related to the investigation file into 12:56  
16 Sergeant McCabe which was included in the materials  
17 discovered to Séan Guerin, did not come to your  
18 attention, is that your evidence --

19 A. That's absolutely correct, yeah.

20 202 Q. -- in relation to the matter? And the reference to a 12:56  
21 report dated 13th August 2013 in an email generated on  
22 your instructions, is a total accident?

23 A. Well, absolutely. I didn't dictate the minute to  
24 Patricia Maguire. But I can't give any explanation for  
25 that. I have no knowledge of it. And I definitely had 12:56  
26 no knowledge of this letter.

27 **CHAIRMAN:** Just another weird coincidence in this? I  
28 mean, is that the explanation?

29 A. Well, it must be. I certainly had no knowledge of it,

1 Judge.

2 203 Q. **MS. LEADER:** Okay. And I understand Ms. Maguire is  
3 answerable to this, but when she seeks to explain the  
4 reference to the 13th August 2013 by reference to an  
5 inclusion in the letter dated 22nd May 2014, which was 12:57  
6 addressed to you from Fiona Ward, you will see that  
7 there is, as far as I can see, no reference to August  
8 2013 --

9 A. That's correct, Judge.

10 204 Q. -- in that letter? 12:57

11 A. That's correct.

12 205 Q. Yes. So wherever she got the reference to the 9th  
13 August, it wasn't in the letter from Fiona Ward to you  
14 dated 22nd?

15 A. That's correct, yeah. 12:57

16 206 Q. But just to complete the matter, Laura Brophy's letter  
17 to Superintendent McGinn, which is dated 16th May 2014,  
18 does refer to a report dated 9th August 2013, and  
19 that's at page 1777 of the materials.

20 A. That's correct, yes. 12:58

21 207 Q. But that, again, isn't the 13th August, you understand?

22 A. Yes.

23 208 Q. It's obvious?

24 A. Yeah, absolutely.

25 209 Q. If I could just then turn to page 1789 of the 12:58  
26 materials. You wrote back to Fiona Ward on the 9th  
27 June 2014, is that correct?

28 A. That's correct, Judge.

29 210 Q. And this is your letter to Ms. Ward?

1 A. That's correct.

2 211 Q. And you refer to the correspondence in the above dated  
3 22nd inst. when she asked you for the report back,  
4 isn't that --

5 A. That's correct yes. 12:58

6 212 Q. That's that letter?

7 A. Yes.

8 213 Q. *"In order to progress your request"* -- that request  
9 being the request for the report to be returned to her,  
10 is that correct? 12:58

11 A. That's correct, yes.

12 214 Q. You asked for clarification on the following points:  
13 *"Does the referral in question relate to a previous*  
14 *disclosure which was investigated by An Garda Síochána*  
15 *in 2006 that subsequently resulted in the submission of* 12:59  
16 *a file to the Director of Public Prosecutions, or does*  
17 *it relate to a new further disclosure which requires*  
18 *investigation by An Garda Síochána?"*

19 A. That's correct.

20 215 Q. That is your first question. And then you ask, you 12:59  
21 say:

22

23 *"I would appreciate clarification on how the*  
24 *administrative error referred to occurred and came to*  
25 *light which resulted in your letter dated 22nd May* 12:59  
26 *2014."*

27

28 And then you say:

29



1 A. Well, we dealt with many things by way of email. But  
2 different people have different opinions in relation to  
3 a lot of these things. We were trying to encourage  
4 people to use emails at the time and that type of thing  
5 as well. 13:01

6 222 Q. I suppose, Chief Superintendent, it was an urgent  
7 matter --

8 A. Yeah.

9 223 Q. -- that the matter be attended to and probably was the  
10 fastest way of recording communication? 13:01

11 A. Yeah.

12 224 Q. And then the assistant commissioner says:  
13  
14 *"Under no circumstances should any material in Garda  
15 custody be retracted or destroyed regarding this  
16 matter. No materials will be returned to the HSE  
17 without permission from this office."* 13:01

18  
19 And then he said:  
20  
21 *"I intend to hold a meeting at my office in Sligo on  
22 Monday 16th June 2014 at 10:00am. I request that both  
23 you and Superintendent McGinn attend and are in  
24 possession of all materials/correspondence regarding  
25 this matter."* 13:02

26 A. That's correct, Chairman, yes.

27 225 Q. So Superintendent McGinn told the Tribunal yesterday  
28 that he didn't know what the meeting was going to be --  
29 when it eventually took place in July of 2014, did you

1 speak to Superintendent McGinn about the matter?

2 A. No.

3 226 Q. No. Okay. And when the assistant commissioner was  
4 directing you to be in possession of all  
5 materials/correspondence regarding this matter, at that 13:02  
6 stage did you give any thought to inviting  
7 Superintendent Cunningham to the meeting, who had  
8 conducted the investigation --

9 A. No.

10 227 Q. -- in relation to the allegation made by Ms. D? 13:02

11 A. No, Chairman.

12 228 Q. why is that?

13 A. well, I haven't involved Superintendent Cunningham in  
14 any of the actions I had taken in relation to this  
15 erroneous referral of the 2nd, dated 2nd May. 13:03

16 229 Q. And was there any reason for that?

17 A. I didn't see any necessity to broaden out what I was  
18 inquiring into, and to involve other people.

19 230 Q. And then I think on the 18th June, Fiona Ward replied  
20 to your letter of the 9th June is that correct? 13:03

21 A. That's correct, yes.

22 231 Q. And it's at 1794 of the materials. Fiona Ward at that  
23 stage wrote to you, of Rian Counselling. She thanks  
24 you for your correspondence dated 9th June and states  
25 that you seek clarification on two matters. 13:03  
26

27 *"1. Regarding the retrospective abuse report in*  
28 *relation to allegations by the above-named which was*  
29 *forwarded to the Gardaí by Tusla Child and Family*



1           *Services.*"

2

3           And you appreciate -- did you at that stage realise  
4           that that report had never been forwarded to you, the  
5           August report of 2013? 13:04

6           A.    Absolutely, yeah.

7   232   Q.    Did you appreciate that at that time?

8           A.    I didn't actually, no.

9   233   Q.    No.

10

13:04

11           *"You seek clarification as to whether the information*  
12           *as reported is new or relates to a previous disclosure*  
13           *investigated by Gardaí in 2006. The information*  
14           *reported is being done by Rian National Counselling*  
15           *Service for the first time in relation to this client. 13:04*  
16           *However, it is my understanding that the client*  
17           *previously made a report to Gardaí as a teenager, as*  
18           *indicated in the report itself. I suggest you link*  
19           *with Tusla and Family Social Work Services to ascertain*  
20           *if they hold any other reports on record."* 13:04

21           A.    That's correct, Judge.

22   234   Q.    Did that assist you in relation to the matter?

23           A.    Well, I didn't -- I didn't follow on from that in  
24           relation to it, but I was happy at that stage that it  
25           was the old 2006/'7 report that had been investigated. 13:05

26   235   Q.    Okay. And then she says:

27

28           *"The information which was reported in error on the*  
29           *first report you received relates to a different client*

1            *and a different alleged perpetrator."*

2            A.    That's correct, yes.

3    236    Q.    Yes.    But you had never actually received her first  
4            report, isn't that correct?

5            A.    I had received the referral. 13:05

6    237    Q.    Yes.    From Tusla?

7            A.    Tusla.    Dated 2nd May, yeah.

8    238    Q.    Yes.    Then number 2:

9

10           *"You seek clarification regarding how the* 13:05  
11           *administrative error came to light. I can clarify that*  
12           *this matter was brought to our attention by the*  
13           *client."*

14

15           And were you happy at that stage that she had explained 13:05  
16           matters?

17           A.    Well, it didn't explain how the error happened, how the  
18           error in the referral of the 2nd May happened, how the  
19           lines in relation to the digital penetration happened  
20           to be in that referral. It didn't explain that to me. 13:06

21    239    Q.    Okay.    And then she says:

22

23           *"I trust this information helps to clarify the position*  
24           *regarding this matter. I look forward to hearing from*  
25           *you in relation to my previous correspondence and* 13:06  
26           *reiterate my request for the return of the original*  
27           *report which contains inaccurate information which is*  
28           *not relevant to the allegations made by Ms. D."*

29           A.    That's correct.

1 240 Q. On the 24th June 2014 Superintendent McGinn seems to  
2 have forwarded to you a formal retrospective referral  
3 which had been received from Tusla by the guards in  
4 Bailieboro. That's at page 1795. Do you remember  
5 getting that letter, Chief Superintendent? 13:07

6 A. I do, yes.

7 241 Q. What he says is:  
8  
9 *"I forward the original copy of the most recent*  
10 *referral to your office for consideration."* 13:07

11  
12 Now, what did you think was going on at this stage?  
13 You had already got a corrected referral from Rian, an  
14 incorrect referral from Tusla and this was a third  
15 referral. 13:07

16 A. Well, I didn't analyse it, to be honest, that much,  
17 other than it was another referral coming from the HSE.

18 242 Q. Okay. And if I could just turn to page 1796 of the  
19 materials, you will see that there is a referral there  
20 dated 10th June 2014, the next page, at 1797. It 13:07  
21 doesn't seem to have been signed by anybody in the HSE?

22 A. I didn't notice that.

23 243 Q. You didn't notice that?

24 A. I didn't notice.

25 244 Q. And it seems to be an attempt to correct the referral, 13:08  
26 did you notice --

27 A. Yeah.

28 245 Q. -- that?

29 A. Yeah.

1 246 Q. It explained that:  
2  
3 *"Our department forwarded formal Garda notification to*  
4 *the Bailieboro Garda Station in relation to allegations*  
5 *received by Laura Brophy, counsellor with Rian* 13:08  
6 *Counselling Service, in August 2013."*  
7  
8 And then it says that:  
9  
10 *"Ms. D is attending counselling with Rian. She stated* 13:08  
11 *that during the course of counselling, Ms. D alleged*  
12 *that she experienced sexual abuse in childhood. This*  
13 *abuse is alleged to have occurred on one occasion in*  
14 *'98/'99. Ms. D reported being aged six or seven years*  
15 *old at the time of this alleged abuse. Ms. D alleges* 13:08  
16 *that the alleged perpetrator of this abuse threatened*  
17 *her father if he said anything."*  
18  
19 Did you notice that this allegation --  
20 A. I didn't, actually. 13:09  
21 247 Q. No, you didn't notice that?  
22 A. No.  
23 248 Q. Did you read this, do you think, at this time?  
24 A. Well, I think I did, but I certainly didn't note that  
25 line in it. 13:09  
26 249 Q. Okay. Then it refers to the game of hide and seek and  
27 that it was a single allegation and that the matter had  
28 been investigated already.  
29 A. That's correct.

1 250 Q. Now, it appears that, on the same day, another  
2 notification of suspected child abuse was forwarded to  
3 you by Superintendent McGinn, and that's at page 1798  
4 of the materials. It should come up in front of you.  
5 Sorry, 1798. You see that, Chief Superintendent? 13:09

6 A. Yes.

7 251 Q. And if we go to page 1799, enclosed with that would  
8 appear to be a tidied-up version of the notification  
9 that I just brought to your attention. It's again  
10 dated 10th June 2014, but it contains the words on top 13:10  
11 of paragraph number 2: "*Amended notification*  
12 *previously notified on the 2nd May 2014*". Do you see  
13 that, Chief Superintendent?

14 A. I see that, yeah. I see that.

15 252 Q. And that notification on page 1800 would appear to be 13:10  
16 signed off on by Seamus Deeney on the 20th June 2014?

17 A. That's correct, yes.

18 253 Q. So at this stage the guards had received three separate  
19 notifications of suspected child abuse in relation to  
20 Ms. D and they had also received the retrospective 13:10  
21 disclosure of abuse from Ms. Brophy, is that correct?

22 A. That's correct.

23 254 Q. And did you find this in any way unusual or strange or  
24 wonder what was going on in relation to the matter?

25 A. Well, I wouldn't normally deal with referrals of that, 13:11  
26 they wouldn't come to me, so -- but it certainly would  
27 be unusual to receive so many.

28 255 Q. Yes. And what about one containing an incorrect  
29 referral, can you remember that happening?

1 A. I never remember it happening before.

2 256 Q. Okay. And you have been in the guards how many years  
3 at that stage?

4 A. Well, 38 years.

5 257 Q. Now, I think all of that correspondence caused you to 13:11  
6 report to your superiors in relation to the series of  
7 referrals that had been received from Tusla, is that  
8 correct?

9 A. Well, I think I received one more, on the 1st July,  
10 before I wrote my final report of the 3rd July. 13:12

11 258 Q. Yes. You received a letter from Fiona Ward --

12 A. From Fiona Ward.

13 259 Q. -- in relation to that?

14 A. Yeah.

15 260 Q. And that's at page 1804 of the materials. It will come 13:12  
16 up on the screen in front of you. I think you still,  
17 as you outlined in your evidence, had some questions as  
18 to how the mistake had happened, and you caused  
19 Inspector Pat O'Connell to make inquiries, is that  
20 correct? 13:12

21 A. That's correct, yes.

22 261 Q. And Inspector O'Connell will give his own evidence in  
23 relation to that, but in reply to those inquiries  
24 Ms. Ward wrote to you, and it's "*Strictly Private and*  
25 "*Confidential*", is that correct? 13:12

26 A. That's correct, yes.

27 262 Q. And she says:  
28  
29 "*Dear Chief Superintendent Sheridan,*

1  
2 Further to my recent telephone contact with Detective  
3 Sergeant Pat O'Connell of your office seeking further  
4 clarification regarding the administrative error  
5 relating to a report of retrospective abuse made by the 13:13  
6 above, I wish to clarify that the administrative error  
7 occurred as a result of a typographical mistake made by  
8 the counsellor-therapist who compiled the report. This  
9 error occurred when information from a report template  
10 was cut and pasted into another template. I wish to 13:13  
11 confirm that the inaccurate information which was  
12 contained in the report originally sent does not relate  
13 to the above named in any way. Further, please note  
14 that the error occurred in one section of the report  
15 only as previously notified. All other information 13:13  
16 contained in the report is accurate. I trust this  
17 information helps to clarify the position regarding  
18 this matter. I look forward to hearing from you in  
19 relation to my previous correspondence request for the  
20 return of the original report which contains inaccurate 13:14  
21 information which is not relevant to the allegations  
22 made by Ms. D.  
23 Your sincerely,  
24 Fiona Ward."

25 13:14

26 So did you at that stage understand how the error had  
27 been made?

28 A. That it was cut and paste, yes.

29 263 Q. Yes. That was your understanding of it?

1 A. Yeah.

2 264 Q. Okay.

3 **CHAIRMAN:** If I could just intervene. Did you find  
4 that credible at that stage?

5 A. Well, I can see, if somebody has a template in front of 13:14  
6 them that has contained other details and they use it  
7 to create a new one, I can see how that might happen,  
8 but I have never seen it happen before, in my  
9 experience, but that was the explanation that I got.

10 265 Q. **MS. LEADER:** So all of that caused you to make a report 13:14  
11 to the assistant commissioner, and that was Assistant  
12 Commissioner Kenny, is that correct?

13 A. That's correct, Chairman, yes.

14 266 Q. And did you at that stage understand that you were  
15 dealing with three separate notifications and a 13:15  
16 notification from Rian?

17 A. Well, what I was really dealing with was the referral  
18 of the 2nd May --

19 267 Q. Yes.

20 A. -- which contained the erroneous information. And my 13:15  
21 sole purpose after that, I was completely satisfied  
22 that the original complaint made by Ms. D against  
23 Sergeant McCabe had been fully investigated and there  
24 were no issues there for An Garda Síochána in relation  
25 to that. What I was trying to find out was, how the 13:15  
26 mistake was made by the HSE in relation to that  
27 referral, and that was my sole purpose in relation to  
28 my inquiries with the HSE.

29 268 Q. Okay. And have you ever, at any time since then,



1 thought it might have been more appropriate to start  
2 your communications with the assistant commissioner,  
3 having all of that information for him, so it would be  
4 clear to him what had happened at that stage, instead  
5 of micro managing, if I can say it that way, your 13:16  
6 further investigations with the HSE?

7 A. Well, you know, I accept the point, that I should have  
8 waited and send one report at the end of all my  
9 inquiries, I accept people might look at it -- but the  
10 reporting structures within An Garda Síochána in 13:16  
11 relation to matters are that you report to your line  
12 manager on a timely fashion, and, if I hadn't, maybe  
13 then I would be accused of other types of things.

14 269 Q. Yes. I suppose one way of looking at it, Chief  
15 Superintendent Sheridan, was: matters relating to 13:17  
16 Sergeant McCabe at that time were sensitive?

17 A. Absolutely, not only that, but it was a very sensitive  
18 matter --

19 270 Q. Yes.

20 A. -- as well. 13:17

21 271 Q. So it may be, and I am just suggesting this to you,  
22 Chief Superintendent, that you thought it better to  
23 immediately report?

24 A. Well, he was a member of An Garda Síochána, and I  
25 think, you know, that was the primary factor in my 13:17  
26 sending the reports when I did, but my sole motivation  
27 in relation to the matter was trying to find out how  
28 the error occurred.

29 272 Q. Okay. So if we can turn to your report, and it's at

1 page 1805 of the materials. It should come up in front  
2 of you. Now, you refer back to the assistant  
3 commissioner's letter dated 10th June, and that letter  
4 was when he told you not to send anything back to the  
5 HSE and also arranged a meeting for the 16th June, but 13:18  
6 that meeting didn't take place until later on?

7 A. That's correct, yes.

8 273 Q. And you say then, you set out in your report:

9  
10 *"On Monday, 4th December 2006, an alleged indecent 13:18*  
11 *assault upon a child, Ms. D, was reported to Gardaí.*  
12 *It was alleged that she was aged about six years at the*  
13 *time of the assault. Superintendent Fergus Healy*  
14 *directed D/Sergeant Jim Fraher, Cavan, accompanied by*  
15 *Sergeant Denise Flynn, to interview the alleged injured 13:18*  
16 *party. The injured party was interviewed and a written*  
17 *statement taken from her on the 5th December 2006."*

18 That's correct.

19 274 Q. So you set out what Ms. D said in the statement of the  
20 5th December 2006? 13:18

21 A. That's correct, yes.

22 275 Q. And then you go to page 1806:

23  
24 *"On the 8th December 2006, Chief Superintendent Colm 13:19*  
25 *Rooney appointed Inspector Noel Cunningham to conduct a*  
26 *criminal investigation into the allegations and also to*  
27 *advise him if any disciplinary issues arose."*

28 A. That's correct, yes.

29 276 Q. Then you continue on:

1  
2  
3  
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26  
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28  
29

*"On the 19th February, Inspector Cunningham forwarded the investigation file to the State Solicitor Cavan for onward transmission to the DPP for direction. He also advised chief superintendent Monaghan that nothing of a disciplinary nature arose against Sergeant McCabe."*

13:19

A. That's correct.

277 Q. Then you say:

*"On the 5th April 2007, written directions issued from the office of the DPP."*

13:19

And you set out the directions there, and you attached a copy of those DPP directions to that report, is that correct?

13:19

A. That is correct, yes.

278 Q. You then say:

*"All parties were subsequently advised of the directions of the law officers. The incident was not recorded on PULSE at that time -- at the time it was reported and it has not yet been recorded on PULSE to date."*

13:20

Is that correct?

13:20

A. That's correct.

279 Q. Now, that subsequently became an issue for GSOC to investigate, is that correct?

A. Yeah. I understand so. I am not familiar --

1 280 Q. Ms. D made that complaint.  
2 A. Yeah.  
3 281 Q. And in relation to the later notifications, do you know  
4 if they were recorded on PULSE, the 2014 notifications?  
5 A. Not to my knowledge, they weren't. No. 13:20  
6 282 Q. They weren't. And I think there is a Garda circular  
7 which suggests that such notifications should, in the  
8 normal course, be recorded on PULSE?  
9 A. That would be correct, yes.  
10 283 Q. Yes. Do you know why these weren't, or was it because, 13:20  
11 that there was a question-mark over this particular  
12 referral?  
13 A. Well, the incident in 2006/'7 wasn't put on PULSE, so I  
14 don't think it would be appropriate to put the incident  
15 in 2014 on PULSE. 13:21  
16 284 Q. *"It also appears that no referral was made to the HSE*  
17 *at the time of its report to the Gardaí."*  
18  
19 And then you say:  
20  
21 *"The HSE would, therefore, have no knowledge of the*  
22 *allegations made by Ms. D."*  
23  
24 That is what you record there.  
25 A. That was my understanding of it at the time, yes. 13:21  
26 285 Q. Okay. Now, if I can just pause there, Chief  
27 Superintendent. We now know that that is incorrect?  
28 A. That's correct. There was a referral made, but I  
29 wasn't aware of that.

1 286 Q. Okay. GSOC were able to ascertain in August 2014,  
2 without too much difficulty, it would appear that, the  
3 matter had been referred to the HSE by Sergeant Fraher  
4 when he initially set out to investigate the complaint.  
5 They took a statement from Sergeant Fraher. 13:21

6 A. Well, all I know is that when I was doing the  
7 disclosure for Mr. Guerin, I sought -- I looked for  
8 that document and it could not be located. So I don't  
9 know where it was located subsequently.

10 287 Q. Okay. well, if I could maybe turn to page 74 of the 13:22  
11 materials, and it's an extract from the investigation  
12 file that GSOC conducted in relation to Ms. D's  
13 complaint, and Sergeant Fraher was interviewed as part  
14 of that investigation, as would be normal, you would  
15 expect? 13:22

16 A. Yeah.

17 288 Q. And if we could maybe turn to his statement at page 70,  
18 the statement Sergeant Fraher made to GSOC. He refers  
19 to taking the statement from Ms. D, and then he says:

20  
21 *"As is protocols in such incidents, I completed a HSE*  
22 *referral form and forwarded a copy to the district*  
23 *office in Cavan. I then prepared a report for the*  
24 *attention of the superintendent in Cavan under*  
25 *confidential cover on the dealings with Ms. D. I rang 13:23*  
26 *on the 6th December 2006 and spoke to superintendent*  
27 *Healy and informed him of the progress of the*  
28 *investigation."*  
29

1 So that is what Sergeant Fraher done on speaking to  
2 Ms. D.

3 **CHAIRMAN:** I'm sorry, Ms. Leader, but there was just a  
4 question coming to my mind about all of this in  
5 relation to the HSE not being informed back then. I 13:23  
6 don't know, was this an attempt to rationalise why the  
7 HSE were behaving in such a dim way, if I can put it  
8 that way?

9 **MS. LEADER:** It may very well be.

10 **CHAIRMAN:** Yes. I don't know whether the witness might 13:23  
11 have a view on that.

12 A. Yeah, I was obviously giving the HSE some credit in  
13 this regard, in that I was under the impression that  
14 they hadn't been informed or hadn't got a referral in  
15 2007, when it now subsequently transpires that they 13:24  
16 had. And obviously if I had known that, one would  
17 further question their need to make any referral in  
18 2014.

19 289 Q. **MS. LEADER:** Okay. And just page 75 of the materials,  
20 Sergeant Fraher, writing to the superintendent in 13:24  
21 Cavan, encloses Ms. D's statement, some sketches and a  
22 referral form, and the referral appears at page 76 of  
23 the materials. So you will see there that the child's  
24 name, Ms. D, her address, her father's name and  
25 mother's name is set out, and that she reports that she 13:24  
26 was the victim of an inappropriate act by a male family  
27 friend when on a visit to the house. And that is  
28 dated, it would appear to be the 6th December 2006.

29 A. That's correct, Judge.

1 290 Q. And I don't know if you would be able to help me here,  
2 but would those referrals be kept apart from  
3 investigation files or form part of them?  
4 A. Well, in some stations they would be, they would be  
5 filed in a file of referrals, but there may well be a 13:25  
6 copy with a file, an investigation file as well. But I  
7 certainly was unavailable to, for the purpose of  
8 disclosure to Mr. Guerin, I was unable to find any  
9 referral form.

10 291 Q. Okay. So at that stage you had directed your mind to a 13:25  
11 referral form being possible, being there or being done  
12 in 2006/2007, looked for it and was unable to find it?  
13 A. And unable to find it, yeah. Unable to locate it.

14 292 Q. And your state of mind was, it hadn't been done?  
15 A. Well, that was my understanding. Obviously, if the 13:26  
16 incident had been on PULSE, then there would have been  
17 a provision to put the referral on PULSE as well, but  
18 obviously it hadn't been entered on PULSE so I wasn't  
19 able to check on that, that line of inquiry.

20 293 Q. And in relation to what you say there, "*The HSE/Tusla* 13:26  
21 *would therefore have no knowledge of the allegations*  
22 *made by Ms. D.*"  
23 Is that quite the case, Chief Superintendent?  
24 A. Well, it's not the case now, obviously, because they  
25 had the referral in 2007. 13:26

26 294 Q. But Superintendent Cunningham's report made reference  
27 to the fact of Ms. D attending with the HSE back at  
28 that time. You may recall that, do you?  
29 A. I don't recall that, no.

1 295 Q. Okay. Or if you had spoken to Superintendent  
2 Cunningham, he may have been able to assist you with  
3 regard to what had been done back in 2006/2007?  
4 A. Well, he may have, but I was dealing with the referral  
5 that I got in 2014, that obviously was not a correct 13:27  
6 referral.

7 296 Q. Yes.  
8 A. And as I have said, my sole motive was to try and  
9 establish how that happened. And I was trying to keep  
10 with the involvement of as few people as possible in 13:27  
11 dealing with it. And that's --

12 297 Q. Okay. If we just maybe continue on, you say:  
13  
14 *"In August 2013 Ms. D attended for counselling with the*  
15 *HSE national counselling service and disclosed the 13:27*  
16 *alleged sexual assault on her by Sergeant McCabe. On*  
17 *the 2nd May 2014, Tusla, using standard notification*  
18 *form for use by Child and Family Agency in notifying*  
19 *cases to An Garda Síochána, notified superintendent*  
20 *Bailieboro of a case of suspected child abuse. The 13:27*  
21 *child's name was Ms. D."*

22  
23 And you've set out her details. And that the  
24 disclosure was made to Laura Brophy. Then you say:  
25 13:28

26 *"The referral made by Tusla relating to the disclosures*  
27 *made by Ms. D to the superintendent Bailieboro*  
28 *contained allegations which were not consistent with*  
29 *the allegations investigated by An Garda Síochána in*



1           2006/2007."

2

3           And you enclose that referral, is that correct?

4           A.    That's correct, yes.

5   298   Q.    So that was the referral of the 2nd May 2014? 13:28

6           A.    That's right.

7   299   Q.    And then you say:

8

9           *"On the 16th May 2014 Laura Brophy wrote to*  
10          *superintendent Bailieboro and stated as follows..."* 13:28

11

12          And then you set out what Laura Brophy told you in her  
13          letter in relation to the error, isn't that correct?

14          A.    That's correct, yes.

15   300   Q.    And you attached a copy of that letter to the report -- 13:28

16          A.    That's correct, yeah.

17   301   Q.    -- to the assistant commissioner. Then you say:

18

19          *"The referral received from Tusla on the 16th May*  
20          *contains the allegations which were investigated by the* 13:28  
21          *Gardaí in 2006/2007. The report contains the following*  
22          *information which was provided by Ms. D --"*

23

24          And that was in relation to there being a Garda  
25          investigation and that there was no prosecution 13:29  
26          directed by the DPP?

27          A.    That's correct, yes.

28   302   Q.    Then you refer to Ms. Fiona Ward's letter of the 22nd  
29          May 2014, wrote to you confirming that an

1 administrative error had occurred in this report and  
2 confirming that a corrected report had issued. And  
3 then you enclose that letter as well with it:  
4

5 *"To remove any ambiguity with regard to these matters, 13:29*  
6 *on the 9th June 2014 I wrote to Ms. Fiona Ward seeking*  
7 *clarification on how this administrative error occurred*  
8 *which led to the issuing of the referral dated 2nd May*  
9 *2014."*

10  
11 And you say: 13:29

12  
13 *"In correspondence dated 18th June 2014 and 1st July*  
14 *2014, Ms. Ward outlines that the information which was*  
15 *reported in error in that first report you received 13:30*  
16 *relates to a different client and a different alleged*  
17 *perpetrator. From verbal communications with them the*  
18 *error occurring using cut and paste method on the*  
19 *computer and obviously a failure to fully check the*  
20 *correspondence prior to issue." 13:30*

21  
22 And then you conclude:

23  
24 *"Arising from the written and verbal communications*  
25 *with Ms. Ward and Tusla, it is clear that the referral 13:30*  
26 *of the 16th May 2014 refers to the allegations of Ms. D*  
27 *investigated by the Gardaí in 2006/2007. The referral*  
28 *does not contain any new allegations. The referral of*  
29 *the 2nd May 2014 was issued in error and is not*

1           *relevant to the allegations of Ms. D.*"

2  
3           And then you say that Ms. D had a meeting with Micheál  
4           Martin and that it was referred to An Taoiseach, Enda  
5           Kenny. You also refer to the GSOC commission referral   13:30  
6           made by Ms. D, and you have said:

7  
8           *"In relation to GSOC, they have indicated that they*  
9           *will not be investigating the allegation made by Ms. D*  
10           *against Sergeant Maurice McCabe but they will be*   13:31  
11           *investigating the original Garda investigation of her*  
12           *complaint. Ms. D has not requested An Garda Síochána*  
13           *to reinvestigate her complaint or to review it. Tusla*  
14           *have requested the return of the referral which*  
15           *contained the incorrect information."*   13:31

16           A. That's correct, yes.

17   303   Q. So did that, to your mind, resolve all outstanding  
18           matters, Chief Superintendent?

19           A. Well, as far as I was concerned, that would conclude my  
20           involvement in it, yes.   13:31

21   304   Q. Just with regard to that, you didn't, in actual fact,  
22           ever send on the corrected referral to the assistant  
23           commissioner, it appears to me, from the materials  
24           available to the Tribunal. So the assistant  
25           commissioner would have had the various correcting   13:32  
26           letters from Ms. Brophy and Ms. Ward, and the incorrect  
27           Tusla notification, but they never would have, so to  
28           speak, received a corrected Tusla notification; it  
29           doesn't appear to have been forwarded to you?

1 A. Well, if that is the case, that obviously was an  
2 oversight on my part. I think it was clear in all the  
3 reports I wrote to the assistant commissioner that, as  
4 far as I was concerned, there was an error made. There  
5 was no new allegations against Sergeant McCabe. 13:32

6 305 Q. Yes.

7 A. And I think I made that clear in my reports to him.

8 306 Q. Well, there's no doubt that is the case, Chief  
9 Superintendent, but I suppose from tidying off the  
10 matter and putting it to bed for good, that the amended 13:32  
11 notification from Tusla should have been forwarded to  
12 the assistant commissioner's office --

13 A. I accept that.

14 307 Q. -- one would expect?

15 A. But there was certainly no reason and no ulterior 13:33  
16 motives on my part. It was obviously an error on my  
17 part not to have done it, but I put it down to human  
18 error in that regard. I tried to attach all of the  
19 documentation that I could in relation to it. If I  
20 missed that one, I missed it. 13:33

21 308 Q. There were actually two amended notifications, Chief  
22 Superintendent. Now, there is included with those  
23 notifications, a page, if I can direct you to page 1825  
24 of the materials, you will see that is the 2nd May  
25 notification, the incorrect one from Tusla. And if you 13:33  
26 could just identify your handwriting for me on the  
27 front of that, if you can see it?

28 A. Yes, that is my handwriting, yes.

29 309 Q. If you could read it for me, what you said?

1 A. "Withdrawn" -- I think I might have a clearer copy.  
2 It's "Withdrawn see referral of the 16th May".  
3 **CHAIRMAN:** You can get out the volume there. If you  
4 look at volume 7, part 1. So that is at 1825. Have  
5 you got it? Mr. Kavanagh will help you. It may be on 13:34  
6 top. So it's at 1825.  
7 A. Yes, that is my writing. It says:  
8  
9 "Withdrawn see referral 16/5/14."  
10 310 Q. I -- 13:35  
11 **MS. LEADER:** I suppose that was your way, Chief  
12 Superintendent, of making sure that the matter was made  
13 clear that it wasn't a correct matter?  
14 A. That's correct, yes.  
15 311 Q. Okay. 13:35  
16 **CHAIRMAN:** I wonder, do you have any idea of when you  
17 wrote that?  
18 A. Well, I think after I received that letter from -- of  
19 the 16/5, with the referral from --  
20 **MS. LEADER:** I think that is Ms. Brophy's. 13:35  
21 A. Yeah, from Laura Brophy, I think it would be -- it was  
22 certainly after that. I can't be specific on the date,  
23 but it would have been after that.  
24 312 Q. **MS. LEADER:** The next relevant event would appear to be 13:35  
25 the meeting in Mullingar Garda Station on the 16th June  
26 2014. Do you know when that meeting was scheduled? It  
27 had already been referred to and was supposed to have  
28 taken place in June and it was rescheduled at some  
29 stage?

1 A. I don't. Chairman, I don't know when it was  
2 rescheduled, but obviously it was notify to attend in  
3 Mullingar.

4 313 Q. That meeting is 16th July 2014.

5 A. That's correct, yeah. 13:36

6 314 Q. Now, it would appear that that meeting started at 2:30  
7 and ended at 3:10, according to the minute-taker. Is  
8 that your memory of events?

9 A. Yeah, I'm not in a position to dispute that.

10 315 Q. Present at that meeting were the Assistant 13:36  
11 Commissioner, Mr. Kenny; you; Superintendent McGinn;  
12 and Sergeant Duffy, who was there to make minutes of  
13 the meeting, is that correct?

14 A. That's correct, yeah.

15 316 Q. Now, when Mr. Kenny had originally scheduled -- or 13:37  
16 asked for a meeting to take place, he had asked that  
17 you *"be in possession of all materials/correspondence*  
18 *regarding this matter"*. So what do you think you  
19 brought with you to that meeting?

20 A. The documents that have been referred to today, that 13:37  
21 file.

22 317 Q. Okay. So which file was that, sorry, Chief  
23 Superintendent?

24 A. That was relating to the 2014 matter.

25 318 Q. Okay. So in relation to the investigation, what can 13:37  
26 you say about documentation you brought in relation to  
27 the Garda investigation of 2006/2007?

28 A. From memory, I don't think I brought the file with me,  
29 the original investigation file.

1 319 Q. Okay. So it would have been the documents created  
2 arising out of the notification of the 2nd May, is that  
3 correct?

4 A. That's my recollection of it Chairman, yes.

5 320 Q. Okay. And in relation to the people present, was any 13:38  
6 thought given to inviting Superintendent Cunningham  
7 along to that meeting?

8 A. Well, I didn't give it any thought. Obviously I was  
9 invited to the meeting as well.

10 321 Q. Yes. 13:38  
11 A. So --

12 322 Q. Yes. Well, I suppose if I could put it this way:  
13 Superintendent McGinn to a huge extent had a limited  
14 involvement insofar as he was the person who the  
15 referral had been addressed to and had certain 13:38  
16 communications with Mr. D and Laura Brophy.

17 A. That's correct, yes.

18 323 Q. Yes. And you had dealings in your role as chief  
19 superintendent?

20 A. That's correct, yeah. 13:38

21 324 Q. And all of these dealings refer back to a file which  
22 had been investigated by the Guards in 2006/2007 by  
23 Superintendent Cunningham?

24 A. Well, we weren't -- it's my understanding we weren't  
25 looking at the re-investigation of the matter or the 13:39  
26 file, or whatever, it was the issues that had arisen,  
27 arising from the 2014 referral.

28 325 Q. Okay. And you were happy to go ahead with the meeting  
29 without Superintendent Cunningham?

1 A. Well, Superintendent Cunningham hadn't been involved in  
2 any way in any of the inquiries that had been conducted  
3 around the erroneous referral.

4 326 Q. Okay. I think earlier on in your evidence you said you  
5 hadn't spoken to him in relation to -- 13:39

6 A. That's correct, absolutely.

7 327 Q. So you had never spoken to the person who had  
8 investigated the matter in the first place?

9 A. I had never spoken to him about the erroneous referral  
10 of 2014. 13:39

11 328 Q. Had you spoken to him about the investigation?

12 A. No.

13 329 Q. In --

14 A. No.

15 330 Q. And this was a man who was in your own Garda station at 13:39  
16 that time, in Monaghan Garda Station?

17 A. That's correct, yes.

18 331 Q. If I can just turn to the minute of the meeting --

19 **CHAIRMAN:** There wasn't any bad feeling or anything  
20 like that between you, was there? 13:40

21 A. No. Absolutely not, no.

22 **CHAIRMAN:** You'd have seen him every day, presumably?

23 A. Well, maybe not every day, but I would see him on a  
24 regular basis, yeah.

25 **CHAIRMAN:** Yes. And there's no particular time where 13:40  
26 you'd all sit down together and have tea and chat or  
27 anything? I don't mean that as a lazy exercise, I mean  
28 that as an exercise in everybody keeping up-to-date  
29 with what everyone is doing.



1 A. Well, there's a canteen in the station in Monaghan,  
2 sometimes he might be there, sometimes he mightn't.  
3 Vice versa. But it's not -- we certainly never sat  
4 down and had a conversation about these matters.  
5 **CHAIRMAN:** And there's no team meeting once a week or 13:40  
6 anything like that?  
7 A. Would I have, I would have management meetings in  
8 relation to what's current, the current happenings in  
9 the division, be they crime or whatever else. But  
10 certainly nothing that would go back to matters that 13:40  
11 happened long before I came into the division --  
12 332 Q. **MS. LEADER:** So the minute of the meeting I think it's  
13 1835, it should be in front of you, the first page.  
14 Assistant Commissioner Kenny seems to -- you have read  
15 these notes since, chief superintendent? 13:41  
16 A. Well, the first time I seen them was in the disclosure  
17 for this Tribunal.  
18 333 Q. Okay. They weren't circulated to you after the  
19 meeting?  
20 A. No, no. 13:41  
21 334 Q. Is that usual or unusual?  
22 A. Well, we wouldn't have had very many meetings, I don't  
23 think, that I can recall where it was minuted or  
24 whatever --  
25 335 Q. Okay. 13:41  
26 A. -- and they were circulated. Off the top of my head, I  
27 certainly can't remember any anyway.  
28 336 Q. Any meetings that were minuted?  
29 A. Yeah. Well, certainly any that minutes were

1           circulated.

2   337   Q.   Okay.  So, have you been at meetings that were minuted,  
3           chief superintendent, do you think?

4           A.   Well, I don't -- I have had none that were circulated  
5           to me, that I can recall anyway. 13:42

6   338   Q.   All right.  So, assistant commissioner, when you did  
7           review them, do you think they were fairly accurate?

8           A.   Well like, they don't put -- I'm not disputing anything  
9           that is in them, but they don't put certain things in  
10          context, or whatever.  And like, some things may have 13:42  
11          arisen from questions that were asked or whatever, or  
12          something that was suggested or whatever like that, so  
13          they don't, they don't cover that aspect of it.

14   339   Q.   Yes.

15          A.   But I'm not disputing what's in them. 13:42

16   340   Q.   I suppose the Tribunal appreciates that it isn't a  
17          stenographer's account of the meeting or a verbatim  
18          account of the meeting, is that what you are trying to  
19          convey, chief superintendent?

20          A.   Absolutely, yes. 13:42

21   341   Q.   So this would have been the themes discussed, is  
22          that --

23          A.   That would be --

24   342   Q.   You're happy that that is an accurate --

25          A.   Yes.  You know, there were many things discussed around 13:42  
26          what we were there to discuss and in a general type way  
27          and whatever, and there were questions and suggestions  
28          or whatever, but --

29   343   Q.   Was the only item on the agenda the referrals from

1 Tusla?

2 A. Yeah.

3 344 Q. So Assistant Commissioner Kenny started the meeting,  
4 and he said:

5 13:43  
6 *"outlined that we need to deal with this matter, given*  
7 *the people involved. He said it was unbelievable that*  
8 *the HSE completed the referral via copy and paste. He*  
9 *outlined that he doesn't accept that the referral*  
10 *passed through three different people in the HSE and it* 13:43  
11 *was not noticed."*

12  
13 Now, what's your understanding of Assistant  
14 Commissioner Kenny saying he needed to deal with the  
15 matter given the people involved? I will just ask in 13:43  
16 relation to the people involved, what do you think from  
17 that, chief superintendent, keeping in mind that you  
18 were actually at the meeting?

19 A. Well, that he needed to, I suppose, update himself in  
20 relation to all the matters around it. 13:43

21 345 Q. Okay. Let me put it to you this way, chief  
22 superintendent: was it especially important to deal  
23 with the matter given that Maurice McCabe was involved?

24 A. I'd say that was a factor, absolutely, yes.

25 346 Q. Yes. And maybe given the fact that Ms. D had referred 13:44  
26 the matter to Micheál Martin which was being referred  
27 on to the Taoiseach and you had said that a number of  
28 times in your correspondence to him?

29 A. That's correct, yes. It's possible. Obviously

1 Assistant Commissioner Kenny would be able to outline  
2 what was in his mind in relation to all of that, but  
3 that is -- I'm sure they were factors in it, yes.

4 347 Q. Okay. And then there is a paragraph:

5  
6 *"Chief Superintendent Sheridan outlined that the*  
7 *counsellor completed the referral and that the names*  
8 *were only changed by the HSE and the details of the*  
9 *incident were forgotten/overlooked and it had passed*  
10 *through a few hands before it was picked up."* 13:44

11  
12 Do you think that is what you said?

13 A. Well, I doubt that is what I said, but it is I suppose  
14 really -- encapsulates what I said to an extent.  
15 Obviously I would presume that was a referral to the 13:45  
16 cut and paste procedure that had been explained by the  
17 HSE.

18 348 Q. Okay. And in relation to the names only being changed,  
19 what do you think that was a reference to?

20 A. Well, that's a reference that they may have used some 13:45  
21 other template and that that's how the erroneous  
22 information was left in the referral.

23 349 Q. Okay. And then Assistant Commissioner Kenny's  
24 contribution is recorded, that:

25  
26 *"No correspondence will be destroyed and nothing will*  
27 *be retracted. He accepts that the HSE have made a*  
28 *mistake and they have amended it. That he was aware*  
29 *that GSOC were carrying out an investigation into the*  
13:45

1 original investigation file and how the matter was  
2 investigated. He said there were a few issues, Chief  
3 Superintendent Rooney appointed Superintendent  
4 Cunningham to investigate the matter. Superintendent  
5 Cunningham informed Chief Superintendent Rooney that he 13:46  
6 was of the view that the matters should be investigated  
7 by members outside Cavan-Monaghan. However, Chief  
8 Superintendent Rooney directed Superintendent  
9 Cunningham to complete the investigation. The incident  
10 was not recorded on the PULSE system and the matter was 13:46  
11 not referred to the HSE."  
12

13 Was that news to you, chief superintendent, at that  
14 stage? Or any of it news to you?

15 A. Well, obviously I had advised that no referral be made 13:46  
16 to the HSE.

17 350 Q. Yes.

18 A. The other parts of it, I wasn't familiar with.

19 351 Q. Okay. So when you say you weren't familiar?

20 A. I wasn't aware of them. 13:46

21 352 Q. And that was the first you'd heard of them?

22 A. Yeah.

23 353 Q. Okay. And then:

24  
25 "The file was completed and submitted to the DPP who 13:46  
26 directed no prosecution. Assistant Commissioner Kenny  
27 outlined that he was of the view that the two issues  
28 arising are that the incident was not recorded on PULSE  
29 and there was no referral made to the HSE. What we, An

1           *Garda Síochána, now have is a referral from the HSE."*

2  
3           So what did you take from that, chief superintendent?  
4           Were they problems for the Guards at that stage?

5           A.     Well, they had the potential to be problems, yeah.           13:47

6   354   Q.     Okay. And was this meeting an effort to, maybe I could  
7           suggest to you, identify potential problems and see how  
8           to deal with them?

9           A.     Yeah, it was a discussion around the whole matter  
10          really, that's what it was.           13:47

11   355   Q.     Okay. And then the minutes go on to record that you  
12          outlined that:

13  
14          *"The injured party went for counselling in August 2013*  
15          *at which stage she was an adult. He outlined that no*           13:47  
16          *referral was made to the HSE in 2006/2007, nor did any*  
17          *meeting take place with the HSE in 2006/2007. If there*  
18          *had been a referral made on the matter in 2006/2007 we*  
19          *would not be getting the referral now. Chief*  
20          *Superintendent Sheridan raised the issue of do we need*       13:48  
21          *to have a meeting with the HSE now."*

22  
23          Is that accurate, chief superintendent?

24          A.     Yeah. You know, that was when I was still under the  
25          impression that no referral had been made in 2007, when       13:48  
26          obviously now I know that's not the case. And  
27          obviously from the disclosures I know now that the HSE  
28          did hold a meeting, but it doesn't appear -- well, from  
29          the documents that I have seen, and I haven't examined

1           them in forensic detail, that there was no guard at the  
2           meeting.

3   356   Q.   All right.  Okay.  I suppose one way of looking at  
4           this, superintendent, is that through error or just  
5           through the inquiries you'd made not showing something   13:48  
6           up, that incorrect information was discussed at that  
7           meeting, and it may very well have been if  
8           Superintendent Cunningham had been party to the meeting  
9           he would have been able to put everybody right in  
10          relation to the dealings with the HSE back in                   13:49  
11          2006/2007, do you understand what I am saying?

12          A.   I understand.

13   357   Q.   Him being the investigating guard?

14          A.   Yeah, I understand what you are saying but we weren't  
15          re-opening the 2006/2007 investigation or in relation   13:49  
16          to that.  But he wasn't there, he may have been in a  
17          position to clarify it.

18   358   Q.   But, chief superintendent, surely you were looking at  
19          was the investigation in 2006/2007 conducted in a  
20          proper way and correctly?                                   13:49

21          A.   Well, I was satisfied when I read the file prior to  
22          disclosure to Mr. Guerin that the file, that the  
23          investigation was conducted properly and there was no  
24          need for review of it.  And I was totally satisfied in  
25          relation to that, in that regard.                           13:49

26   359   Q.   But by the time you got to this meeting in July 2014,  
27          which was just a few months later to the disclosure  
28          process to Mr. Guerin, you had identified at least one  
29          shortcoming in your eyes, that being that the HSE

1 hadn't been notified back in 2006/2007?

2 A. Well, that wasn't a shortcoming in the investigation,  
3 it was a shortcoming in the reporting procedures  
4 between the Guards and the HSE. But obviously I was  
5 wrong in that regard, in that the referral had been 13:50  
6 made.

7 360 Q. I suppose what I am suggesting to you, chief  
8 superintendent, it would have been a very easy thing to  
9 sort this particular point out this which was causing  
10 anxiousness or worry in July 2014 just by speaking to 13:50  
11 Superintendent Cunningham in relation to the matter or  
12 indeed gaining access to the file which he had in his  
13 locker in Monaghan Garda Station?

14 A. Yeah, I accept it may have been. Yes, I accept it may  
15 have been, but -- 13:50

16 361 Q. Then:

17  
18 *"Assistant Commissioner Kenny outlined at the meeting*  
19 *that he had concerns that the injured party went for*  
20 *counselling and a referral was made to the HSE and a 13:51*  
21 *referral was made to the Garda Síochána. He outlined*  
22 *that he was of the view that this referral should be*  
23 *dealt with as a new referral, "that we can't just take*  
24 *it at the same incident"."*

25  
26 Now obviously the assistant commissioner will have to  
27 answer to that, but you then are recorded as saying:

28  
29 *"Chief superintendent Sheridan outlined that the*



1           *referral does state that the matter was investigated*  
2           *and that there was no prosecution. He raised the issue*  
3           *that if An Garda Síochána meets with the HSE social*  
4           *services and the suspect's family need to be informed*  
5           *as he has children."*

13:51

6  
7           Do you think that was the first mention of Sergeant  
8           McCabe being informed in relation to the matter?

9           A.    From recollection it probably was, yes.

10   362   Q.    Yes.

13:51

11           A.    Now, in relation to the referral of -- the erroneous  
12           referral.

13   363   Q.    Yes.

14           A.    When I was considering that the matter, you know, I did  
15           consider whether Sergeant McCabe should be advised of  
16           that error. But I came to the conclusion in relation  
17           to that, that this was -- it wasn't an allegation as  
18           such, nobody had made it, it was included in the  
19           referral, but it was included by way of an error by  
20           somebody from the HSE. So in my view that was a matter  
21           for the HSE to address. And I would have thought a  
22           matter for the HSE to inform Sergeant McCabe.

13:52

23   364   Q.    I suppose now you know the HSE did contact Sergeant  
24           McCabe in December 2015 along the lines of the wrong  
25           referral, the digital --

13:52

26           A.    Well, yes, it's the wrong referral I'm talking about.

27   365   Q.    Yes.

28           A.    But I would have thought that they should have informed  
29           him of it, and indeed Ms. D, long, long before that.

1 366 Q. Okay. So are you saying it was none of the Guards'  
2 business to inform Sergeant McCabe of the HSE's  
3 referral? That is the conclusion after the  
4 consideration you gave the matter.

5 A. That is the erroneous referral?

13:53

6 367 Q. Yes.

7 A. It certainly was my opinion that it was a matter for  
8 the HSE to address. There may have been data issues in  
9 relation to that. And the other way I look at it: If  
10 I had gone or somebody from the Guards had gone to  
11 Sergeant McCabe to tell him about it, we may not have  
12 been in a position to answer all of his questions in  
13 relation to what happened, as well. Because we had  
14 only the information that was provided to us by the HSE  
15 and how this happened. And as far as I was concerned  
16 that was a matter for the HSE.

13:53

13:53

17 368 Q. There was some discussion about risk to children and  
18 Assistant Commissioner Kenny agreeing that the matter  
19 had to be dealt with properly. Essentially a decision  
20 was reached that legal opinion and advice would be  
21 necessary, is that fair enough, chief superintendent?

13:54

22 A. That's correct. Yeah.

23 369 Q. Then you seem at that stage have come in, in the  
24 meeting and said:

25  
26 *"Chief Superintendent Sheridan outlined that he agreed*  
27 *that advice should be sought from Mr. Ruane, Head of*  
28 *Legal Affairs of An Garda Síochána. He outlined that*  
29 *the big issue is the referral not being completed at*

13:54

1           *the time of the alleged incident and GSOC might request*  
2           *that the matter is re-investigated. He also outlined*  
3           *that he feels the bigger issue is that no referral was*  
4           *made and that we need to get advice on this matter."*

13:54

5  
6           A.   That's correct, Judge.

7   370   Q.   So again, it seemed to be a matter of fairly high  
8           concern that there was no referral which there actually  
9           had been at that stage, is that the case?

10          A.   That's correct, Judge.

13:55

11   371   Q.   Everybody was proceeding in a false assumption?

12          A.   Yes, that's correct.

13   372   Q.   And then:

14  
15           *"Assistant Commissioner Kenny raised the issue of the*  
16           *possibility of the need to liaise with the injured*  
17           *party to establish if the referral is the same as her*  
18           *complaint in 2006/2007."*

13:55

19  
20           Did you at that stage tell the meeting that  
21           Superintendent McGinn had been speaking to Ms. D's  
22           father?

13:55

23          A.   I don't know, I certainly wasn't -- wouldn't be in  
24           favour of -- I had made my position clear in my report,  
25           that as far as I was concerned the Garda involvement in  
26           the matter was completed.

13:55

27   373   Q.   Okay. Then you set out, it's recorded that you set  
28           out:

1           *"The referral received is the same as her statement*  
2           *made in 2006/2007 and the referral states that a file*  
3           *was completed. The referral and the risk posed is a*  
4           *problem. He suggested that we liaise with the HSE to*  
5           *establish what their intentions regarding this*  
6           *referral."*

13:56

8           Is that accurate, do you think, chief superintendent?

9           A. Well, I'm not in a position to dispute it. But  
10           obviously when a referral is made there would be a  
11           strategy meeting which would usually involve a liaison  
12           guard and the relevant personnel from the HSE. And  
13           when that strategy meeting takes place, decisions are  
14           made. Sometimes cases are closed off and it may be  
15           that the Guards have no further involvement and the HSE  
16           have other matters to attend to arising out of it.

13:56

17   374   Q. So, was it your thinking at that meeting that the  
18           matter would be left with Tusla, to take whatever  
19           actions they thought appropriate in relation to the  
20           matter?

13:56

21           A. Yeah.

22   375   Q. Is that fair?

23           A. That's my -- that's a fair comment. Because as far as  
24           I was concerned we had finished our involvement in it.

25   376   Q. Then:

13:57

27           *"Assistant Commissioner Kenny raised the question: what*  
28           *would we do if this was a new referral? And*  
29           *Superintendent McGinn said a criminal investigation*

1           *would commence and An Garda Síochána would meet with*  
2           *the HSE. And then Assistant Commissioner Kenny said*  
3           *that the notification of the matter is the concern.*  
4           *Then Superintendent McGinn raised the issue about the*  
5           *fact that Sergeant McCabe wasn't arrested at that time* 13:57  
6           *and then the meeting with Ken Ruane was suggested*  
7           *again."*

8  
9           which you agreed with, and Ken Ruane an being the legal  
10          adviser to the Guards at that stage. 13:57

11          A. That is correct.

12 377 Q. Then it would seem to me that you were tasked with  
13          liaising with the HSE to establish what their  
14          intention/strategy was, is that correct?

15          A. That's correct, yes. 13:57

16 378 Q. And was that your mindset coming out of that meeting;  
17          that you had a task to completing liaising with the  
18          HSE?

19          A. Well, it was to establish with the HSE what -- what  
20          their strategy was in relation to it. 13:57

21 379 Q. And again Assistant Commissioner Kenny outlines that  
22          the matter needed to be dealt with correctly and the  
23          reference to the matter being published in the  
24          newspapers was mentioned, and you again outline that  
25          the *"injured party reported the matter to GSOC so that* 13:58  
26          *the matter would be re-investigated and the suspected*  
27          *offender may be exposed"*. Now if I can just ask you to  
28          clarify there, chief superintendent, do you think that  
29          reference was hinting at Sergeant McCabe being exposed

1 as somebody who interferes with children?

2 A. well, obviously --

3 380 Q. And leaving the potential there down the line?

4 A. Obviously the Guards were not going to re-investigate  
5 this matter. Ms. D had gone to GSOC and obviously I 13:58  
6 didn't know what approach they were going to take to  
7 the matter. And obviously any further investigations  
8 into these, into these matters, had the potential to  
9 expose Sergeant McCabe.

10 381 Q. Okay. 13:59

11 **CHAIRMAN:** That's the point, I suppose. Sorry, I beg  
12 your pardon, I was just thinking.

13 382 Q. **MS. LEADER:** And in relation to -- Superintendent  
14 McGinn refers to the meeting with Micheál Martin, and  
15 Assistant Commissioner Kenny was to make contact with 13:59  
16 Ken Ruane and you were to approach the HSE in order to  
17 establish what their intention/strategy was, is that  
18 correct?

19 A. That's correct, yes.

20 383 Q. So the matter was left live at that stage as far as 13:59  
21 Garda management were concerned and that was in July  
22 2014?

23 A. That's correct, yes.

24 384 Q. Now it turns out that you had no further dealings with  
25 the HSE, is that correct? You asked Inspector 13:59  
26 O'Connell to do some tasks on your behalf?

27 A. To find out what --

28 385 Q. Yes.

29 A. Yeah.

1 386 Q. And did anything come of those?  
2 A. Well, there was some confusion over an email but an  
3 email did eventually come, which said that Eileen Argue  
4 I think had been appointed as the social worker to deal  
5 with the case. But I hadn't seen that email. 14:00

6 387 Q. And did you in actual fact establish with the HSE what  
7 their intention/strategy was to be?  
8 A. No, in the end I wouldn't have. But obviously that was  
9 a matter for the HSE then to take whatever course of  
10 action they deemed necessary. 14:00

11 388 Q. But surely, chief superintendent, it was a matter for  
12 you to advise your superiors what the HSE intended on  
13 doing, arising out of that meeting, in July 2014.  
14 A. Well, I don't believe it was. I think it was a matter  
15 for the HSE if they wanted to take whatever action they 14:00  
16 wanted to take, then we're not there to advise the HSE  
17 on how to do it. We look after what we had to look  
18 after. As far as I was concerned we had concluded our  
19 inquiries into the erroneous referral and that's where  
20 it stood as far as I was concerned. 14:01

21 389 Q. Okay. Well, what I don't understand, chief  
22 superintendent, is: It appears to me, reading the  
23 minutes, that you were to liaise with the HSE to  
24 establish what their intention/strategy was and report  
25 back? 14:01  
26 A. Well --

27 390 Q. Yes.  
28 A. -- that may be so, I didn't report back. But I did  
29 have the email sent to establish what they were doing.

1           They said they had appointed Eileen Argue as the social  
2           worker to deal with the case. I wasn't aware of that.

3   391   Q.    But you didn't -- exactly --

4           A.    Yeah, absolutely.

5   392   Q.    -- you didn't know that. 14:01

6           A.    Yeah.

7   393   Q.    So you never established what the HSE  
8           strategy/intentions were in your own mind?

9           A.    That's correct, yes. And we had no further  
10          communication from the HSE in relation to it. 14:01

11   394   Q.    So you left one thread of what was to be done undone?

12          A.    Well, it wasn't a Garda matter --

13   395   Q.    Yes.

14          A.    -- as such. As far as I was concerned, in relation to  
15          this matter, my report in relation to the Garda 14:02  
16          inquiries into it concluded on the 3rd July when I  
17          submitted that report. And I did not report further in  
18          relation to what the HSE were going to do about it.

19   396   Q.    Yes. Well, we know that, chief superintendent, that  
20          you did not, but what I am saying to you is: You 14:02  
21          didn't do something which you were supposed to do on a  
22          reading of the minutes of this meeting?

23          A.    Well, I accept I didn't send a report --

24   397   Q.    Yes.

25          A.    -- back in relation to the matter. I accept that. 14:02

26   398   Q.    Yes. And you didn't actually know that Eileen Argue  
27          had been dealing with the matter in the HSE, because  
28          that was never communicated as far as you, isn't that  
29          -- concerned?



1 A. That's correct, yes.

2 399 Q. So the matter was left in abeyance as far as you were  
3 concerned with regard to what the HSE's intentions  
4 were?

5 A. That's correct, Judge. 14:03

6 400 Q. Okay. Do you now -- looking back on matters, would you  
7 have done things differently if you knew how things  
8 were going to turn out in relation to it?

9 A. Well, the only thing I would have done differently is I  
10 would have sent a report to say that Eileen Argue had 14:03  
11 been appointed as the HSE, the social worker in charge  
12 of the case from the HSE perspective.

13 401 Q. Okay. Do you think at any point you would have sat  
14 down with the HSE to look at how matters had gotten to  
15 where they had gotten? 14:03

16 A. Well, that's not something that I considered. We --  
17 the matters of 2007 had been investigated fully.

18 402 Q. Yes.

19 A. We had bottomed out how the error occurred in relation  
20 to the erroneous referral. And any other matters were 14:03  
21 a matter for the HSE in relation to if there were  
22 outstanding issues.

23 403 Q. Well, I find that difficult to understand, chief  
24 superintendent, in circumstances where it seemed to be  
25 a problem that the HSE had never been notified, as you 14:04  
26 thought they hadn't been, in 2006/2007. There were  
27 issues with regard to child protection raised at that  
28 meeting, or a further investigation also, and at a time  
29 when Sergeant McCabe had a very considerable media

1 profile and that you were satisfied to leave matters as  
2 they were, coming out of that meeting in July 2014, not  
3 checking up on matters with the HSE or carrying out  
4 duties that had been assigned to you?

5 A. Well, for me, I think it would have been inappropriate 14:04  
6 at that stage to be pursuing the matter in relation to  
7 something that had been investigated in 2007. And  
8 obviously Ms. D had gone to the HSE or gone to --

9 404 Q. Yes.

10 A. -- a counselling service, and obviously the HSE were 14:04  
11 managing that aspect of it. There were no other issues  
12 that I was aware of in relation to -- that needed to be  
13 dealt with.

14 405 Q. Okay. And I think we now know from the materials 14:05  
15 available to us, and this will be something for the  
16 assistant commissioner to deal with, that legal advice  
17 wouldn't appear to have been pursued in relation to the  
18 matter?

19 A. That is my understanding, yes.

20 406 Q. So the two things that came out of the meeting in July 14:05  
21 2014 weren't actually ever attended to, and one of them  
22 you're answerable for and the other is Assistant  
23 Commissioner Kenny?

24 A. Well, I except I communicated -- I had communication 14:05  
25 with the HSE in relation to it. I wasn't aware of what  
26 the outcome of that was, but as far as -- as I said,  
27 from my perspective in relation to these matters I had  
28 no further -- from a Garda perspective, we're finished  
29 3rd July when I wrote my report.

1 407 Q. Yes. You see, Chief Superintendent Sheridan, a  
2 suggestion could be made that this was done on purpose  
3 to keep the allegations alive in some way, that they  
4 weren't tidied up at that stage with the HSE, with  
5 Garda management, I don't know if you have anything to 14:06  
6 say in relation to that?

7 A. Absolutely not. Absolutely not. And indeed from my  
8 perspective, the fact that a referral had been made in  
9 2007, as I said, I don't think the HSE should have made  
10 any referral in 2014. They already had a referral and 14:06  
11 whatever actions had to follow from that in 2007 should  
12 have followed from 2007.

13 408 Q. Okay. And I think you retired from the Guards in 2015  
14 and had no further involvement --

15 A. That's correct. 14:06

16 409 Q. -- with this aspect of the matter?

17 A. That's correct.

18 410 Q. Okay. If you would answer any questions anybody else  
19 would have.

20 **CHAIRMAN:** It is eight minutes past, we have to take a 14:06  
21 break, if that is all right. We will take a break for  
22 half an hour, is that all right?

23

24 **THE HEARING THEN ADJOURNED FOR LUNCH**

25

26

27

28

29



1 416 Q. Can you put an approximate date on that?  
2 A. It probably is 2010/2011, maybe.

3 417 Q. Yes. So it's fair to say that you would have been  
4 aware that there was hostility towards him and you were  
5 dealing with it in your capacity as district officer, 14:44  
6 is that right?  
7 A. I was the divisional officer in Sligo-Leitrim at that  
8 time and I was aware obviously of that incident and  
9 Sergeant McCabe I think was off sick at that time.

10 418 Q. Yes. And is it fair to say that that hostility was not 14:44  
11 just confined to that one incident, that there were  
12 other matters of which he was complaining, such as  
13 abuse in the media -- in the social media and the rest  
14 from fellow Gardaí?  
15 A. Yeah, that would be correct, yes. 14:45

16 419 Q. I see. And that arose from what? was it from this  
17 allegation in the Ms. D case or was it from the  
18 complaints he had made that were the subject of the  
19 Byrne/McGinn report?  
20 A. Well, it's my understanding that it would be arising 14:45  
21 from the Byrne-McGinn, but I am open to correction on  
22 that because I wouldn't have detailed knowledge of that  
23 going back to then.

24 420 Q. In part of the social media commentary on him he was  
25 referred to as a rat, isn't that right? 14:45  
26 A. That's right, I recall an incident of that nature,  
27 yeah.

28 421 Q. I see. Now, when you visited him in Mountnugent, you  
29 visited him at his home, isn't that right?

1 A. That's correct, yes.

2 422 Q. And you knew that he lived in Mountnugent, isn't that  
3 right?

4 A. That's correct, yes.

5 423 Q. So coming to the referral that was made in 2013 by 14:45  
6 Tusla, are we agreed that that referral was made to  
7 Bailieboro in complete mistake?

8 A. Well, he would be in Cavan district, Mountnugent would  
9 be in Cavan district. And the referral of 2014 should  
10 have gone to Cavan, absolutely. 14:46

11 424 Q. Yes.

12 A. Yeah.

13 425 Q. Because the original investigation was conducted -- was  
14 directed by the area officer in Cavan, isn't that  
15 right? 14:46

16 A. That's correct, yes, yeah.

17 426 Q. And the personnel involved in the investigation were  
18 from the Cavan district, isn't that right?

19 A. Yeah, the initial -- well, I'm not sure where Sergeant  
20 Denise Flynn -- but Sergeant Jim Fraher would have been 14:46  
21 stationed in Cavan, yes.

22 427 Q. Yes. And Bailieboro was therefore the wrong place to  
23 send that notification?

24 A. That's correct, yes.

25 428 Q. And it follows, does it not, that Superintendent McGinn 14:46  
26 had no proper involvement in this matter at all?

27 A. That would be correct, but the referral did land on his  
28 desk. Other than that -- but it should have gone to  
29 Cavan.

1 429 Q. Yes. And am I right in, or wrong in, saying that it's  
2 mystifying that nobody seems to have queried why he was  
3 involved and remained involved in this matter?  
4 A. Well, I didn't query on that, I had no reason to query  
5 it. 14:47

6 430 Q. But we know from his evidence here yesterday and from  
7 the documentary record that almost as soon as he saw  
8 the Garda referral of the 2nd of May, which he received  
9 on the 7th, I think, of May, he wrote to you a  
10 recommendation that the original investigation should 14:47  
11 be reviewed?  
12 A. That's correct, yes.

13 431 Q. And I am suggesting to you that that was not merely  
14 something which was trigger-happy, but it was also  
15 something which was -- it was a matter in which he had 14:48  
16 no proper function?  
17 A. Well, I'm not in a position to refute that, Judge, one  
18 way or the other. The documentation arrived on his  
19 desk and he forwarded it on to me.

20 432 Q. Yes. And he made a statement saying that he -- and he 14:48  
21 has given evidence, that he gave it to the -- he gave a  
22 copy of the matter to Mr. D, the referral notice to  
23 Mr. D, in his capacity as sergeant in charge of the  
24 station. Do you think that was appropriate, in the  
25 circumstances? 14:48  
26 A. Well, in the normal course of events I'd say it wasn't  
27 appropriate, but I think in fairness to him he was  
28 trying to establish whether Ms. D had made the  
29 allegation or not.

1 433 Q. I see. So you think it was justified in this  
2 particular circumstance because he wanted to check out  
3 was that her allegation or was it -- or did it come  
4 from somewhere else?  
5 A. That's -- that's my view of why he did it. 14:49  
6 434 Q. Yes. And can you think of any reason why it wouldn't  
7 have gone to the HSE liaison officer to be filed with  
8 all the other Garda referrals?  
9 A. I can't, to be honest.  
10 435 Q. And as I understand your statement of evidence, the 14:49  
11 first you heard of this was an oral discussion of it  
12 with Superintendent McGinn shortly after he received  
13 the referral, is that right?  
14 A. That's correct, yes.  
15 436 Q. And did he discuss its content with you? 14:50  
16 A. No.  
17 437 Q. He didn't refer to it being a rape allegation at the  
18 time?  
19 A. He said he had the referral, and he was sending it on  
20 to me. 14:50  
21 438 Q. I see. And the sensitivity of it, of course, in May of  
22 2014, was fairly obvious, wasn't it?  
23 A. That's correct, yes.  
24 439 Q. And you awaited it and it was only when you saw it that  
25 you realised that there was a mistake in it, is that 14:50  
26 what you are saying?  
27 A. Well, what I'm -- that's when I realised, when I read  
28 it, it wasn't what was in the original file, the  
29 investigation file of the 2007 incident.



1 440 Q. And when did Superintendent McGinn tell you that he was  
2 aware that this 2nd May referral form contained a major  
3 mistake?  
4 A. Well, I have no recollection of him telling me that but  
5 he did communicate to me that Mr. D had informed him 14:51  
6 that Ms. D did not -- had not made the allegation.  
7 441 Q. Yes. And that was his information?  
8 A. That's --  
9 442 Q. And of course there were two possibilities: Either she  
10 had made this allegation, which would have been 14:51  
11 completely at variance with what she had done before,  
12 and would amount to ramping up the allegation, that is  
13 one possibility; and the other was that a catastrophic  
14 mistake had been made innocently in which, in which  
15 this allegation had been misattributed to her, isn't 14:51  
16 that right?  
17 A. That's correct, yes.  
18 443 Q. And just dealing with the first scenario, you'd want to  
19 be -- I mean, it would be a very serious matter to  
20 make, to alter an allegation to include a rape account, 14:51  
21 isn't that right?  
22 A. Absolutely, yeah.  
23 444 Q. It would be a criminal offence, in fact, to do it,  
24 isn't that right?  
25 A. Absolutely. 14:52  
26 445 Q. So when you received it by post, you must have been of  
27 the view that either she had changed her allegation or,  
28 alternatively, that there had been some disastrous  
29 mistake, is that right?

1 A. That's correct, yes.

2 446 Q. And which opinion did you form immediately you saw it?

3 A. Well, I have to say I thought it would be very unusual

4 that she would have changed it.

5 447 Q. Yes. So you thought it was more probable that some 14:52

6 horrific mistake had been made?

7 A. Well, that's -- that was my impression, that something

8 untoward had happened in it.

9 448 Q. Well, now, can I ask you then in that context, can I 14:52

10 ask you, when you wrote on the 24th May, and this is at

11 document 1723, to your superiors -- to Commissioner

12 Kenny, you wrote saying:

13

14 *"Reference above and further to previous correspondence*

15 *of this office dated 14th inst."* 14:53

16

17 Sorry, on 14th of May, it's page 1722, I am looking at

18 the wrong version. On 14th you said:

19

20 *"I refer to the above --"* 14:53

21

22 And that is a Tusla referral Ms. D.

23

24 *"-- and attach correspondence from the district office*

25 *Bailieboro dated 8th May 2014."* 14:53

26

27 The next sentence reads:

28

29 *"The allegations contained in the attached referral*

1           *have been the subject of a previous Garda investigation*  
2           *which resulted in the Director of Public Prosecutions*  
3           *directing no prosecution against the alleged offender,*  
4           *Mr. McCabe."*

5           A.    That's correct. 14:54

6   449   Q.    *"It's my understanding that Ms. D has made a complaint*  
7           *based on the allegations set out in the attached*  
8           *referral form to the following parties: Mr. Micheál*  
9           *Martin, and that he has subsequently referred the*  
10          *matter to An Taoiseach, Enda Kenny, and An Garda* 14:54  
11          *Síochána Ombudsman Commission."*

12  
13          And you say:

14  
15          *"In the circumstances I recommend that we await further* 14:54  
16          *communication from the parties listed above prior to*  
17          *commencing a review of this investigation. A full copy*  
18          *of the Garda investigation file is available at this*  
19          *office."*

20 14:54  
21          Now, you had by this stage received a recommendation  
22          from Superintendent McGinn that there should be a  
23          review of the investigation, isn't that right?

24          A.    That's correct, yes.

25   450   Q.    And in this letter, you are saying *"we should await* 14:55  
26           *further communication from the parties listed above*  
27           *prior to commencing a review of this investigation."*  
28          who had you in mind might be in touch with you?

29          A.    Well, either somebody from -- depending on what arose

1 out of either the meeting with Micheál Martin or from  
2 GSOC.

3 451 Q. I see. But in the meantime, Superintendent Kenny was  
4 being given that letter, which is document 1722, and  
5 the referral form of the 2nd May 2014, isn't that  
6 right? That is what you were sending? 14:55

7 A. That's correct, yes.

8 452 Q. And I have to suggest to you, chief superintendent,  
9 that the ordinary and natural meaning of that letter  
10 was only to one effect, and that was: That the 14:55  
11 allegations contained in the attached referral, which  
12 included allegations of digital rape, had been the  
13 subject of a previous Garda investigation and that the  
14 DPP had directed no prosecution.

15 A. Well, that's not what it was meant to refer, but I 14:56  
16 accept now I should have clarified that matter.

17 453 Q. Well, if you knew nothing about it and you received  
18 that letter and the Garda referral form, was there --  
19 was the only meaning of it that an allegation of rape  
20 had been investigated by the Guards and that the DPP 14:56  
21 had directed no prosecution?

22 A. I can see how that meaning would be taken out of it,  
23 yes.

24 454 Q. Well, sorry, could any other meaning be taken out of  
25 it? 14:56

26 A. Probably not in the circumstances.

27 455 Q. If you had a mind like a blank sheet that was the only  
28 meaning -- the only inference you could draw from the  
29 letter, isn't that right?

1 A. That's correct, yeah.

2 456 Q. And yet, on that day, you knew, when you sent that,  
3 that these allegations were false, the rape allegation  
4 was false?

5 A. Well, this wasn't something that I did purposely. 14:57

6 457 Q. I know. I am just asking you, you knew it was false?

7 A. I knew that, yes.

8 458 Q. And your letter would have left the recipient under the  
9 exact opposite impression, that this allegation had  
10 been investigated, that the file contained -- the 14:57  
11 allegations had been the subject of investigation,  
12 isn't that right, and that a full copy of that file was  
13 available in your office?

14 A. That's correct, yes.

15 459 Q. So, Commissioner Kenny could only have drawn the 14:57  
16 inference at that point that a rape offence had been  
17 investigated and that Sergeant McCabe had been  
18 exonerated -- or sorry, that the DPP had directed no  
19 prosecution, isn't that right?

20 A. I accept that, and I accept that I should have 14:58  
21 clarified that matter.

22 460 Q. Would you agree with me that that was a matter of  
23 utmost gravity to somebody reading your letter; that  
24 this man who was causing so much public furore had been  
25 acquitted -- or sorry, had been the subject of a full 14:58  
26 Garda investigation for a rape offence and that the DPP  
27 had directed no prosecution?

28 A. I accept that it certainly should have been made clear  
29 that that was not the case, and I accept that what this

1 document says might -- it might be interpreted as that,  
2 yes.

3 461 Q. It couldn't be interpreted any other way, could it?  
4 A. I accept that, Judge.

5 462 Q. Well, on the 24th of May, you sent the same 14:58  
6 commissioner a letter, which is at 1723, saying:  
7  
8 *"The previous referral contained incorrect information  
9 and should therefore be withdrawn and replaced with the  
10 attached."* 14:59  
11  
12 And:  
13  
14 *"This is a referral made by Tusla relating to an  
15 incident which was reported to and investigated by An 14:59  
16 Garda Síochána in 2006/07. The DPP directed that there  
17 should not be a prosecution in the case. The attached  
18 referral does not disclose any new information/evidence  
19 in relation to the matters and, therefore, at this time  
20 does not require any further action by An Garda 14:59  
21 Síochána."*  
22  
23 Now, at that point what you were sending him was Laura  
24 Brophy's revised referral form, is that right?  
25 A. That's correct, yes. 15:00  
26 463 Q. Was it the revised referral form or her letter?  
27 A. Both.  
28 464 Q. Both. Now, you then sought from Fiona Ward information  
29 in order to progress your request which had been made

1 to you:  
2  
3 *"Does the referral in question refer to a previous*  
4 *disclosure which was investigated by An Garda Síochána*  
5 *in 2006 that subsequently resulted in a submission of a* 15:00  
6 *file to the DPP or does it refer to a new further*  
7 *disclosure which requires investigation by An Garda*  
8 *Síochána?"*  
9  
10 And you sent that message on the 9th of June. 15:01  
11 A. That's correct, yes.  
12 465 Q. So, were you in doubt at this point?  
13 A. No, I wasn't in doubt, but I was looking for  
14 confirmation.  
15 466 Q. But you were asking her to state whether it's the same 15:01  
16 story from 2006/2007 or a new, or amplified material,  
17 isn't that right?  
18 A. Well, I am looking for clarification. I had no doubt  
19 that the incident of 2006/7 had been investigated.  
20 467 Q. But you knew at the time, because you'd told -- 15:01  
21 A. Yes, I knew at the time, yeah.  
22 468 Q. -- you had told your superiors that you knew the answer  
23 to that question?  
24 A. That's correct, yes.  
25 469 Q. But nonetheless, you asked her to -- you put that query 15:01  
26 to her, isn't that right?  
27 A. That's correct, yes.  
28 470 Q. And not merely did you know when you received the  
29 amended document from Ms. Brophy but you knew before

1           that, that a catastrophic error had occurred in some  
2           manner?

3           A.    That's correct, yes.

4   471   Q.    Now, why did you not inform the Commissioner of the  
5           fact that Superintendent McGinn had been inquiring into 15:02  
6           the matter and that you yourself were inquiring into  
7           the matter and you were satisfied that the original  
8           complaint could be wholly discounted, the original  
9           referral?

10          A.    Well, in my report of 22nd of May I had said that 15:03  
11          the -- that it requires no further action from An Garda  
12          Síochána.

13   472   Q.    I see. And in the intervening period, there is --  
14          there is an exchange of -- or sorry, you are made aware  
15          that superintendent -- Superintendent McGinn had 15:03  
16          interacted with the HSE, isn't that right?

17          A.    That's correct, yes.

18   473   Q.    And then you are summoned to a meeting, which is  
19          cancelled, in Sligo, and it eventually takes place in  
20          the station that sergeant McCabe was working in, in 15:03  
21          Mullingar on 16th of July 2014?

22          A.    That's correct, yes.

23   474   Q.    And before that meeting took place, you had decided, in  
24          response to the letter you'd received on 10th July from  
25          the Commissioner, that you would make out a full report 15:04  
26          on the matter so that he would be apprised in writing  
27          of the situation before --

28          A.    Well, I carried out further inquiries in my efforts to  
29          establish how the error occurred --



1 475 Q. Yes.

2 A. -- and I got the final reply to that on 1st July 2014,  
3 and I did my report out two days later on 3rd July, and  
4 I forwarded it on to him.

5 476 Q. I see. Sorry, it was 10th of June I think you were 15:04  
6 written to, was the last letter you had received from  
7 him.

8 A. That could be right, yeah.

9 477 Q. And you were the district officer for Cavan-Monaghan at  
10 this stage, is that right? 15:05

11 A. Divisional officer.

12 478 Q. Regional officer?

13 A. Divisional officer.

14 479 Q. Divisional officer. And in the same building as you is  
15 Superintendent Noel Cunningham? 15:05

16 A. That's correct.

17 480 Q. And you knew from looking at the Garda file that he was  
18 the investigating officer?

19 A. That's correct, yes.

20 481 Q. Was there some reason why you wouldn't, when you were 15:05  
21 compiling that report go and check your facts with him?

22 A. No, there was no reason. He wasn't involved in any of  
23 the original inquiries I had conducted and I wasn't  
24 involving him in what I was at.

25 482 Q. Sorry, let's be clear about it. You were preparing a 15:05  
26 comprehensive report which had extracts from the  
27 original prosecution file?

28 A. That's correct, yes.

29 483 Q. And I'm asking you was there some reason why you

1 wouldn't go to Superintendent Cunningham and ask him to  
2 assist you with any issues which you had in respect of  
3 the original prosecution and whether an error had  
4 happened here?

5 A. There was no reason, no. But I didn't do it. My sole 15:06  
6 motivation in relation to the referral I had got on 2nd  
7 of -- that was dated 2nd of May, was to try to  
8 establish how the error occurred.

9 484 Q. But in the course of the report that you put together, 15:06  
10 you completely misconstrued what had happened in 2007  
11 because you, for some reason, came to the conclusion  
12 that Tusla had never been informed of the matter when  
13 the Guards carried out their original criminal  
14 investigation?

15 A. That's correct, yes. 15:07

16 485 Q. And on what basis did you draw that conclusion?

17 A. Because I was unable to -- when I was doing the  
18 discovery for Mr. Guerin, I could not find any  
19 referral.

20 486 Q. And did you speak to Sergeant Fraher? 15:07

21 A. Well, I didn't speak to him myself but obviously I had  
22 other people working to me in relation to, we send out  
23 queries in relation to, and I don't know whether one  
24 went to Cavan or not but I didn't get the referral.

25 487 Q. Well, as we know, he had no difficulty in unearthing 15:07  
26 the notification of -- which was received in January  
27 2007 and handing it over to GSOC when he was asked for  
28 a statement, isn't that right?

29 A. So I believe, yes.

1 488 Q. And you didn't -- you came to the conclusion that no  
2 such documentation existed and you never checked out  
3 with Sergeant Fraher or with Noel Cunningham, both of  
4 whom would have told you that that was a mistake?  
5 A. I didn't check with either of the two, no. 15:08  
6 489 Q. And when we come to the meeting which takes place in  
7 July, you were asked by Ms. Leader did it not strike  
8 you as strange that -- or words to the effect, did it  
9 not strike you as strange that Noel Cunningham was not  
10 invited along, especially since he was the man who knew 15:08  
11 most about the file. Did it not strike you as strange  
12 that Commissioner Kenny and yourself would not have  
13 been present at a meeting?  
14 A. Well, he wasn't involved in any of the inquiries that  
15 had been conducted in the 2014 inquiries around the 15:09  
16 erroneous referral.  
17 490 Q. But he was involved. If we go to page 1805, which is  
18 your report of the 3rd of July, he was involved in all  
19 of the matter that is set out on the first page and  
20 most of the matter set out on the second page? 15:09  
21 A. That is in relation to the 2007 investigation, yes.  
22 491 Q. Yes. And still you were content to say:  
23 *"The incident was not recorded at the time it was*  
24 *reported and it has not been recorded on PULSE to date*  
25 *and also that it appears that no referral was made to 15:10*  
26 *the Health Service Executive at the time of its report*  
27 *to the Gardaí."*  
28 A. That was my understanding at the time, but obviously I  
29 was wrong.

1 492 Q. You see, the strange about that is, that that would  
2 have been, by necessary inference, a heavy criticism of  
3 Superintendent Cunningham and Sergeant Fraher, that  
4 they conducted an inquiry and for some reason decided  
5 not to let the HSE know about it, contrary to the 15:10  
6 established practice?

7 A. Well, it may be a criticism, I don't think it -- it  
8 would be up to whoever it is reported to, to make the  
9 referral. I think that's what the policy states.

10 493 Q. But the point, chief superintendent, is this: This was 15:10  
11 known -- to report, as you did, that it was not  
12 referred, was, by implication, to say that this was  
13 unusually kept within An Garda Síochána at the time,  
14 when that was not the case, isn't that right?

15 A. Well, that is not what -- that is not what was implied, 15:11  
16 my understanding was it hadn't been referred, that  
17 was -- there were no other motives for me saying that.  
18 That was my understanding.

19 494 Q. Well, you knew it was mandatory to report these kind of  
20 allegations, to the HSE? 15:11

21 A. Well, what I would say is, if it had been on PULSE then  
22 we would have found it on PULSE, and the referral  
23 should be on PULSE as well.

24 495 Q. No, I am talking about the HSE. You knew it was  
25 mandatory to do that? 15:11

26 A. Yes.

27 496 Q. Yes.

28 A. But I did not find --

29 497 Q. A phone call to Sergeant Fraher would have found out

1           that he had decided not to put it on PULSE due to  
2           sensitivity matters, isn't that right?

3           A.    So I understand, but it was -- it was not my intention  
4           to go inquiring into the 2007 investigation.

5   498   Q.    No, but when you had this meeting in July, you knew           15:12  
6           that GSOC were commencing an investigation?

7           A.    Yes.

8   499   Q.    And you were leading the area commissioner to believe  
9           that, unusually, and against the mandatory requirements  
10          in such cases, this case had not been reported to the           15:12  
11          HSE at the time?

12          A.    That was my understanding at the time, genuinely held  
13          belief.

14   500   Q.    And would you mind telling me now, how you developed  
15          that belief?   15:12

16          A.    well, I had done inquiries in relation to the  
17          discovery, I couldn't -- in relation to Guerin and I  
18          could not find it.

19   501   Q.    well --

20          A.    I didn't ask Sergeant Fraher, I accept that.           15:12

21   502   Q.    what kind of inquiries could you have done which didn't  
22          involve asking Superintendent Cunningham that question  
23          or Sergeant Fraher that question?

24          A.    I didn't ask them, that's the reality.

25   503   Q.    well who did you inquire of?                                   15:13

26          A.    I would have sent documentation to a number of offices  
27          in relation to it, looking for disclosure of any  
28          documents they might hold in relation to it. I don't  
29          know whether it went to Cavan, it may not have.

1 504 Q. You see, if you had lifted the phone to Superintendent  
2 Cunningham he would have said not only did we  
3 investigate -- did we notify them of this, I actually  
4 investigated all their files and look at all their  
5 psychiatric reports and interviews. 15:13

6 A. I didn't make that phone call.

7 505 Q. I see. But the consequence of you not making that  
8 phone call was that the meeting on the 16th July  
9 proceeded on an entirely false basis, that you had a  
10 very embarrassing situation on your hand, that this 15:13  
11 allegation had been dealt with in an unusual manner?  
12 A. Well, obviously I said at the meeting that I didn't  
13 believe a referral had been made and that's the view  
14 that I held at the time. I know now that a referral  
15 had been made. 15:14

16 506 Q. Can we go to page 1835, which is the note of the  
17 minute -- or the note of the meeting made by sergeant  
18 Duffy. And halfway down the third paragraph, we'll  
19 see -- sorry, the third paragraph says:  
20 15:14

21 *"Assistant Commissioner Kenny outlined that no*  
22 *correspondence will be destroyed and nothing will be*  
23 *retracted. He outlined that he accepted the HSE made a*  
24 *mistake and that they have amended it. He outlined*  
25 *that he was aware that GSOC was now carrying out an* 15:15  
26 *investigation into the original investigation file and*  
27 *how the matter was investigated."*  
28  
29 Now, I stop there to say, the man who could assist him

1 in relation to any of these matters was in the same  
2 building as you worked from, Noel Cunningham. He was  
3 the man who could assist to the greatest possible  
4 extent with how the original file was -- how the  
5 original investigation was carried out and tell you 15:15  
6 about the original file and all the rest of it, isn't  
7 that right

8 A. Well, maybe he could but it was not our -- the meeting  
9 was the three people that were involved in what  
10 happened in 2014. 15:15

11 507 Q. Yes. But I mean, but the point is that you were facing  
12 down the barrel of a GSOC investigation and, for some  
13 reason, the person who knew most about the issue wasn't  
14 invited to the meeting?

15 A. Well, he wasn't at the meeting. 15:16

16 508 Q. Could I bring you to the next -- there are a few  
17 issues.

18  
19 *"Chief superintendent Rooney, Cavan-Monaghan, appointed*  
20 *Superintendent Cunningham to investigate the matter. 15:16*  
21 *Superintendent Cunningham informed Chief Superintendent*  
22 *Rooney that he was of the view that the matter should*  
23 *not be investigated by members -- or should be*  
24 *investigated by members outside the Cavan-Monaghan*  
25 *division. However, Chief Superintendent Rooney 15:16*  
26 *directed Superintendent Cunningham to complete the*  
27 *investigation."*

28  
29 Now let's stop there. Did you know that before you





1 515 Q. Can you think of any other way that he could have come  
2 to that conclusion?

3 A. I don't -- I don't know, Chairman.

4 516 Q. Did he tell you how he had arrived --

5 A. No, he didn't. 15:18

6 517 Q. -- at that conclusion?

7 A. No, he didn't.

8 518 Q. Did he say 'Noel Cunningham tells me he was very  
9 reluctant to act in this' or did he say, did he just  
10 announce it *ex cathedra* as a fact? 15:18

11 A. I have no recollection of anything like that, Chairman.

12 519 Q. Because it looked like a point of vulnerability in  
13 respect of any GSOC investigation, isn't that right?

14 A. Well, I'd looked at the file, I certainly didn't see  
15 anything wrong with it. 15:19

16 **CHAIRMAN:** The two points of complaint to GSOC were,  
17 number one, it wasn't on PULSE and, number two, that  
18 there should have been independent investigating.

19 **MR. MCDOWELL:** From outside the area, yes.

20 **CHAIRMAN:** There wasn't any complaint to GSOC about it 15:19  
21 not being referred to HSE, because I presume --

22 **MR. MCDOWELL:** Sorry?

23 **CHAIRMAN:** There wasn't any point of complaint from  
24 Ms. D to GSOC that it hadn't been referred in 2006/7 to  
25 the HSE. I suppose she couldn't make the complaint 15:19  
26 because she new perfectly well --

27 **MR. MCDOWELL:** That hadn't specifically been the  
28 subject of complaint.

29 **CHAIRMAN:** No.

1 520 Q. **MR. MCDOWELL:** But it was the subject of newspaper  
2 coverage and criticism that it had been investigated  
3 within the district, isn't that right?  
4 A. To be honest, I can't recall whether it was in the  
5 newspapers or not. 15:19  
6 521 Q. And you heard Superintendent McGinn say it was a  
7 current criticism within Bailieboro that --  
8 A. I heard him saying that yesterday but I wasn't aware of  
9 it.  
10 522 Q. You never heard of that suggestion? 15:20  
11 A. Not at this time, I didn't, no.  
12 523 Q. So let's be clear about this. When you went to that  
13 meeting in July, this was the first time that the issue  
14 of Noel Cunningham being the investigating officer  
15 causing a problem had been discussed in your presence, 15:20  
16 is that right?  
17 A. I had no knowledge of it, I have to say.  
18 524 Q. But before this, had it ever occurred to you that the  
19 fact that it was investigated by an inspector from the  
20 division, was a problem in relation to this 15:20  
21 investigation?  
22 A. Well, I wasn't aware it was a problem. If I was making  
23 the appointment I wouldn't have appointed somebody from  
24 within the division to do it. If I was making the  
25 appointment. 15:20  
26 525 Q. Yes. But I mean, were you aware going into that  
27 meeting that there was an issue in relation to that?  
28 A. No, I wasn't.  
29 526 Q. But the assistant commissioner was aware?

1 A. I can't speak for the assistant commissioner.

2 527 Q. And there were three of you there and he had elicited,  
3 apparently, from Noel Cunningham that not merely had he  
4 carried out the investigation, but he had attempted to  
5 be relieved of the obligation on the basis that he knew 15:21  
6 the parties involved.

7 A. I was not aware of that.

8 528 Q. I see. I mean, are we agreed that this didn't come  
9 from sergeant Duffy, it didn't come --

10 A. Absolutely. 15:21

11 529 Q. It didn't come from Superintendent McGinn --

12 A. Yes.

13 530 Q. -- and it didn't come from you?

14 A. That's correct.

15 531 Q. So it did come from the commissioner, is that right? 15:21

16 A. Yeah.

17 532 Q. Now, what did you think was the purpose of this  
18 meeting?

19 A. Well, it was, what I would say was a -- whether the  
20 assistant commissioner wanted an opportunity to have a 15:22  
21 look and to hear a verbal account of what the issues  
22 were relating to 2014.

23 533 Q. Well, you are quoted as saying words to the effect, on  
24 page 2 of the document, that "*the referral does state*  
25 *that the matter was investigated and that there was no* 15:22  
26 *prosecution*", and you raised the issue that "*If An*  
27 *Garda Síochána meets with the HSE would social services*  
28 *and the suspect's family --*" And okay, the word suspect  
29 may not have been used by you, but Sergeant McCabe's

1 family is what we are talking about, isn't that right?

2 A. Absolutely, yeah.

3 534 Q. "-- need to be informed as he has children."

4 A. Well, it was a discussion around all of these issues  
5 that emanate from -- it was an open meeting where we 15:23  
6 talked about many things. There was some of them where  
7 there were questions asked or there might be comments  
8 made or whatever, but it wasn't a meeting where there  
9 was a number of questions and there was answers to  
10 them. It was a discussion, as such, around the whole 15:23  
11 matter.

12 535 Q. Yes.

13 A. And --

14 536 Q. And the Commissioner said that "*safety issues don't*  
15 *appear to be on the HSE's radar or agenda*", did he 15:23  
16 amplify on why he thought that?

17 A. Not that I can recall. But again it was an open  
18 conversation that we had amongst the three of us and --

19 537 Q. But if they didn't know about it until 2014, which was  
20 what you were assuming -- wasn't that right? 15:23

21 A. That's correct, yes.

22 538 Q. -- how could you come to a judgement that safety issues  
23 weren't on their agenda?

24 A. Well, like, we had a discussion -- it wasn't, as I  
25 said, an exact scientific meeting. It was a discussion 15:24  
26 between the three of us, in which a whole --

27 539 Q. But it was a highly important meeting, wasn't it?

28 A. Well, as far as I was concerned, when I had done my  
29 report on 3rd July, that was me finished with the

1 matter. I had closed -- I had got to the bottom of how  
2 the referral had come to happen and I had reported on  
3 it.

4 540 Q. But this wasn't a casual chat, the sergeant was brought  
5 along to take a note, isn't that right? 15:24

6 A. Yes, the sergeant was there to take a note.

7 541 Q. And Superintendent McGinn was -- sorry, you are  
8 recorded as saying that "*if there are safety issues An*  
9 *Garda Síochána didn't do anything for the last six or*  
10 *seven years*", could you have said something like that? 15:24

11 A. Yeah, absolutely. If I was under the impression that  
12 no referral had been made, then I would have. And  
13 obviously I know now that there was a referral, a  
14 meeting did take place, but it would appear there were  
15 no guards present at it, back in 2007. 15:25

16 542 Q. And the implication being the Guards saw no welfare or  
17 safety issue at the time, and you are saying we have  
18 done nothing for six or seven years about it?

19 A. You know, this, again, was not -- it was a discussion  
20 we were having and it wasn't a meeting where we were 15:25  
21 focusing in on one particular issue or whatever. It  
22 was a discussion around everything that had taken place  
23 and what issues are and what issues arise and these  
24 type of things in a general type way a lot of the time.

25 543 Q. And Superintendent McGinn is recorded as throwing in 15:25  
26 the idea that Sergeant McCabe has access to kids in  
27 relation to his jobs and asking is there a risk, did  
28 that surprise you as --

29 A. Yeah. Well again, all of these things, it was a

1 meeting where all things were thrown out into the open  
2 and a discussion was had around them in a general type  
3 way, and in that context that some of these things were  
4 said.

5 544 Q. But was the issue of Sergeant McCabe being a potential 15:26  
6 risk to children up for discussion there?

7 A. Absolutely not.

8 545 Q. Well, then why were you all making these points?  
9 A. Well, it was -- like, it was a general discussion  
10 around all of these things and the issues that arise 15:26  
11 from referrals and similar type incidents and whatever  
12 else.

13 546 Q. And Superintendent Sheridan is then recorded as saying  
14 that *"he agreed with the commissioner that legal advice*  
15 *would be necessary and that the big issue is the* 15:27  
16 *referral not being completed at the time of the alleged*  
17 *incident and GSOC might request that the matter would*  
18 *be reinvestigated."*

19 A. Again, these were issues that were -- we discussed and  
20 we talked about and people offer their opinion on them. 15:27

21 547 Q. But let's be clear: what you actually thought might  
22 happen is, that as a result of there being no referral  
23 to the HSE back in 2007, that GSOC might direct that  
24 the original allegation should be reinvestigated?

25 A. Well, to be honest, from looking at the file that I had 15:27  
26 looked at, the investigation file, I couldn't see how  
27 anybody would want to reinvestigate it. That was  
28 always my line in relation to it and that's still my  
29 view on it.

1 548 Q. And he said:

2

3

4

5

*"He also outlined that he feels the bigger issue is that no referral was made and we need to get advice on this matter."*

15:28

6

7

And then the commissioner is recorded as saying:

8

9

10

*"He raised the issue of the possibility of the need to liaise with the injured party."*

15:28

11

12

I take it, that is Ms. D, is it?

13

A. She would be the injured party.

14 549 Q.

She is being referred to as the injured party?

15

A. Well, again, like, it wasn't a case where it was -- as

15:28

16

I have said, it was a conversation that took place, I

17

am sure you have had them yourself over the years in --

18

and we were three adults in there discussing the whole

19

matters that arise and whatever, and, you know,

20

sometimes in police language terminology is used that

15:28

21

is not appropriate in the circumstances. But old

22

habits die hard.

23 550 Q.

*"-- to establish if the referral is the same as her complaint in 2006/2007."* You told him it was?

24

25

A. Absolutely, yes.

15:29

26 551 Q.

So why was he raising the issue of going back to her to check that out?

27

28

A. Again, I don't know -- I presume he was just raising

29

the issue to assure himself that -- and to have the

1 conversation around it.

2 552 Q. And you then said it is the same as her statement made  
3 in 2006/2007 and the referral states that a file was  
4 completed.

5 A. But everything that was said at the meeting is not in 15:29  
6 these notes.

7 553 Q. And you are recorded as saying, suggesting that:  
8  
9 *"The people present should liaise with the HSE to  
10 establish what their intentions are regarding this  
11 referral."* 15:29  
12

13 Do you think you said that?

14 A. Obviously there is a strategy there in relation to  
15 referrals and whatever, and that's in that context. 15:29

16 554 Q. And you were here for Superintendent McGinn's evidence  
17 yesterday about -- where he raised the question that  
18 Sergeant McCabe hadn't been arrested at the time?

19 A. Well, there was never a possibility that that would  
20 happen. 15:30

21 555 Q. But he linked that to the fact that the matter was  
22 investigated by members with the -- within the  
23 Cavan-Monaghan division.

24 A. As I say, I look at the file at the time, there was  
25 nothing wrong with the investigation and I was 15:30  
26 completely satisfied in relation to that. As I said,  
27 if I was appointing somebody to investigate it, I think  
28 in fairness to everybody, I would have appointed  
29 somebody from outside or asked that somebody from



1 outside of the division be appointed to investigate it.

2 556 Q. well, two tasks were set at the meeting: One for you  
3 and one for the commissioner, isn't that right?

4 A. That's correct, yes.

5 557 Q. He was to get legal advice? 15:31

6 A. That's correct, yes.

7 558 Q. which we understand he never attempted to do?

8 A. That's correct, yes.

9 559 Q. And the second is that you were to liaise with the HSE  
10 to see what their intentions were? 15:31

11 A. That's correct, yeah.

12 560 Q. And am I right in thinking that your liaison with the  
13 HSE was to contact the counselling service but not the  
14 HSE itself?

15 A. An email was sent looking to see what their strategy or 15:31  
16 what their intentions were.

17 561 Q. Yeah. But I mean we know that Inspector O'Connell made  
18 contact with the counselling service?

19 A. That's correct, yes.

20 562 Q. But they were not child welfare people, isn't that 15:31  
21 right?

22 A. That's correct, to an extent.

23 563 Q. So your task, which was to find out what did the HSE  
24 propose to do, seems to have run into a cul-de-sac  
25 immediately. You never in fact asked the HSE were they 15:32  
26 progressing a child welfare/risk inquiry of any kind?

27 A. well, it wasn't bottomed out but it was a matter then  
28 for the HSE.

29 564 Q. well, it wasn't a matter just of it not bottoming out,



1 570 Q. Now, I think you also said:  
2  
3 *"Chief Superintendent Sheridan outlined that the*  
4 *injured party reported the matter to GSOC so that the*  
5 *matter would be reinvestigated and that Sergeant McCabe* 15:34  
6 *we'll say may be exposed."*  
7  
8 Is that right?  
9 A. Well, I don't know what context I said that, I  
10 obviously said it. 15:34  
11 571 Q. It looks as if you were talking about her motivation?  
12 A. Well, obviously I was talking that the Guards were not  
13 going to reinvestigate it, so that she went to GSOC in  
14 the hope that they may do and the possibility about all  
15 of that was they would expose Sergeant McCabe. 15:34  
16 572 Q. Yes. And that's what you considered was a likely  
17 motive on her part?  
18 A. Well, it was something that could happen arising out of  
19 an allegation she would make, if it was -- if somebody  
20 was to reinvestigate it. 15:34  
21 573 Q. Tell me, did you have any access to the -- to the media  
22 at the time, to Mr. Williams' articles indicating what  
23 was happening?  
24 A. Other than what was in the paper and to be honest, I  
25 don't even recall the article. 15:34  
26 574 Q. You had, as divisional officer, been the person  
27 responsible for a disciplinary inquiry in its latter  
28 stages against Sergeant McCabe in respect of the loss  
29 of a computer by An Garda Síochána, is that right?

1 A. Well, when I came into the division, that disciplinary  
2 appointment had already been made --

3 575 Q. Yes.

4 A. -- and obviously I made a reappointment, and these were  
5 matters that were the subject of the O'Higgins 15:35  
6 Commission.

7 576 Q. Yes. In the end, it was in July 2013 that a decision  
8 was made to drop the charge against, the disciplinary  
9 process against Sergeant McCabe, isn't that right?

10 A. I will take -- if that is what you say, I will take 15:35  
11 that, yes.

12 577 Q. And I think that you were aware that his lawyers were  
13 in correspondence with An Garda Síochána about this  
14 inquiry, isn't that right?

15 A. Yeah, I would have been, but off the top of my head I 15:36  
16 can't recall what it was or --

17 578 Q. And you know now, don't you, that it emerged in the  
18 course of that inquiry that falsified documentation was  
19 used to try and pin Sergeant McCabe with responsibility  
20 for the computer, falsified statement, falsified 15:36  
21 exhibits chart?

22 A. Well, I am not sure what the findings of the O'Higgins  
23 Commission were in relation to that, to be honest, I  
24 can't call --

25 579 Q. Surely you do know. 15:36

26 A. I don't, to be honest. I can't recall.

27 580 Q. Surely you do know that your own investigating -- or  
28 the person who was carrying out the inquiry, found that  
29 a statement had been altered to implicate Sergeant

1 McCabe?

2 A. I am aware there is an issue over a statement.

3 581 Q. Yes.

4 A. I am not -- it's not my recollection that there was any  
5 proof that things were altered. 15:37

6 582 Q. And you are aware, I think, that an exhibits chart  
7 which purported to show Sergeant McCabe in possession  
8 of the computer, was found to have been falsified as  
9 well in the O'Higgins Commission, isn't that right?

10 A. I am aware there was, I think, two charts. 15:37

11 583 Q. One version which showed him as the man who had  
12 possession of --

13 A. Yeah, I accept that, I accept that there were.

14 584 Q. And you were the divisional officer at the time with  
15 responsibility for this matter, for this investigation? 15:37

16 A. Well, the investigation had started before I came in  
17 there, but yes, when it terminated I was the divisional  
18 officer.

19 585 Q. And when this falsified documentation came to light,  
20 did you take any steps to investigate or discipline the 15:38  
21 persons who had falsified that documentation?

22 A. No, I didn't. And again these were matters that were  
23 discussed at the O'Higgins Commission.

24 586 Q. Yes. But I am just asking you now, Sergeant McCabe was  
25 being accused in the wrong of the loss of a computer in 15:38  
26 a highly sensitive child abuse case, isn't that right?

27 A. That is so, yeah.

28 587 Q. Yes.

29 A. That is so.

1 588 Q. And it transpired that documentary material was used to  
2 implicate him with responsibility for the custody of  
3 the computer, which was altered, isn't that right?

4 A. I know there was an issue over it, I can't recall  
5 clearly.

15:38

6 589 Q. I have got to suggest to you --

7 **MR. O'HIGGINS:** I wonder, Chairman, could I -- I mean  
8 this is --

9 **MR. McDOWELL:** No, could I just finish, please?

10 **MR. O'HIGGINS:** Well, could I just -- if I made my  
11 point first of all.

15:38

12 **CHAIRMAN:** No, we have to listen to counsel,  
13 Mr. McDowell. It may be reasonable or not, let's hear.

14 **MR. O'HIGGINS:** The point I am simply asking to note,  
15 Chairman: I had understood the matters pertaining to  
16 the O'Higgins Commission in any substantive way were  
17 matters to be held to another module, not for this  
18 module. That is my understanding of matters.

15:39

19 **MR. McDOWELL:** Well, the witness will be coming back,  
20 presumably.

15:39

21 **CHAIRMAN:** Maybe not.

22 **MR. McDOWELL:** Maybe not.

23 **CHAIRMAN:** Well, I hope not. I am sure he hopes not,  
24 too. Sorry, just to deal with the objection. A  
25 legitimate line is being pursued, I am not taking  
26 anything from it one way or the other at the present  
27 time. I understand that what is being pursued is the  
28 question of attitude as opposed to was it right or was  
29 it wrong for the O'Higgins Commission to conclude that

15:39

1 in relation to the computer in the Molloy case, the  
2 Father Molloy case in relation to child sexual abuse,  
3 that Sergeant McCabe was not the exhibits officer, and  
4 that somebody else was the exhibits officer in his  
5 place. Now, we are not actually going into that. It 15:40  
6 seems to me that what we are going into is related to  
7 that, which is whether or not there was an attitude by  
8 this witness towards Sergeant McCabe. And that seems  
9 legitimate to me, at the moment it does anyway.

10 **MR. O'HIGGINS:** Chairman, could I say this: The line 15:40  
11 of questioning that is being put is premised upon  
12 certain things being the case arising from O'Higgins,  
13 and I say it is unfair to put questions that are  
14 premised on those matters that are for another module.  
15 It is unfair and premature to do that. 15:40

16 **CHAIRMAN:** I am not sure it's another module, Mr. --  
17 and besides, I hate the word module, forgive me. We  
18 are doing this section as it is, and it's the whole  
19 Tribunal. Really the only division is in relation to  
20 Garda Keith Harrison. But the point you are making is 15:41  
21 O'Higgins, are we going into O'Higgins? Well, no, we  
22 are not. I don't want to. And I don't think it's  
23 within my terms of reference. But the question is:  
24 what was the Chief Superintendent directly involved in  
25 and was it to do with the Molloy computer? That is 15:41  
26 what I understand. And what inference can be drawn  
27 from that. At the end of all of this, I am going to  
28 ask Mr. McDowell to put what he says the inference is  
29 that the Tribunal ought to draw, so the witness can

1 have a chance to answer that as opposed to a specific  
2 element.

3 **MR. MCDOWELL:** I think I will put it in context.

4 **CHAIRMAN:** I know you will in due course. No, I think  
5 it's proper, Mr. O'Higgins, but I understand what you 15:41  
6 are saying and I will note it.

7 590 Q. **MR. MCDOWELL:** I'm suggesting to you that it was a  
8 strange result for Sergeant McCabe that he was accused  
9 in the wrong of a loss of a computer in a sex abuse  
10 case and that it appeared that documentation was 15:42  
11 falsified to implicate him in that, in that loss, and  
12 that no disciplinary action or investigation seems to  
13 have followed in respect of who was responsible for the  
14 loss -- who was responsible for the alteration of the  
15 documentation and that that was your personal 15:42  
16 responsibility?

17 A. Well, I did not make any other appointments in any  
18 other disciplinary matters arising from that.

19 591 Q. You see, evidence has been given here by a number of  
20 serving members that Sergeant McCabe was virtually 15:42  
21 never discussed in An Garda Síochána and/or that the  
22 witnesses were never party to any discussion concerning  
23 him at all at the time, and I have got to suggest to  
24 you that he most certainly was the discussion -- sorry,  
25 the subject of very active discussion and a good deal 15:43  
26 of hostility and enmity in certain sources, in certain  
27 quarters in the Cavan-Monaghan division at the time?

28 A. Well, I have -- that is not so, as far as I am  
29 concerned. I had no personal animosity towards



1 Sergeant McCabe, and I have never been involved in  
2 discussing him or in any way undermining him in any  
3 way. And that is my position, was my position and  
4 remains my position.

5 592 Q. Well, going back to the time that you visited his 15:43  
6 house, you knew he was protesting about the bullying  
7 and threats that he was receiving?

8 A. Yeah, that's true, yeah. But I wasn't in the  
9 division --

10 593 Q. Is it the case that no officer -- 15:44  
11 A. I wasn't in the division at that time.

12 594 Q. I know. Well, sorry, yeah, but you knew that that was  
13 going on?

14 A. Well, Sergeant McCabe outlined it to me at that time  
15 and obviously some of the issues arose from -- one of 15:44  
16 the incidents arose, involved members from  
17 Cavan-Monaghan division.

18 595 Q. Yes. And I have got to suggest to you that far from --  
19 the Tribunal, this is a public tribunal, the Tribunal  
20 has heard from a good number of witnesses who have all 15:44  
21 said that they never were party to any discussions  
22 about Sergeant McCabe. I have got to suggest to you  
23 that he was the subject of widespread discussion within  
24 the division at the time?

25 A. Well, I have no evidence to support that. And I 15:44  
26 certainly wasn't discussing him with anybody.

27 **CHAIRMAN:** Just as regards the Molloy case, just in  
28 terms of the dates, the formal disciplinary proceeding  
29 began on 21st June 2013, and I don't know were you

1 district officer then or did you come into it?

2 A. well, there had been an appointment prior to me coming  
3 into --

4 **CHAIRMAN:** All right. And then as I understand it, it  
5 was 6th of August 2013 that disciplinary proceedings 15:45  
6 were officially terminated on a finding that it would  
7 be unsafe to find Sergeant McCabe in breach of  
8 discipline for a missing computer in respect of which  
9 there was an inconsistency with a Garda K and evidence  
10 in that regard as to whether he or another person was 15:45  
11 the exhibits officer. So it was a three-month thing,  
12 and you seem to have --

13 A. But there had been an appointment prior to I coming  
14 into the division.

15 **CHAIRMAN:** well, I am sorry for interrupting you, 15:45  
16 Mr. McDowell, but those are the dates, but I am just  
17 wondering: what involvement did the chief  
18 superintendent have?

19 **MR. MCDOWELL:** I think that the entire disciplinary  
20 process had taken more than a year, Judge. It was in 15:45  
21 February 2012 and ended up in --

22 **CHAIRMAN:** Yes, I am sorry, I should have said it was  
23 the formal disciplinary interview which took place on  
24 21st June 2013. Yes, it had been opened earlier on.  
25 So that would seem to coincide with the chief 15:46  
26 superintendent's time as divisional officer, no? Am I  
27 wrong? Maybe you would fill me in. Just a date, were  
28 you --

29 **MR. MCDOWELL:** I think in fairness to the chief

1 superintendent, his predecessor, Chief Superintendent  
2 Rooney, started this process --

3 A. That's correct.

4 **MR. MCDOWELL:** -- but it carried on until July of 2013,  
5 under this witness's direction. 15:46

6 **CHAIRMAN:** August 2013, I believe, was the -- I'm sorry  
7 for missing the point, Mr. McDowell. I am really  
8 sorry, I don't get where this -- I know about the  
9 Molloy case, I know about the computer, I know about  
10 the conflict in relation to who was the exhibits 15:46  
11 officer because ultimately the computer, which I think  
12 was a valuable enough computer, disappeared out of  
13 Garda custody, so the issue was: who was the exhibits  
14 officer? Now, I am not sure how this links in with  
15 this witness. 15:47

16 **MR. MCDOWELL:** No, the issue is this: That, as the  
17 O'Higgins Report noted, that it was remarkable that the  
18 only person in these circumstances who was the subject  
19 of discipline was Sergeant McCabe and he was the man  
20 who was innocent of the matter. 15:47

21 A. Well, he was found innocent of it. I did not make any  
22 other appointments after that.

23 596 Q. But I think you actually signed the formal  
24 documentation initiating the disciplinary process in  
25 February 2012, is that right? 15:47

26 A. I made a reappointment in February 2012, is my  
27 recollection.

28 **CHAIRMAN:** Just on that, there may be an inference to  
29 be drawn from it, I don't know, Mr. McDowell, but if

1 two Garda officers are flatly contradicting each other  
2 as to who was the exhibits officer and there is a  
3 finding that it's unsafe to blame one as opposed to the  
4 other, it's hard to know how you can initiate  
5 disciplinary proceedings and it not be unsafe in 15:45  
6 relation to the other person unless you have got a  
7 barrel load of evidence against them.

8 **MR. MCDOWELL:** Judge, if, as part of the case against  
9 him, it is shown that documentation has been altered so  
10 as to implicate him, surely the question I am putting 15:48  
11 to the witness - not to you, Chairman - surely the  
12 question as to allocating blame for that should be  
13 looked at and investigated.

14 **CHAIRMAN:** All right, I see the point now. Would you  
15 like to address that? 15:48

16 A. Well, I did not reappoint -- I think there was some  
17 issues about whether it had been altered or not, from  
18 my recollection of it. But I did not make any  
19 appointments after the determination of the  
20 disciplinary proceedings against Sergeant McCabe. 15:45

21 597 Q. **MR. MCDOWELL:** I think, would you agree with me that it  
22 appeared to have been altered at the time that you  
23 directed that the disciplinary procedure should stop?

24 A. I think the findings was that it would be unsafe in the  
25 circumstances, or whatever. But it may well have 15:49  
26 appeared that it had been altered or there had been two  
27 charts, I am not -- from recollection I am not sure  
28 about that.

29 598 Q. Would you normally think that the alteration of a

1 document with a view to implicating a fellow member of  
2 An Garda Síochána in a disciplinary -- breach of  
3 discipline would be a serious matter?

4 A. Absolutely. The alteration of any document would be a  
5 serious matter. 15:49

6 599 Q. And in this matter you directed no further  
7 investigation?

8 A. That's correct, yes.

9 600 Q. And just to put it in context so that Mr. O'Higgins  
10 understands the point I am making: I am suggesting 15:49  
11 that at this time Sergeant McCabe, far from being a  
12 person to whom there was universal goodwill, was in a  
13 very, very different place within that division at the  
14 time?

15 A. I won't dispute that, but I didn't put him in any 15:49  
16 difficult position. I had only come into the division,  
17 a lot of these had happened before I ever came in  
18 there.

19 **MR. MCDOWELL:** I will leave it at that, thank you.

20 **MR. HOGAN:** Chief Superintendent -- 15:50

21 **CHAIRMAN:** Just before you go there, I beg your pardon,  
22 Mr. Hogan. There is just one thing arising out of  
23 that. Let's suppose, Mr. McDowell, at the end of the  
24 day I was to draw an inference arising from the  
25 initiation of disciplinary proceedings, determination 15:50  
26 of disciplinary proceedings, a finding that it was  
27 unsafe, the non-initiation of disciplinary proceedings  
28 against the other person whom I have referred to as  
29 Garda K, and I don't want to bring them into this, the

1 having of the meeting in July 2014, the non-following  
2 up with the HSE, the non-bringing in of Superintendent  
3 Noel Cunningham, just suppose I was to draw an  
4 inference in relation to any of that or all of that  
5 that, that there has been discussion on, including 15:51  
6 Ms. Leader's examination of the chief superintendent,  
7 if you were making a submission you'd be able to urge,  
8 look, the following inference arises. Now it just  
9 seems to me that as things are floating, and you are  
10 kind enough to clarify where you stood in relation to 15:51  
11 Superintendent Noel Cunningham, if such a thing were to  
12 emerge it might be fairer that the witness have an  
13 opportunity to say, look, this was my position and the  
14 inference be put to him that I might take from it. I  
15 think you are getting my drift. 15:51  
16 **MR. MCDOWELL:** I appreciate that, Judge, but as the  
17 Tribunal will appreciate, I can't anticipate what  
18 account is going to be given of the meeting in July or  
19 where in particular information came from or the like  
20 until the witnesses are here. I am not an 15:52  
21 investigator. Sergeant McCabe has no investigatory  
22 capacity whatsoever. So that, I fully appreciate the  
23 proposition that some matters tumble out at a later  
24 stage and may have to -- might require to be re-put to  
25 individuals concerned. But this isn't an adversarial 15:52  
26 process, I don't have any investigatory tools at my  
27 disposal whatsoever. I can only cross-examine in the  
28 interests of my client and that is all I can do. I  
29 can't adduce evidence and, you know, I mean, I have a

1 limited role here, Judge.

2 **CHAIRMAN:** No, no I appreciate that, Mr. McDowell. I  
3 don't think -- I agree with you, and I don't think it's  
4 for you to actually put accusations as such and say  
5 'This is the following, here is the charge sheet'. But 15:52  
6 I suppose I have to keep an eye on where things may be  
7 going, and that is the nature of the query I am making.

8 **MR. MCDOWELL:** I appreciate that, Judge. But I mean, I  
9 think it is fair to say that the Tribunal has been  
10 given a picture by a succession of Garda witnesses that 15:53  
11 there was no animus whatsoever towards Sergeant McCabe,  
12 that the man was dealt with utterly as if he was any  
13 other garda, that nothing ever occurred which would  
14 suggest he was even on the defensive, and I'm trying to  
15 establish that that is not the case. Perhaps one last 15:53  
16 question, could I put to the witness.

17 601 Q. At the meeting in July, it appears from the note that  
18 nobody ever at that meeting took into account the  
19 shocking error and accusation that had been made  
20 against Sergeant McCabe or his interests in the matter, 15:53  
21 or whether you should liaise with him and say 'By the  
22 way, Sergeant McCabe, a disastrous mistake has been  
23 made in respect of you, we have tidied it all up'.  
24 Nobody seems to have even for a minute considered him  
25 as the victim in this? 15:54

26 A. I accept it was a disastrous error but it wasn't made  
27 by An Garda Síochána, and that is why I said  
28 earlier that --

29 602 Q. But you --

1           **MR. O'HIGGINS:** Sorry, I wonder could the witness be  
2 allowed answer the question that has been asked.

3           **CHAIRMAN:** I don't think there is a problem, I think  
4 there is a dialogue going on and it is helpful. Please  
5 go on. 15:54

6           **MR. McDOWELL:** Finish, I am sorry.

7           A. I accept there was a disastrous error. It wasn't  
8 caused by An Garda Síochána. And I am being accused of  
9 all sorts of things, even though I tried to get to the  
10 bottom of it in good faith. And having got to the 15:54  
11 bottom of it, it's clear that the HSE made a disastrous  
12 error, in my view they should have gone to Sergeant  
13 McCabe and explained the whole situation to him.

14 603 Q. And why shouldn't An Garda Síochána have told him 'By  
15 the way, you have been the subject of an erroneous 15:55  
16 allegation, we are trying to tidy the whole thing up  
17 and restore your good name to you'?

18           A. Well, my assessment of it was that it wasn't our job to  
19 do that, that it was the HSE's job to do that. It  
20 could have legal implications for them and whatever 15:55  
21 else, and I could go to Sergeant McCabe and try and  
22 answer his questions but I may not have the answer. I  
23 could answer A, B, C, he could have further questions  
24 that I would not be in a position to answer.

25 604 Q. You see, one of the ironies of all of this, you may or 15:55  
26 may not be aware, if it wasn't for a piece of  
27 inexplicable carelessness on the part of Ms. Kay  
28 McLoughlin in late 2015, early 2016 Sergeant McCabe  
29 would have been kept completely in the dark that any of



1 this was happening behind his back within An Garda  
2 Síochána or within the HSE or anywhere?

3 A. well --

4 605 Q. He would never have known that there was an assistant  
5 commissioner convening meetings to discuss these 15:56  
6 allegations. Nobody would have told him one word about  
7 this, were it not for Kay McLoughlin's extraordinary  
8 letter of December 29th, 2015.

9 A. well, that is why I say "in my view" and people may  
10 disagree with me. But, in my view, the HSE made the 15:56  
11 error, catastrophic error, and they should have  
12 rectified it and gone to Sergeant McCabe.

13 606 Q. well, if you had engaged with them in relation to a  
14 strategy --

15 A. well, I don't know what more -- 15:56

16 607 Q. -- and found out what their intentions were, you would  
17 have found out, oh, we are covering all of this up, we  
18 are not going to say a word to Sergeant McCabe, we  
19 intend to say nothing more.

20 A. well, in my view, it would be grossly unfair to hold 15:57  
21 the Garda Síochána responsible for a catastrophe that  
22 was perpetrated by the HSE.

23 608 Q. well, you see, another irony is that Mr. Lowry, who was  
24 the man in charge of the area of the HSE that was  
25 responsible for this catastrophic mistake, he was 15:57  
26 minuting more or less at the same time that you were  
27 being given the task of liaising with him and finding  
28 out what their strategy -- he was being told we need to  
29 coordinate with the Gardaí in relation to this matter,

1 but the two institutions never engaged in it at all.  
2 A. well, that was my view. I did -- it did -- it is  
3 something that I thought about, about whether Sergeant  
4 McCabe should be informed or not. But the conclusion I  
5 came to, be it right or be it wrong, was that it was a 15:57  
6 matter for the HSE, they had caused it so therefore  
7 they should address it with him.

8 609 Q. well, you knew, for instance, that an accusation  
9 against Sergeant McCabe had been received in Bailieboro  
10 Garda Station, of an appalling kind? 15:58

11 A. well, the thing about this is, and I am not in any way  
12 trying to diminish it, nobody made the accusation, it  
13 was an error that occurred. Nobody made the actual  
14 allegation. I know it was contained in a referral.

15 610 Q. well, it was sufficient for Superintendent McGinn to 15:58  
16 instantaneously recommend -- telephone you and,  
17 secondly, send you a letter saying that the  
18 investigation into Sergeant McCabe should be reopened  
19 in the light of that accusation?

20 A. And within a number of days I had said, no, it should 15:58  
21 not.

22 611 Q. I won't put the matter any further.

23

24 CHIEF SUPERINTENDENT CUNNINGHAM WAS QUESTION BY THE  
25 CHAIRMAN: 15:58

26 612 Q. **CHAIRMAN:** Yes. Maybe I could try and summarise  
27 things, it might help. If I could ask you, I am not  
28 going to mention any names, if you call to mind  
29 somebody within the force whom you very much respected,

1 your friend or a mentor in the past, and if it were the  
2 case that this kind of error were made in relation to  
3 that person and it came across your desk, of course you  
4 would have an obligation to see, look, is this true or  
5 is it not true, etcetera, etcetera. Perhaps it might 15:59  
6 be thought that the ordinary or normal thing to do  
7 would be, when you'd cleared it up and when you'd  
8 realised, look, here we go, word-processing error,  
9 so-and-so has been accused of whatever, bank fraud, who  
10 is a member of An Garda Síochána, who was my mentor 15:59  
11 when I was in the force and whom I highly respect, I am  
12 going to tell that person just in case there is any  
13 implications or simply out of a matter of, I suppose,  
14 common human communication. And what Mr. McDowell is  
15 putting to you is that nobody ever said that to 16:00  
16 Sergeant McCabe in circumstances where it was clear, no  
17 matter what is said in relation to the right attitude  
18 being taken by senior officers, that is what they have  
19 told me, that many other people thought that, to say  
20 the least, he was a painful individual to have around 16:00  
21 and in the force. That is basically the allegation,  
22 chief superintendent. I think you probably understand,  
23 maybe you'd like to address it?

24 A. Well, in relation to Sergeant McCabe, as I have already  
25 explained. In relation to somebody that would be a 16:00  
26 friend or whatever, I know it's a difficult one, but,  
27 you know, there are circumstances where I wouldn't do  
28 it and probably there are circumstances where I would  
29 do it, to be truth -- to be totally honest about it.

1 613 Q. **CHAIRMAN:** would this not be a case where, in the  
2 context of the way people felt, where perhaps things  
3 were getting a bit too heated, it would be an idea to  
4 call him in and say look, apart from anything else that  
5 is going on I just want to let you know, this was made, 16:01  
6 this allegation, it turns out it was completely false  
7 but the HSE may be in contact with you in the future,  
8 and just so as you know what has happened I am telling  
9 you this as a colleague, we both wear the same uniform,  
10 you know, type of conversation. 16:01

11 A. In hindsight, possibly, yes. But it was my -- at the  
12 time, that it should be the HSE, being they had made  
13 the error, that they should have gone and addressed it.

14 614 Q. **CHAIRMAN:** Yeah. No, I know I am asking questions out  
15 of turn but it just may help in relation to what comes 16:01  
16 next. Because this is here and it is floating here.  
17 Another aspect of it was, I look at the chronology, I  
18 know what is happening in relation to all of this time,  
19 it's inquiry, inquiry, inquiry. It's like as if  
20 inquiry is our middle name as members of the Garda. So 16:02  
21 here is another inquiry potentially coming down the  
22 line and is it a question of ass-covering, to put it  
23 colloquially and to put it absolutely directly? In  
24 other words, you are doing what you are supposed to do  
25 for the purpose of making sure that you look proper in 16:02  
26 the event that there is an inquiry as opposed to  
27 looking at the human side of thing, which is making  
28 sure that a colleague's well-being is looked after.

29 A. Well, that is not -- that wasn't my mindset when I

1 thought about it. I genuinely held the belief that --  
2 in my opinion, that the HSE would have managed it.  
3 That was my opinion. Other people may have different  
4 opinions on it, in relation to it. But that was my  
5 genuinely held view at the time. 16:02

6 615 Q. **CHAIRMAN:** Did it ever occur to you that they might  
7 send this bizarre and upsetting letter over the new  
8 year of 2016?

9 A. Absolutely not. They had looked to recall the  
10 documentation from us, and I would have expected and 16:03  
11 really believed that they had dealt with the matter  
12 within their own organisation.

13 616 Q. **CHAIRMAN:** And do you think that no matter what you  
14 would have done they would have contacted him anyway,  
15 as they had this child protection responsibility? The 16:03  
16 Gardaí might not have known as much about it as they  
17 were supposed to know, but was the boat already leaving  
18 the harbour where it was going to end up in --

19 A. Well, I didn't -- that part, I have to say I didn't  
20 think about. It was only purely from the error that I 16:03  
21 would have expected and I thought that they would  
22 communicate with him in relation to it.

23 617 Q. **CHAIRMAN:** Yes. well then, I have a last question,  
24 which is this: Given that they were going to  
25 communicate with him, no matter what, I mean, again on 16:04  
26 the basis that we are all wearing the same uniform type  
27 attitude, you might lessen the shock by having a quiet  
28 word beforehand with him, again as a colleague to say,  
29 look, these people are now coming to us so they are

1 probably going to knock on your door at some stage just  
2 so you would be prepared, not in any bad way but on a  
3 human level?

4 A. Well, perhaps we should, Judge, but, you know, I took  
5 the view I took of it, whether I was right or wrong 16:04  
6 that is the view I took. And, you know, perhaps I  
7 should have gone and spoke to him but there wasn't any  
8 malice in anything that I did in relation to it.

9 **CHAIRMAN:** Unless you wanted to ask any other question,  
10 Mr. McDowell, I just thought it right to put that. 16:04  
11 Mr. Hogan, you had a question?  
12

13 **CHIEF SUPERINTENDENT SHERIDAN WAS CROSS-EXAMINED BY MR.**  
14 **HOGAN:**

15 618 Q. **MR. HOGAN:** Chief superintendant, I just want to 16:04  
16 clarify one matter with you. You reviewed the  
17 investigation file when you disclosed it to Mr. Guerin  
18 in March of 2014.

19 A. Sorry, I can't hear --

20 619 Q. Sorry. I just want you to confirm, you reviewed the 16:05  
21 investigation file into Ms. D's complaint --

22 A. That's correct, yes.

23 620 Q. -- when you were disclosing it to the Guerin Inquiry in  
24 March of 2014?

25 A. That's correct, yes. 16:05

26 621 Q. And when Mr. D was giving evidence he was asked by  
27 Mr. O'Higgins whether he had ever had any discussion in  
28 relation to the complaint with you and Mr. D's evidence  
29 was that he didn't have any discussion with you. Could

1           you confirm that that is your recollection?  
2           A.    Absolutely. I never had a conversation with Mr. D  
3           about these matters.  
4   622   Q.    And when you were referring the file to the Guerin  
5           Inquiry did you give Ms. D any notice that you were       16:05  
6           doing that, that you were transferring the file?  
7           A.    No.  
8   623   Q.    And certainly my instructions are that Ms. D wasn't  
9           aware that the file into the investigation of her  
10          complaint had been given to the Guerin Inquiry when she   16:06  
11          requested Mr. Guerin to investigate the file in April  
12          of 2014.  
13          A.    That would be correct. I certainly never informed her  
14          anyway.  
15   624   Q.    Yes. Thank you very much.                                       16:06  
16  
17                                   **CHIEF SUPERINTENDENT SHERIDAN WAS EXAMINED BY**  
18                                   **MR. O'HIGGINS**  
19   625   Q.    **MR. O'HIGGINS:** Chief Superintendent, can I start by  
20           asking you to look at a document that has already been   16:06  
21           looked at in part, page 1805, which is your summarising  
22           report to Assistant Commissioner Kenny dated 3rd of  
23           July 2014. Do you have that there in front of you?  
24          A.    Yes, I do, yeah.  
25   626   Q.    And am I correct in my understanding that in this       16:06  
26           report you are endeavouring to provide your line  
27           manager with -- to basically track the efforts that you  
28           have made and An Garda Síochána have made to get to the  
29           bottom of the error that appears to have occurred, is

1 that so?

2 A. That is correct, Judge, yes.

3 627 Q. And looking at the report, if perhaps you might go to  
4 bottom of the second page of it, so page 1806, you say  
5 in the last paragraph of page to Assistant  
6 Commissioner:

16:07

7

8 *"On 2nd of May '14 Tusla, using standard notification*  
9 *form for use by Child and Family Agency in notifying*  
10 *cases to An Garda Síochána, notified superintendent*  
11 *Bailieboro of a case of suspected child abuse."*

16:07

12

13 So you are setting out, sort of, the most recent origin  
14 of the error, isn't that right?

15 A. That's correct.

16:07

16 628 Q. And you say:

17

18 *"The child's name of retrospective adult disclosure was*  
19 *Ms. D", and you give the date of birth and the address.*

20

16:08

21 And on the next page, page 1807, you continue in  
22 outlining that:

23

24 *"The disclosure was made by Ms. D to Laura Brophy. The*  
25 *referral made by Tusla relating to the disclosures made*  
26 *by Ms. D to the superintendent Bailieboro contained*  
27 *allegations which were not consistent with the*  
28 *allegations investigated by An Garda Síochána in*  
29 *2006/7."*

16:08



1 A. That's correct.

2 629 Q. And then you recount:

3

4 *"On 16th of May '14 Laura Brophy had written to*

5 *superintendent Bailieboro."* 16:08

6 Isn't that so?

7 A. That's correct.

8 630 Q. And you set out the text of that --

9 A. That's correct.

10 631 Q. -- in which the official from the HSE had set out that 16:08

11 an administrative error, as it was put, had occurred?

12 A. That's correct, yes.

13 632 Q. So was it your intention there to effectively summarise

14 and -- to summarise the efforts you have made to get to

15 the bottom of the problem and also outlining the 16:08

16 communications that have been received from the HSE?

17 A. That is correct, Chairman, yes.

18 633 Q. And then you indicate:

19

20 *"The referral received from Tusla on 16th of May 2014* 16:09

21 *contains the allegation which was investigated by the*

22 *Gardaí in 2006/7."*

23

24 So I think you are indicating there that the later

25 referral from Tusla reflected the allegation that was 16:09

26 the subject of the concluded investigation from 2006/7,

27 isn't that so?

28 A. That is correct, yes.

29 634 Q. And you continue:

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*"The report contains the following information which was provided by Ms. D."*

And we needn't read that out. You have outlined the context. And then you outline what you had ascertained from Fiona Ward on foot of the efforts you had made to get to the bottom of matters with the HSE, isn't that so? 16:09

A. That's correct. 16:09

635 Q. And you summarise that: On 22nd of May 2014, Fiona Ward, Director of Counselling, wrote to you *"confirming that the administrative error had occurred and confirming that a corrected report had issued."* And you provide that, isn't that so? 16:09

A. That's correct.

636 Q. And then you say:  
*"To remove any ambiguity in regard to these matters, on 19 June '14 I wrote to Ms. Fiona Ward seeking clarification on how the administrative error occurred which led to the issuing of the referral dated 2nd May."* 16:10

A. That's correct, Chairman.

637 Q. *"In correspondence dated 18 June '14 and 1 July '14 Ms. Ward outlines"* -- and I think you included in Appendix F what Ms. Ward had said at that point? 16:10

A. That's correct.

638 Q. And you outlined what she said:

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*"The information which was reported in error on the first report you received relates to a different client and a different alleged perpetrator."*

A. That's correct. 16:10

639 Q. And that was the information you were anxious that the assistant commissioner would have?

A. That's correct.

640 Q. And I think in the next portion of it, you effectively give your conclusions, would that be fair? 16:10

A. That would be fair, yes.

641 Q. And you indicate that:

*"From verbal communication with them, the error occurred using cut and paste method on the computer and obviously a failure to fully check the correspondence prior to issue."* 16:10

Then you say:

*"Arising from written and verbal communication with Ms. Ward and Tusla, it is clear that the referral of the 16th of May '14 refers to the allegations of Ms. D investigated by the Gardaí in 2006/2007. The referral does not contain any new allegations."* 16:11

A. That's correct.

642 Q. Chief Superintendent, what was your -- what was your purpose in making that clear in this report?

A. Well, that these matters had been -- the matters -- the

1 original complaint had been fully investigated, nothing  
2 new arose arising from what we had got from the HSE.  
3 643 Q. So effectively from a Garda point of view there was  
4 nothing to see here?  
5 A. That's -- absolutely. 16:11  
6 644 Q. And do you see in the bottom line of the same page,  
7 your report states:  
8  
9 *"The referral of the 2nd of May '14 was issued in error*  
10 *and is not relevant to allegations"* -- 16:11  
11 A. That's correct, yes.  
12 645 Q. -- *"of Ms. D."* And you say in the concluding page:  
13  
14 *"I understand Ms. D had a meeting"* -- and there is a  
15 reference that has already been read out -- *"with* 16:12  
16 *Micheál Martin."*  
17  
18 And then on the last two lines of this report, and you  
19 might assist the Tribunal with this, you say the  
20 following: 16:12  
21  
22 *"Ms. D has not requested An Garda Síochána to*  
23 *reinvestigate her complaint or to review it."*  
24  
25 what was your intention and purpose in indicating that 16:12  
26 at the bottom of your report?  
27 A. Well, that she had not asked us to conduct any review  
28 of it or to reinvestigate it.  
29 646 Q. So was it your desire and position that it wasn't

1 necessary to reinvestigate or to review matters?

2 A. Absolutely, that was my view from the very beginning.

3 647 Q. And you conclude by saying:

4

5 *"Tusla have requested the return of the referral which 16:12*

6 *contained the incorrect information."*

7 A. That's right.

8 648 Q. Again, can I ask you, what was your purpose on

9 finishing off on that note?

10 A. Well, they had obviously sought it earlier in 16:13

11 communication with them, and so, again, I was

12 highlighting that, and obviously it was certainly my

13 view that they were managing that matter within their

14 own organisation.

15 649 Q. Can I ask you, at this point in time, as far as you 16:13

16 were concerned at any rate, was there any -- did you

17 see any particular necessity to have a meeting?

18 A. I have to say I didn't.

19 650 Q. But in fairness to the assistant commissioner, I

20 suppose he had only been receiving the reports and 16:13

21 there hadn't been a meeting around a table where people

22 could bash out issues around a table?

23 A. That is correct. He had never had a discussion with me

24 in relation to it, these matters.

25 651 Q. Now, am I right in my understanding that the meeting, 16:13

26 in fact, was originally scheduled for June, a date in

27 June?

28 A. That's correct, yes.

29 652 Q. But due to, was it people being unavailable that it --

1 A. It took place in July.

2 653 Q. It took place in July. Now, insofar as, Chief  
3 Superintendent, people and persons are judged by their  
4 actions and decisions, can I ask you, when you learned  
5 that this incorrect notification or this referral, or 16:14  
6 whatever word one uses, had come into Bailieboro Garda  
7 Station, did you take a decision to organise to publish  
8 far and wide that notification to the outer world?  
9 A. Absolutely not. On the contrary, I tried to keep it  
10 confined to as few people as I possibly could. 16:14  
11 654 Q. why?  
12 A. Because I didn't want it getting out there into any  
13 wider groups of people.  
14 655 Q. whose interests and rights were you seeking to uphold  
15 in making that decision? 16:15  
16 A. Sergeant McCabe.  
17 656 Q. Did you make any decision to reopen the criminal  
18 investigation from 2007?  
19 A. Absolutely not.  
20 657 Q. Did you make a decision to initiate a new investigation 16:15  
21 on foot of the 2014 referral?  
22 A. Absolutely not.  
23 658 Q. Did you make a decision to carry out a review of the  
24 existing file?  
25 A. No, I did not. 16:15  
26 659 Q. Did you make a decision to organise that the new matter  
27 should be put up on PULSE?  
28 **CHAIRMAN:** well, he did, in fact, conduct a review of  
29 the existing file, but, I mean, it's to his credit that

1 he did. You read the file and you asked yourself the  
2 question, was this a proper investigation.

3 A. Absolutely, and I was very happy with what I read  
4 and --

5 **MR. O'HIGGINS:** I am obliged, Chairman. 16:15

6 **CHAIRMAN:** But it was a personal as opposed to a formal  
7 review?

8 A. Yes.

9 **MR. O'HIGGINS:** And thank you for the distinction.

10 660 Q. Chief Superintendent, did you make a decision to 16:16  
11 organise that there would be a cold case review, for  
12 instance, of the 2006/2007 investigation?

13 A. No, absolutely not. It was not necessary, in my view,  
14 and that was my view then and remains my view.

15 661 Q. What was your intention in writing the word "*withdrawn*" 16:16  
16 across the incorrect notification?

17 A. That in the event that anybody would find the document,  
18 they would know it was withdrawn, that it wasn't an  
19 allegation.

20 662 Q. And do you know when -- was it the 16th of May that it 16:16  
21 was done, or are you in a position to say?

22 A. Well, it followed from the letter with the referral of  
23 the 16th of May, so it may -- it was after that date.

24 663 Q. Would you mind just looking at the document at page 16:16  
25 1716. Perhaps it could be scrolled down a little bit.  
26 Do you see the handwritten date just before the -- do  
27 you see under the date-stamp there appears to be the  
28 word "*withdrawn*", and above "*withdrawn*", if one looks  
29 at it sideways, there is an actual date written in?

1 A. It says "*see referral of 16/5/14*".

2 664 Q. I see. Now, could I ask you in relation to -- just  
3 stepping back for a moment from anything pertaining to  
4 Sergeant McCabe. Have you ever in your career  
5 investigated criminal conspiracies, for instance, IRA 16:17  
6 matters or gangland conspiracies?

7 A. I have, yes. I have been involved in investigations in  
8 relation to subversives over many, many years.

9 665 Q. Have you ever, in your experience, come across  
10 situations where criminal conspirators have compiled 16:18  
11 minutes of a meeting and left them in the conspiracy  
12 room?

13 **CHAIRMAN:** Sorry, Mr. O'Higgins. I presume the answer  
14 is no.

15 **MR. O'HIGGINS:** well, it's for the witness to give the 16:18  
16 answers, Judge.

17 666 Q. **MR. O'HIGGINS:** Have you ever come across that, Chief  
18 Superintendent?

19 A. Well, off the top of my head, I can't remember such an  
20 event, Chairman. 16:18

21 667 Q. Have you ever come across a situation where criminal  
22 conspirators have chronicled their decisions and  
23 activities in correspondence?

24 A. No, I haven't.

25 668 Q. Could I ask you then to -- 16:18

26 **CHAIRMAN:** well, in America, Mr. O'Higgins, where they  
27 have wire taps much more frequently than they do here,  
28 you get that all the time. Usually people are using  
29 euphemisms, however, referring to the goods and things



1           like that. I am sure you have done American  
2           extradition cases.

3           **MR. O'HIGGINS:** And of course, Chairman, you will be  
4           familiar with the fact that the -- what might be termed  
5           the warts-and-all minutes from the July meeting --           16:19  
6           well, it will be a matter for the Tribunal to assess  
7           whether that is consistent with an overarching  
8           allegation that there was a conspiracy afoot or more  
9           likely is consistent with what the Chief Superintendent  
10          has indicated as being the complete absence of any           16:19  
11          malice towards Sergeant McCabe in relation to matters.

12          **CHAIRMAN:** well, it is appropriate to make the point  
13          certainly, Mr. O'Higgins, yes.

14   669   Q.   **MR. O'HIGGINS:** In your directions to Inspector Pat  
15           O'Connell, was it your desire that the HSE would           16:19  
16           expunge from their records the incorrect notification?

17           A.   Absolutely, yes.

18   670   Q.   would you mind turning then -- or having a look at the  
19           document at page 1724. And this now is the letter that  
20           contains the typographical error concerning 30th August   16:20  
21           2013. We just note that for the moment. But this is  
22           the communication sent I think on your behalf, isn't  
23           that so?

24           A.   That is so, yes.

25   671   Q.   Do you see the way it says "*sent on behalf of Chief*  
26           *Superintendent James Sheridan*"?           16:20

27           A.   That's correct, yes.

28   672   Q.   And this is a communication to whom?

29           A.   To the assistant commissioner Sligo and the

1 superintendent in Bailieboro.

2 673 Q. And in the body of this document, you are saying -- you  
3 give the date of the report, which transpires is  
4 incorrect, and it says:

5 16:20

6 *"If you would confirm that all copies of same have been*  
7 *retracted and destroyed. If an original copy is on*  
8 *hand, please forward same to this office so that it can*  
9 *be returned to the HSE."*

10 A. That's correct, yes. 16:20

11 674 Q. Was that your intention, that that is what should  
12 happen?

13 A. That was my view, yes.

14 675 Q. And you were communicating this to Superintendent  
15 McGinn and also the assistant commissioner in Sligo? 16:21

16 A. That's correct, Chairman, yes.

17 676 Q. Would you mind looking at the documents, please, at  
18 page 748 and 752, which I think are articles. And  
19 first of all, the document at page 748 --

20 **CHAIRMAN:** Archbold, did you say? 16:21

21 **MR. O'HIGGINS:** Articles.

22 **CHAIRMAN:** Oh, sorry, it's the newspaper, yes.

23 **MR. O'HIGGINS:** Yes. Page 748, then, this is the -- an  
24 article by Paul Williams, it seems, dated 12th April  
25 2014. And do you see there in the final few lines of 16:21  
26 that page it says -- and it appears to have been, and  
27 anybody who had read this would have read the  
28 following:  
29

1           *"The allegations were reported to the Gardaí in the*  
2           *same divisional area where the alleged assailant and*  
3           *the girl's father worked."* Do you see that?

4           A.    Yes.

5   677   Q.    And that is being said in an article in April of 2014.   16:22  
6           And do you see over the page then, on page 749, the  
7           second paragraph down, it says:

8  
9           *"The alleged victim has claimed in an interview with*  
10          *the Irish Independent that the man was not formally*   16:22  
11          *arrested and that the complaint was not recorded on the*  
12          *PULSE system."*

13  
14          Do you see that?

15          A.    I see that, yes.   16:22

16   678   Q.    Do you see -- if you wouldn't mind turning to the  
17          document at 752, which is another article written  
18          about -- this time, a few days later, on page 752. And  
19          this is, again, a Paul Williams article dated 15th of  
20          April. And do you see the second-last paragraph on   16:22  
21          this page, it says:

22  
23          *"She claims a previous investigation into her complaint*  
24          *was flawed because it was conducted by a senior officer*  
25          *who worked with both her alleged attacker and her*   16:23  
26          *father, who is also a serving garda."*

27          Do you see that?

28          A.    I see it, yes.

29   679   Q.    Is it possible that when you and your two colleagues

1 came to meet later on and there is reference made to  
2 those possible deficiencies or those potential  
3 complaints, that that is perhaps how that came to be  
4 known, as arising from, if you like, the media supply?  
5 A. It's possible, but I wasn't aware of it, I have to say. 16:23  
6 680 Q. Yes. Can I ask you, Chief Superintendent, finally, can  
7 I ask you then, in relation to --  
8 **CHAIRMAN:** It was very, very shortly after that, in any  
9 event, it was 29th of April 2014 that Ms. D made a  
10 complaint to GSOC. Now, I don't know how quickly they 16:24  
11 would send it to the division but I would imagine it  
12 would be pretty swift. And those articles, the last of  
13 those were May, weren't they?  
14 **MR. O'HIGGINS:** Yes, there was --  
15 **CHAIRMAN:** There was two more after that. 16:24  
16 **MR. O'HIGGINS:** -- two more Mr. McDowell had. I am not  
17 sure what dates they were, but I think they may have  
18 been May.  
19 **MR. MCDOWELL:** The 3rd of May.  
20 **CHAIRMAN:** Yes. So it's virtually at the same time. 16:24  
21 It's certainly before the meeting in, what you have  
22 described as the conspiracy room, Mr. O'Higgins.  
23 **MR. O'HIGGINS:** Yes, Chairman. Just to give you the  
24 page reference. The -- one of the later articles  
25 certainly is page 3212. That is in April, actually, 16:24  
26 April 16th.  
27 **CHAIRMAN:** well, it's well before the meaning.  
28 **MR. O'HIGGINS:** On page 3214 there is an article from  
29 May.



1 of the matter, there was nothing for the guards to do?

2 A. Absolutely.

3 686 Q. And that remained your position, did it, as you went  
4 into the meeting in July in Mullingar?

5 A. Absolutely, yes. 16:26

6 687 Q. When you come out of the meeting in July in Mullingar,  
7 were you of any other disposition or frame of mind?

8 A. No.

9 688 Q. Were any of your colleagues, as far as you were  
10 concerned? 16:27

11 A. As far as I was concerned, certainly not.

12 689 Q. Lastly, then, Chief Superintendent, and locating again  
13 your evidence in the context of the overall allegation  
14 this Tribunal is concerned with, can you assist the  
15 Tribunal, did current Commissioner Nóirín O'Sullivan 16:27  
16 direct the steps you took in relation to the HSE  
17 incorrect referral?

18 A. Absolutely not.

19 690 Q. Did former Commissioner Callinan?

20 A. Definitely not. 16:27

21 691 Q. Did Superintendent David Taylor?

22 A. Definitely not.

23 **CHAIRMAN:** well, sorry, Mr. O'Higgins, I am just a wee  
24 bit confused. You are saying the Gardaí did what was  
25 right, so, I mean, if you are right about that and it's 16:27  
26 Commissioner Nóirín O'Sullivan directed it, which  
27 presumably she would be entitled to assume her officers  
28 were competent, it would be to her credit, wouldn't it?  
29 I am not actually sure what the point is. I am not

1 trying to make fun, I am just -- I just don't know.  
2 what's the point you are making? I am missing it.

3 **MR. O'HIGGINS:** I take your -- it's clumsy phraseology  
4 on my part, Chairman. I might just rephrase the  
5 question.

16:28

6 692 Q. Chief Superintendent, could I ask you to deal with  
7 this. Did Superintendent David Taylor play any role in  
8 the manner in which you dealt with the HSE incorrect  
9 referral?

10 A. No, Chairman, definitely not.

16:28

11 693 Q. Were you party to any conspiracy to sully or besmirch  
12 the reputation of Sergeant McCabe?

13 A. Absolutely not, Chairman.

14 694 Q. Was any -- as far as you are aware, was anybody in  
15 senior management in An Garda Síochána party to any  
16 conspiracy with a view to sullying and besmirching the  
17 reputation of Sergeant Maurice McCabe?

16:28

18 A. Not to my knowledge, Chairman.

19 **MR. O'HIGGINS:** Thank you.

16:29

20  
21 **CHIEF SUPERINTENDENT SHERIDAN WAS RE-EXAMINED BY**  
22 **MS. LEADER:**

23  
24 **MS. LEADER:** Chairman, there is one thing that I have  
25 been asked to clarify. There may be an error in the  
26 transcript or it may have been put by me wrongly.

16:29

27 695 Q. In relation to the disclosure to the Guerin Inquiry,  
28 can you comment as to whether the letter from Keara  
29 McGlone of the 15/8/2013 was included with that

1 discovery, Detective Superintendent?

2 A. To my knowledge, it wasn't.

3 696 Q. Okay. And when -- you first saw that letter when?

4 A. Today was the first time I have seen it or in  
5 disclosures, one or the other. It's been in the last 16:29  
6 couple of weeks.

7 **MS. LEADER:** I think there may have been an error on  
8 the transcript.

9 **CHAIRMAN:** It seems to be, yes, it seems to be that,  
10 because I think it was only discovered in either late 16:29  
11 February or early March of this year, isn't that right,  
12 following on inquiries by email from Garda  
13 Headquarters, so I don't think you could have seen it  
14 because they say it was locked in a safe.

15 A. I definitely didn't see it. 16:30

16 **CHAIRMAN:** Or perhaps even not physically opened at  
17 that stage -- no, it was open, but it was left aside to  
18 be dealt with later. Thank you.

19

20 **THE WITNESS THEN WITHDREW** 16:30

21 **CHAIRMAN:** So what do you want to do now?

22 **MR. MCGUINNESS:** Chairman, I think that is probably as  
23 far as we can take it today. The next witness has made  
24 a number of statements originally on 8th of May,  
25 another one on 3rd of July and he has helpfully 16:30  
26 provided a third statement on 13th of July. And we  
27 have, I think -- we have reached a stage, Chairman, at  
28 which you said you would sit until today.

29 **CHAIRMAN:** All right. Okay. So maybe you just



1 wouldn't mind telling me, Mr. McGuinness, who are the  
2 next witnesses, and I have to say, unfortunately I am  
3 going to have some difficulties in a couple of  
4 mornings, at least, next week, so we will try and make  
5 as much progress as we can. 16:31

6 **MR. MCGUINNESS:** The next witness was intended to be  
7 Inspector O'Connell and then former Assistant  
8 Commissioner Kieran Kenny.

9 **CHAIRMAN:** well, if I sat at 10:00 then on Monday and  
10 tried to get on to this time on Monday, we might get 16:31  
11 through more. And that is not to criticise anybody, I  
12 think we are making great progress and thank you very  
13 much for that.

14 **MR. MCGUINNESS:** Mr. Marrinan thinks that they might go  
15 into Tuesday. 16:31

16 **CHAIRMAN:** Yes. Let's see what we can do.

17

18 **THE HEARING WAS THEN ADJOURNED TO MONDAY, 24TH JULY**  
19 **2017 AT 10 AM.**

20

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