

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

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

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

HELD IN DUBLIN CASTLE
ON MONDAY, 18TH SEPTEMBER 2017 - DAY 19

19

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

GWEN MALONE STENOGRAPHY
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JUDGE OF THE SUPREME COURT

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1 THE HEARING RESUMED, AS FOLLOWS, ON MONDAY, 18TH
2 SEPTEMBER 2017:

3
4 MR. MCGUINNESS: Good morning, sir. We have a number
5 of witnesses scheduled for today. I know, however, 10:00
6 that Mr. Cush is here on behalf of his clients and he
7 just, I think, wants to say something to the Tribunal
8 at this moment.

9 MR. CUSH: Yes, Chairman. I appear on behalf of the
10 HSE, and we have been granted representation in 10:00
11 relation to the Tribunal, including this module, if you
12 like, but, in fact, we have no witnesses scheduled in
13 relation to the matters now under inquiry. We have
14 corresponded with the Tribunal in relation to
15 discovery, the terms of the Order, the Tribunal's 10:00
16 interpretation of the terms of the Order, and we have
17 produced just one document in that regard, but the
18 correspondence is ongoing. And I mention all that just
19 to inquire if it is appropriate to withdraw at this
20 stage, not partake further - as I say, we have no 10:01
21 witnesses scheduled - returning only if the Tribunal
22 believes it appropriate that we should return.

23 CHAIRMAN: The social workers who interacted got the
24 anonymous letter first of all in relation to the
25 particular family situation, whatever it was, and 10:01
26 secondly, some several months later visited the
27 household. Where were they from?

28 MR. CUSH: They are Tusla employees.

29 CHAIRMAN: Yes.

1 MR. CUSH: As I understand it.

2 CHAIRMAN: But the HSE was never involved at all?

3 MR. CUSH: No.

4 CHAIRMAN: Yes. The document you're referring to,
5 Mr. Cush, is what? 10:01

6 MR. CUSH: It's a single document. It relates to a
7 medical appointment, actually, and we have written in
8 relation to that. We have inquired if the Tribunal
9 wants it. We have it. And we will try to make further
10 inquiries. We are here to assist. The only question 10:02
11 is whether or not it is appropriate --

12 CHAIRMAN: No, I appreciate that. Could I see the
13 document?

14 MR. CUSH: I'm not sure we have --

15 CHAIRMAN: Do we have it? 10:02

16 MR. MCGUINNESS: Sir, we have seen the document and we
17 don't think it's in any way relevant.

18 CHAIRMAN: Yes.

19 MR. MCGUINNESS: It relates to a personal appointment,
20 as I understand it. 10:02

21 CHAIRMAN: All right. Well, is there a reason I
22 shouldn't see it, Mr. McGuinness?

23 MR. MCGUINNESS: No.

24 CHAIRMAN: Okay. Well, then, I will have a quick look.
25 It's saying basically what he said. Nothing to do with 10:02
26 this that seems to come within the scope of what I am
27 required to inquire into.

28 MR. CUSH: I think not, sir. We conducted word
29 searches and it threw up that document. It doesn't

1 appear to be really relevant to the Tribunal's
2 inquiries.

3 CHAIRMAN: I presume counsel for Garda Harrison are
4 aware of this document?

5 MR. HARTY: I think we are briefly aware there was a 10:03
6 document. We haven't seen the document, but --

7 CHAIRMAN: Yes. Well, do you want to have a look at it
8 now? I mean, I don't see any reason to pass you the
9 letter from Mr. Cush's solicitors, because he simply
10 said what is in the letter already. Do you want to 10:03
11 take an instruction as to whether that is in any way
12 relevant?

13 MR. HARTY: Looking at the dates alone, it would appear
14 to me that there is no way that it is relevant. I
15 think the easiest thing is if I can retain this copy of 10:03
16 the document, I will take instructions from my client
17 later on today, but, absent any difficulty, I can
18 always notify Mr. Cush if there is any difficulty
19 arising.

20 CHAIRMAN: I would prefer to make a decision now, if 10:03
21 you don't mind, Mr. Harty, if that is at all possible.

22 MR. HARTY: Garda Harrison tells me he never received
23 that letter for whatever reason, so I can't -- and
24 certainly, from the dates alone on it, it doesn't
25 appear to deal directly with any matters before the 10:04
26 Tribunal.

27 CHAIRMAN: Yes. No, I can't see that it does. So,
28 Mr. Cush, thank you very much for drawing that to my
29 attention and thank you also for searching your records

1 so diligently. While I am on a vote of thanks, I would
2 like to thank counsel and solicitor for the Tribunal,
3 the Tribunal staff, for the weeks of work that has been
4 necessary during the long vacation to get this thing up
5 and running today. 10:04

6 MR. CUSH: I am grateful.

7 MR. POWER: I wonder, Chairperson, if I could clarify
8 on behalf of Chief Superintendent McGinn -- Daniel
9 Spring & Company, Conor Power is my name and I appear
10 with my junior, Mr. Cathal Ó Braonáin -- that we had 10:05
11 representation before the Tribunal for this module.
12 The Tribunal has very kindly communicated with my
13 solicitor, Daniel Spring & Company, and we do have the
14 documents. My apologies, my microphone wasn't on. I
15 apologise. 10:05

16 CHAIRMAN: I can hear you.

17 MR. POWER: I apologise. Conor Power, with Mr. Cathal
18 Ó Braonáin.

19 CHAIRMAN: I heard everything.

20 MR. POWER: Thank you, Chairperson. I won't repeat 10:05
21 myself. I am just formally applying for representation
22 on behalf of Chief Superintendent McGinn. I want to
23 point out that, in fact, there has been liaison in the
24 past between the team for the Tribunal and my
25 solicitors, Daniel Spring & Company, Solicitors. 10:05

26 CHAIRMAN: It's clear to me that Superintendent McGinn
27 is the subject of a number of allegations and
28 inferences that are supposed to be made against her and
29 it is clear also that she is entitled to

1 representation.

2 MR. POWER: I am very much obliged.

3 CHAIRMAN: Is that it, ladies and gentlemen?

4 MR. DOCKERY: Just one matter arising, Chairman. Back
5 in April, you granted representation to Mr. Michael 10:05
6 Hegarty, solicitor, for this module in respect of three
7 witnesses before the module, and they are: Sergeant
8 Goretta Sheridan, Sergeant Bridgid McGowan and Sergeant
9 David Durkin, and I wonder might I just apply to extend
10 that representation this morning to Sergeant James 10:06
11 Collins, who is scheduled to be a witness on Wednesday.
12 Sergeant Collins is a member of, or at the relevant
13 time was a member serving in Letterkenny Garda Station,
14 and he was involved, you will recall, sir, in the
15 initial contact of the 30th of September/1st October 10:06
16 with Ms. Paula McDermott, and he passed information on
17 to superiors and to Garda McGowan.

18 CHAIRMAN: Was that in the context of the very early
19 anonymous letter?

20 MR. DOCKERY: No, that was in the context of what 10:06
21 occurred in, or was said to have occurred in October
22 2013.

23 CHAIRMAN: Yes. No, I have no doubt you're entitled
24 to -- we will extend the representation. Thank you
25 very much. 10:06

26 MR. DOCKERY: Yes. He was -- it's a peripheral-enough
27 involvement, but it is central to the issues that are
28 part of the Tribunal's business, sir.

29 CHAIRMAN: Yes. No, that is fine, no problem.

1 MR. DOCKERY: Thank you.

2 MR. MCGUINNESS: Sir, if I could call then the first
3 witness this morning. It's retired Chief
4 Superintendent James Sheridan.

5 RETIRED CHIEF SUPERINTENDENT JAMES SHERIDAN, HAVING 10:07
6 BEEN SWORN, WAS DIRECTLY EXAMINED BY MR. MCGUINNESS:
7

8 1 Q. MR. MCGUINNESS: Mr. Sheridan, thank you for coming
9 this morning. I think you've retired from An Garda
10 Síochána, but could you briefly outline the position 10:07
11 you held in An Garda Síochána in 2011 that is relevant
12 to the Inquiry.

13 A. In 2011 I was the chief superintendent for
14 Sligo-Leitrim division, but from November 2010 to
15 August 2011 and again from February 2012 to November 10:08
16 2012 I also had responsibility for Donegal division.

17 2 Q. Just to clarify, Sligo-Leitrim, that covers the two
18 counties?

19 A. That's correct.

20 3 Q. And nothing more? 10:08

21 A. That's correct, yes.

22 4 Q. Donegal just covers Donegal, is that correct?

23 A. Yeah, Donegal is one division.

24 5 Q. And who had been the chief superintendent with
25 responsibility for Donegal before you were acting up, 10:08
26 as it were, in that capacity?

27 A. Chief Superintendent Terry McGinn was the permanent
28 chief superintendent for Donegal division. She was off
29 on leave for both occasions and then she came back

1 conversation, if it is possible?

2 MR. MCGUINNESS: Yes.

3 14 Q. What time period are you talking about, Mr. Sheridan?

4 A. I think it is around February 2011, I think.

5 15 Q. Okay. 10:10

6 A. Roughly. I can't be specific, but it was around that

7 time.

8 16 Q. Yes. Just on this point, Garda Harrison, you will have

9 seen in his statement, he's suggesting that you might

10 have been spoken to by Chief Superintendent Glacken in 10:10

11 that regard?

12 A. I have seen that. I may have been, but I cannot recall

13 a conversation with Superintendent Glacken or Chief

14 Superintendent Glacken.

15 17 Q. Okay. But do I gather from your earlier answer that 10:11

16 you were happy to accept Garda Harrison into the

17 division?

18 A. Into Sligo-Leitrim division, into Sligo town.

19 18 Q. Well, did he come to Sligo town?

20 A. No. The bulletin issued in, I think, March, and when 10:11

21 the bulletin came out, which itemises the transfers of

22 members all over the country, the transfer showed he

23 was going to Buncrana station, Buncrana district.

24 19 Q. Okay. Well, at the time we're talking about, you also

25 had responsibility for Donegal, but did you intend that 10:11

26 he would be transferred to Donegal or was there any

27 specific decision?

28 A. Well, I had vacancies in Sligo, in the escort unit in

29 Sligo, and I had many people in Sligo who were looking

1 for transfers to Donegal, who were driving, on a daily
2 basis, long distances from Sligo, or from Donegal to
3 Sligo, and vice versa, but I had a vacancy. In the
4 times we were operating on, where there was a
5 moratorium on recruitment, it was very, very difficult, 10:12
6 in fact next to impossible, to get additional resources
7 in without having to give some in return, and I was
8 getting a resource in without having to lose anybody.
9 And I had vacancies in the escort unit in Sligo. So I
10 had no difficulty in taking Garda Harrison. 10:12

11 20 Q. Yes. Now, can I ask you this: did he, in fact,
12 transfer to Buncrana then?

13 A. He did, yes, Judge.

14 21 Q. And can you recall the date upon which he made that
15 transfer? 10:12

16 A. I think it was 15th March 2011.

17 22 Q. Now, did you meet him on the occasion of his transfer
18 or shortly thereafter?

19 A. No, I had no dealings with him on the occasion of his
20 transfer or for a number of months after that. 10:13

21 23 Q. And who would have been the superintendent in charge in
22 Buncrana?

23 A. Superintendent Kevin English would have been the
24 superintendent in Buncrana.

25 24 Q. And in terms of your dealing with Superintendent 10:13
26 English and Garda Harrison, did Superintendent English
27 bring anything to your notice in 2011?

28 A. On the 25th March 2011, Superintendent English informed
29 me of an incident that had happened at Churchill on the

1 two days previously, the 23rd. It was an incident that
2 involved Garda Harrison's partner and her ex-husband,
3 and, arising out of that incident, there were a number
4 of things brought to my attention. One is that Garda
5 Harrison's partner was a sister of Martin McDermott, 10:14
6 who was before the courts charged with the manslaughter
7 of Garda Gary McLoughlin. Garda McLoughlin had been
8 stationed in Buncrana station at the time of his death.
9 He was on the same unit as Garda Harrison was then on.
10 I was also aware, and I had met them myself, Garda 10:14
11 McLoughlin's family, a number of times in Buncrana
12 station. I was aware that Garda McLoughlin's family
13 were in regular contact with members in Buncrana
14 station. I was also made aware that during the course
15 of that incident, Garda Harrison had reported prior to 10:15
16 the -- that when he became aware of the incident, he
17 reported off duty, and he had travelled off duty in the
18 Buncrana patrol car out of Buncrana district into
19 Churchill, which is in Milford Garda district.

20 25 Q. Okay. Can I just stop you there, Mr. Sheridan. Was it 10:15
21 reported to you, firstly, that, and in fairness to
22 Garda Harrison, the incident that he was responding to
23 hadn't in any way been caused by him?

24 A. Absolutely. I fully accept that. It was a
25 domestic-related incident at his home. 10:15

26 26 Q. Yes. And secondly, was it clear to you that he had, it
27 would appear, some genuine reason for being concerned
28 about his partner, Ms. Simms, at that point?

29 A. Yeah, I don't dispute that, Judge. And in light of all

1 of that, that is why I didn't take any action in
2 relation to his use of the patrol car while he was off
3 duty.

4 CHAIRMAN: Can I just establish, is it right or wrong?
5 And forgive me, I am not getting it. You say to travel 10:16
6 from one Garda district to another Garda district and
7 then it is use of a patrol car outside of duty, and I'm
8 just wondering where is the regulation on either of
9 those things?

10 A. Well, it would be -- there may be issues that would 10:16
11 arise in relation to the insurance if an incident did
12 happen, if a member had reported off duty and was using
13 a patrol car in an official capacity. So there were
14 those type of -- and clearly, if a member is off duty
15 he should not be using official transport. 10:16

16 27 Q. MR. MCGUINNESS: well, there may be some dispute about
17 whether or at what stage he was using it or whether he
18 used it at all, but we can leave that aside, perhaps.

19 A. Yeah, and that is something I did not inquire into.

20 28 Q. Yes. 10:16

21 A. I tried to be as fair as I could be to Garda Harrison,
22 given the circumstances of the incident.

23 29 Q. Yes. But were you aware, for instance, that he had, in
24 fact, reported that he was going to the location where
25 his partner was and that the Gardaí in Churchill had 10:17
26 been --

27 A. Yeah, I was aware he had informed his sergeant and that
28 the guards in Milford district had been advised of the
29 incident.

1 30 Q. And I think they attended the scene?
2 A. That's correct as far as -- yes.

3 31 Q. That is correct. Now, was it arising from that, that
4 you learnt of his connection with Mr. McDermott's
5 sister, his partner, Marissa Simms? 10:17
6 A. That is the first time I became aware of that
7 connection, Judge, yes.

8 32 Q. Well, had you received or was there any written report
9 made in connection with that, that came to your desk?
10 A. Well, I have never seen one. 10:17

11 33 Q. Can you recollect who brought that relationship to your
12 attention?
13 A. Superintendent English, on the 25th May.

14 34 Q. Now, you have referred to the fact that the late Garda
15 McLoughlin had worked on that Unit C that Garda 10:18
16 Harrison had then been assigned to, but what view did
17 you take and why did you take a view as to whether
18 Garda Harrison ought to have disclosed that
19 relationship?
20 A. Well, I think, given the circumstances, from a purely 10:18
21 human perspective, given the circumstances of the
22 incident -- of the death, the circumstances surrounding
23 the death of Garda McLoughlin, this was not an
24 accident. As far as I was concerned, it would have
25 been incumbent on Garda Harrison to disclose it. I had 10:18
26 to look at from both a human and managerial point of
27 view. In my view, I wasn't holding Garda Harrison's
28 partner in any way responsible for the actions of her
29 brother, but I had to manage the circumstances that I

1 then became aware of. And in my view, the trial of
2 Martin McDermott was coming up in July, which is six
3 weeks later, and I looked at all of that, I told Garda
4 English to arrange a meeting with Garda Harrison.

5 35 Q. Superintendent English? 10:19

6 A. Or Superintendent English, sorry, and to discuss all
7 these matters with Garda Harrison.

8 36 Q. Well, can I just clarify one matter for you -- with
9 you. We've looked at provisions of the Garda Code.
10 Are you suggesting in any respect that there was a 10:19
11 breach of the Garda Code in not disclosing this?

12 A. Well, you know, technically, when you look for a
13 transfer, you are to disclose your relatives so
14 whatever in relation to transfers, and that provision
15 is in the Garda Code. 10:20

16 37 Q. Okay. But does that cover, in your opinion, a partner
17 whose brother may have fallen foul of the law, in
18 whatever way it actually occurred, would that prevent a
19 guard normally serving?

20 A. Well, if somebody is disclosing their relatives, they 10:20
21 must disclose them up to a certain -- or the relatives
22 of their wife or partner. When the Code was originally
23 written, it obviously would have been in relation to a
24 wife, but obviously that would have to be interpreted I
25 would say now in the broader sense to include partner. 10:20

26 38 Q. Yes. But there is a geographical limit in relation to
27 that, isn't that correct?

28 A. Yes, there are, and it was updated, I think, to, and
29 I'm going from memory now, to 30 kilometres and 50

1 kilometres, I think, from where certain relatives
2 reside. But again, I would concede that that is
3 something that is not always strictly adhered to, for
4 various reasons.

5 39 Q. All right. Well, just to be clear, I mean, the man who 10:21
6 was convicted of the manslaughter ultimately, I think
7 he received a substantial sentence of eight years for
8 the offence, isn't that correct?

9 A. That's correct, seven years.

10 40 Q. And he wasn't residing in around there, because he had 10:21
11 to be extradited back from outside the jurisdiction and
12 was in custody in Portlaoise, isn't that correct?

13 A. Well, to be honest, I didn't go into that part of it
14 when I made the decision that I made to transfer Garda
15 Harrison. 10:21

16 41 Q. So you weren't transferring him for any breach of the
17 Garda Code?

18 A. Absolutely, or for any breaches of discipline.

19 42 Q. And nor are you suggesting that he was in breach of
20 discipline, are you? 10:21

21 A. No, I'm not. Well, I certainly didn't factor that in,
22 and I didn't take any disciplinary action against him.

23 43 Q. Yes. But you were obviously -- you have got
24 responsibility for managing the division --

25 A. That's correct. 10:22

26 44 Q. -- in Chief Superintendent McGinn's absence. But you
27 decided, in any event, to meet with --

28 A. Garda Harrison.

29 45 Q. -- Garda Harrison, and you did so on the --

1 A. The 30th May.

2 46 Q. It's a small point; he's suggesting that was on 27th
3 May. Have you any view on that issue?

4 A. Well, my records would show it was 30th May.

5 47 Q. You met with him in Letterkenny, is that correct? 10:22

6 A. That's correct, yes.

7 48 Q. And could you just describe in your own words the
8 meeting?

9 A. The meeting took place. Superintendent English was
10 also present. The meeting was conducted in a 10:23
11 professional and efficient manner. I outlined at the
12 outset the reason for the meeting and we discussed the
13 incident in Churchill. Garda Harrison assured me that
14 there wouldn't be a repeat of it, that his partner and
15 her former husband had come to an agreement in relation 10:23
16 to matters and that there wouldn't be a repeat of that
17 incident. And then we discussed, obviously, his
18 relationship, the relationship of his partner with
19 Mr. McDermott. In fairness to Garda Harrison, he gave
20 me a full rundown of his relationship going back to his 10:23
21 college days with his partner, when they had originally
22 met, when they had gone their separate ways and they
23 had met up again in more recent times. He acknowledged
24 that he hadn't disclosed the relationship of his
25 partner to Martin McDermott. We discussed all of those 10:24
26 matters. He advised me that he had, since the incident
27 in Churchill, I think on the night previously, he had
28 informed the unit he worked with of the matter. He
29 said that they had accepted it well. But he did -- and

1 that he had worked well with the unit there. But he
2 did accept that -- he fully accepted that he couldn't
3 continue to serve in Buncrana station.

4 49 Q. Well, when you refer to his unit, is that the unit that
5 Sergeant Durkin was in charge of? 10:24

6 A. It was the unit I think Sergeant Devlin would have been
7 in charge of. I'm not totally certain of that now,
8 but, from recollection, it was the Unit C, I think.

9 50 Q. Yes. Sergeant Devlin, in fact. But did you understand
10 how he had apologised, as you understood it, to his 10:25
11 unit?

12 A. Yeah. He did, he did say that, yes.

13 51 Q. Okay. But what did you understand had happened in that
14 regard?

15 A. Well, that he had informed the unit of the relationship 10:25
16 between his partner and Martin McDermott.

17 52 Q. Now, did you take any notes of that meeting?

18 A. I did, I took some rough notes. They're not complete
19 notes of the meeting, but I did take some notes of it,
20 yes. 10:25

21 53 Q. Okay. Could I ask you to look at -- we have a typed
22 version at page 2059 of our documents. I'm not sure if
23 you can see that on the screen in front of you?

24 A. Yes.

25 54 Q. It seems to be dated 30/5/'11. Chief's office, 10:26
26 Letterkenny Garda Station. It says:

27

28 "Purpose of meeting: Explain to Garda Harrison. Garda
29 Harrison provided personal details in relation to his

1 partner, Marissa Simms, and their reason for moving to
2 Donegal explained by Garda Harrison. Garda Harrison
3 explained what happened on the 23/5/'11 re domestic
4 incident... genuine fears for the safety of partner and
5 two kids." 10:26

6
7 You obviously accepted that?

8 A. Yes.

9 55 Q. "Garda Harrison confirmed that he met with his unit in
10 Buncrana on the 29/5/'11, apologised and told them of 10:26
11 his relationship with M. Simms. Garda Harrison
12 believed unit were happy with explanation. Garda
13 Harrison fully accepted that he should have disclosed
14 who his partner was when he transferred to Buncrana
15 Garda Station. Garda Harrison explained that his 10:26
16 relationship would not cause any problem in the future
17 and partner had little or no contact with her brother
18 Martin. Superintendent English confirmed to chief --"
19 that's you -- "that, since transferred, Garda Harrison
20 to Buncrana there was no work-related issues and he was 10:27
21 performing very well. Issue of transfer out of
22 Buncrana was discussed. Garda Harrison accepted that
23 he could not remain in Buncrana and requested to be
24 kept anywhere within the Donegal division. Chief
25 mentioned Sligo or Leitrim. Garda Harrison explained 10:27
26 impact of not kept in Donegal Division. Garda Harrison
27 gave assurances that there would be no further
28 incidents with him and that he was getting his private
29 issues sorted out. Garda Harrison stated that he would

1 take a transfer to any other station within Donegal
2 division. He wanted to make a new start. Chief
3 confirmed there would be no delay in making his
4 decision."

10:27

5
6 And this is Superintendent English, and there's an
7 email from the Chief on 30/5:

8
9 "Garda Harrison notified of transfer to Donegal town.
10 Happy."

10:28

11
12 Now, can I just ask you a couple of questions arising
13 out of that? Is that, firstly, an accurate note of the
14 meeting, as you recollect?

15 A. Yes, as I recollect, absolutely, yes.

10:28

16 56 Q. Well, you have seen Garda Harrison's statement. He
17 suggests that you were angry in this meeting,
18 effectively?

19 A. I've seen Garda Harrison's statement. I saw it with
20 disbelief, I have to say, Judge. I reject utterly his
21 assertions in relation to the meeting. He makes other
22 allegations in relation to me, where he states that I
23 was related to Inspector Goretta Sheridan. I am no
24 relation of Goretta Sheridan's. She was not in Donegal
25 division when I was in Donegal division. I have never
26 worked with her in my life and I never had a
27 conversation with her in relation to Garda Harrison.

10:28

28 57 Q. Well, you have seen he has included in his statement
29 quotations attributed to you that effectively you

1 started the meeting by accusing him of being
2 underhanded and deceitful in keeping the relationship
3 quiet and it showed a lack of respect in relation to
4 his colleagues in doing that?

5 A. Yeah, we had a discussion around it. Those are not 10:29
6 words that I would use. I certainly was disappointed
7 that somebody -- that a member of An Garda Síochána
8 would not disclose that relationship, given the
9 circumstances in which a colleague gave his life in the
10 service of the country, and I certainly was very, very 10:29
11 disappointed in relation to that. I was not angry. I
12 had nothing to be angry about. I don't do anger, to be
13 honest. I had many meetings with members of An Garda
14 Síochána in relation to transfers during all of my
15 tenures in the districts in the divisions I was in. I 10:30
16 tried to treat them all as fairly as I could, and that
17 was acknowledged by many of the associations. And I
18 didn't treat Garda Harrison any different to that. I
19 listened to what he had to say. He pleaded with me to
20 leave him in Donegal division. He gave me the 10:30
21 circumstances of -- his family's circumstances in
22 relation to having a house then rented, that they had
23 two young kids, that his partner was now off on
24 maternity leave. I factored that into my
25 decision-making. I transferred him from Buncrana to 10:30
26 Donegal Town. I have seen where there is allegations
27 against me that this put financial, further financial
28 constraints on him. In my view, and I have checked it,
29 Donegal Town is a kilometre closer to Churchill than

1 Buncrana is. I did tell him during the course of the
2 meeting that originally he was to go to Sligo, but I
3 have transferred him to, I would say, probably the
4 closest point to his home that I could have within
5 Donegal division.

10:31

6 58 Q. Well, just to be clear: was Garda Harrison, to your
7 knowledge, aware what Martin McDermott was alleged to
8 have done?

9 A. Absolutely. Because Martin McDermott had checked --
10 or, I beg your pardon, Garda Harrison, from my
11 recollection, had checked Martin McDermott on PULSE
12 quite a number of times. It was something that I
13 didn't factor into my decision-making. And, of course,
14 I had to, in making my decision, not only had I to look
15 at the circumstances then prevailing currently, I also
16 had to look at what issues the trial was coming up, I
17 also had to try and factor in to what might happen into
18 the future. And as we all know, Martin McDermott
19 escaped from Garda custody -- or escaped from prison a
20 year later. He went to Derry, which is adjacent to
21 Buncrana. And if I wanted to be malicious about it
22 all, I could question the motive for Garda Harrison to
23 be checking Martin McDermott on PULSE.

10:31

10:31

10:32

24 59 Q. Well, just to get back to an issue that I just want to
25 tease out with you, Mr. Sheridan. You're very clear in
26 your knowledge that Garda Harrison knew of
27 Mr. McDermott's position at the time of the transfer
28 and before he applied for a transfer, is that right?

10:32

29 A. That is correct.

1 60 Q. well, you must have been of the mind, therefore, that
2 he had, as it were, deceived you about the
3 relationship, and did you not give voice to that in
4 some way?

5 A. well, I did tell him that he should have, he should 10:33
6 have disclosed it, and, as I said, he accepted himself
7 he should have disclosed it.

8 61 Q. Okay.

9 A. But to say that I was angry or I treated him in any way
10 disrespectful is a gross misrepresentation of how that 10:33
11 meeting was conducted.

12 62 Q. Now, he asserts in his statement that you said: "I
13 have good mind to send you far down the country and see
14 how you like it then." Do you recollect saying any
15 such thing? 10:33

16 A. well, one is, I couldn't say that because I didn't have
17 the authority to transfer him way down the country. I
18 had the authority to transfer him back to Sligo if I
19 wished.

20 63 Q. well, that is what I am wondering. Is he perhaps 10:33
21 mistaken in that you were suggesting transferring him
22 out of the county, as you would seem to have, in fact,
23 been contemplating?

24 A. well, I couldn't -- I wouldn't dare, having looked at
25 the way he has misrepresented things, to try and read 10:34
26 his mind of what he might have interpreted.

27 64 Q. But I refer to Superintendent English's note here and
28 he records there: "Chief mentions Sligo-Leitrim". So
29 you certainly do seem to have been contemplating

1 transferring him out of the County of Donegal, is that
2 fair?

3 A. I did mention to him that he was originally to go to
4 Sligo. That is my recollection of what happened at the
5 meeting. 10:34

6 65 Q. Okay. But is it correct then to say that he pleaded
7 with you and he made a case for staying within Donegal?

8 A. Yeah, absolutely, he pleaded with me. And as I have
9 said, he outlined all of his family circumstances to
10 me: the fact that his partner, I think, at that time 10:34
11 was still on maternity leave and he gave me a full
12 rundown in relation to them having rented a house and
13 where it was, and that is something that I factored
14 into my decision.

15 66 Q. You made a decision that evening? 10:34

16 A. That's correct.

17 67 Q. You kept him within Donegal?

18 A. That's correct.

19 68 Q. And you ordered him to transfer --

20 A. To Donegal Town. 10:35

21 69 Q. -- to Donegal. And was that because you had taken on
22 board his representations and had decided to agree to
23 keep him within Donegal?

24 A. Well, I certainly took into account what he had told me
25 and that is something I factored into my 10:35
26 decision-making, Judge.

27 70 Q. Could I ask you to look at page 1292 of our documents.
28 This is a report written by you. It's addressed to the
29 chief superintendent, Donegal division. Now, it

1 appears to be written at a time obviously after you had
2 dealt with him, but this records your meeting with him
3 on this occasion. Do you see those first number of
4 paragraphs there?

5 A. I do, yes. 10:36

6 71 Q. It says:

7
8 "I first met Garda Keith Harrison in Letterkenny Garda
9 Station on the 30th May 2011. He was in Donegal
10 division for a very short period of time, stationed in 10:36
11 Buncrana Garda Station. It became apparent that he was
12 in a relationship with Marissa Simms (nee McDermott).
13 She was the sister of Martin McDermott who had been
14 charged in relation to the death of Garda Gary
15 McLoughlin who had been stationed at Buncrana at the 10:36
16 time of his death. At that meeting, he discussed his
17 relationship with Ms. Simms with me and pleaded with me
18 not to transfer him out of the division. We also
19 discussed issues that had arisen between Andrew Simms
20 and his wife Marissa Simms and Garda Harrison. He 10:37
21 advised that these issues had been resolved and there
22 would not be a repeat of them. Superintendent Kevin
23 English was also present at this meeting. I advised
24 Garda Harrison I did not want to hear of his
25 involvement in any other issues into the future. He 10:37
26 gave me an undertaking that he would not be involved in
27 any further controversies in the division and he was
28 anxious to make a fresh start. On June 2nd, 2011 I
29 issued directions that Garda Harrison be transferred

1 from Buncrana to Donegal Town Garda Station."
2
3 Is that an accurate summary then of your dealings with
4 him?
5 A. Yes, I would say it is, Judge. 10:37
6 72 Q. Just on that point, we have a copy of the minute
7 written by you on the 30th May at page 1344. Is that
8 directed to the superintendent at Ballyshannon?
9 A. Superintendent at Ballyshannon and the superintendent
10 at Buncrana, yes. 10:38
11 73 Q. Okay. So you made that decision on that day?
12 A. That is correct, yes.
13 74 Q. And there's also an email then from you on the next
14 page of our documents, at 1345. You seem to be sending
15 this to Assistant Commissioner Fanning, is that 10:38
16 correct?
17 A. That would be correct, yes, in HRM.
18 75 Q. Now, just to be clear, had you any contact or
19 involvement with Garda HQ prior to making your decision
20 to keep him within the decision and/or to transfer him 10:38
21 to Buncrana?
22 A. No, Judge, no.
23 76 Q. Well, can you just explain the purpose of this email
24 then to the assistant commissioner?
25 A. Well, that email would be so that the transfer would be 10:39
26 included in the next transfer bulletin that would come
27 out from Garda Headquarters.
28 77 Q. At the end of that email in brackets there it's
29 recorded: "This by agreement, so no issues in relation

1 to time factor".

2 A. That's correct.

3 78 Q. Is that the way you saw what was your order, or was it
4 an order, or was it an agreement with Garda Harrison?

5 A. Well, it's -- in that, Garda Harrison accepted that he 10:39
6 couldn't stay in Buncrana, he had pleaded with me to be
7 left in Donegal division, and that's what I was doing.

8 79 Q. Is that something that he would have been entitled to
9 appeal in any way had he been dissatisfied?

10 A. Absolutely, if he wished to, yes. 10:40

11 80 Q. An interdivisional transfer from one station to
12 another?

13 A. Yes, absolutely.

14 81 Q. You also wrote a letter at page 1346 which is directed
15 to a different superintendent at Milford. What was the 10:40
16 purpose of writing this letter?

17 A. Well, because the incident of the 23rd of May had
18 happened in Milford district, and obviously that was
19 something that I had discussed with Garda Harrison when
20 I met him and he had given me assurances that Marissa 10:40
21 Simms and her former husband had come to an agreement
22 and that there wouldn't be a recurrence of the incident
23 that happened at their home on the 23rd. And it was to
24 advise the superintendent in Milford of that because
25 Garda Harrison lived in the superintendent in Milford's 10:41
26 district.

27 82 Q. You see there's a sentence at the end there. It says:

28

29 "If there are any further incidents, please advise this

1 office."
2
3 what were you requiring by that instruction?
4 A. well, if there were any - he had given me assurances
5 that there wouldn't be - and that if there were, to 10:41
6 advise me accordingly. And it would be a matter of
7 course in relation to that type of thing.
8 83 Q. Yes. I mean, obviously your evidence so far, you have
9 sworn that he assured you there wouldn't be any further
10 incidents -- 10:41
11 A. That's correct.
12 84 Q. -- involving him at all and he was sorting out his
13 private life?
14 A. That's correct.
15 85 Q. But you were happy to accept those? 10:41
16 A. I was, at the time, yes, absolutely.
17 86 Q. And in terms of any supervision of those or oversight
18 of them, had you put any special regime in place for --
19 A. No.
20 87 Q. -- considering those matters? 10:42
21 A. No, I had not.
22 88 Q. Now, did you become aware that Garda Harrison's work
23 record was regarded as quite good?
24 A. I didn't have any knowledge of that at the time. It's
25 not something that I was looking for in relation to 10:42
26 Garda Harrison or any other guard at that time.
27 89 Q. Okay.
28 A. That is a matter for the district officer in his
29 district to manage.

1 90 Q. Yes. Well, did you receive reports from the district
2 officer in Milford, the superintendent to whom you had
3 written, that Garda Harrison had been carrying out
4 checks on PULSE in relation to Ms. Simms?
5 A. I received that on the 29th February 2011, I think. 10:43
6 91 Q. And what did you do about that?
7 A. Well, I received a report that he had carried out, I
8 think, a multiplicity of checks on Marissa Simms on
9 PULSE over a period of time. When I got that, I issued
10 a direction to all members in the division in relation 10:43
11 to accessing PULSE, in relation to data protection
12 matters, and that it would be noted by all members in
13 the division.
14 92 Q. And did you have that forwarded to all the district
15 officers? 10:43
16 A. All the district officers in Donegal division, yes.
17 93 Q. Okay. And did you take any action in relation to Garda
18 Harrison of any disciplinary kind in relation to that?
19 A. I met with Garda Harrison on the 24th April 2012 in
20 relation to the matter. I discussed it with him. He 10:44
21 could not give me any valid reason for having conducted
22 the checks on Marissa Simms, and he gave me an
23 assurance that it would cease.
24 94 Q. Well, what was your knowledge of the scale or frequency
25 or the duration of the checks? 10:44
26 A. I think there were over 30, from recollection.
27 CHAIRMAN: I appreciate counsel have more knowledge
28 than I do, and probably anyone who is a garda or a
29 serving garda would have more knowledge than I do, but

1 just, please, if you wouldn't mind outlining -- I know
2 the Revenue Commissioners are under severe constraints
3 not to simply go in and check up, let's say, my revenue
4 details because let's say they met me at a party, but
5 what is, in just a very encapsulated form, the 10:45
6 regulation in the Garda in relation to PULSE?
7 A. Well, if you are checking a name on PULSE, there's a
8 box that you must set out the reason for the check, and
9 that was not completed by Garda Harrison in relation to
10 his checks on Marisa Simms. 10:45
11 95 Q. MR. MCGUINNESS: Were you aware of any reason that did
12 exist as to why those checks ought to have been made or
13 were being made?
14 A. Well, I wasn't aware of any reasons. I am aware that
15 it arose -- that it was identified following the 10:45
16 anonymous letter to the HSE that had been forwarded to
17 the superintendent in Milford, when the superintendent
18 in Milford's staff were obviously inquiring into the
19 matters there. But I have -- I had no further
20 knowledge of that, other than I got the report from the 10:46
21 superintendent in Milford saying that he had conducted
22 all of these checks on Marissa Simms.
23 96 Q. Yes, but you, in any event, had a face-to-face meeting
24 with Garda Harrison?
25 A. That's correct, yes. 10:46
26 97 Q. You say on the 24th April 2012?
27 A. That's correct, Judge.
28 98 Q. And did you express any view about the acceptability or
29 otherwise --

1 A. I advised Garda Harrison that it was totally
2 unacceptable. He couldn't give me any valid reason for
3 having done them and he advised me that he would cease
4 with those checks. And I didn't take any further
5 action against Garda Harrison arising out of that 10:46
6 matter.

7 99 Q. All right. Well, he gave you an assurance he wouldn't
8 do it?

9 A. He did, yes.

10 100 Q. And you were satisfied with that? 10:47

11 A. I took his assurance, yes, Judge.

12 101 Q. Now, you had previously learnt of the existence of the
13 anonymous letter as a result of a report that you had
14 received from the superintendent in Milford, and
15 perhaps if you can look at page 588 of our documents. 10:47
16 Do you see that on screen there? It scrolls down.

17 A. Yes.

18 102 Q. That's from you to the superintendent, Letterkenny?
19 CHAIRMAN: Mr. McGuinness, I am just finding it
20 difficult to -- the anonymous letter, probably it 10:47
21 wasn't dated, but the date of this is -- I just can't
22 read it.

23 MR. MCGUINNESS: The date of this is 22nd March 2012.
24 It had been earlier provided by the HSE --

25 A. It was sometime around 9th February, I think, 2012, 10:48
26 Judge.

27 CHAIRMAN: That the anonymous letter came to the HSE?

28 A. Yeah, it was sometime around that date.

29 103 Q. MR. MCGUINNESS: The substance of it says:

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"The above is forwarded for your information and attention in the event of any incident being reported by Ms. Simms or Garda Harrison. The report and anonymous letter to the HSE are for your information only and not general circulation."

10:48

And why did you put that restriction on it, it as were?

A. Well, so that it wouldn't be circulated openly; that it was for the attention of the superintendent only, and that was sent in the event of any -- it was sent giving details to the superintendent in Letterkenny of where Garda Harrison resided, in the event that there were any incidents at the house, that the members there would be in a position, as far as I can recall, that they would know where he lived and be in a position to respond to calls in the event of any calls being received.

10:48

10:49

104 Q. And who was the superintendent in Letterkenny at that time?

10:49

A. It would have been Superintendent O'Brien, I think.

105 Q. Superintendent O'Brien. Thank you. Well, if we turn to document 590. This is a letter of the 3rd April 2012, and it relates to this inquiry concerning the HSE anonymous letter. And you were receiving a report, is that right, which was Sergeant McGowan's report being included with this, is that correct?

10:49

A. It may be. I don't recall this, I have to say. But if it's there, I accept that it's there, yes.

1 106 Q. well, that's why I am asking you. Did you receive --
2 if we start perhaps with Sergeant McGowan's report at
3 page 591. This goes from her to the superintendent in
4 Milford. It appears then to go from the
5 superintendent, that is Superintendent McGovern, to the 10:50
6 chief superintendent in Letterkenny. Were you made
7 privy to this?

8 A. well, it obviously was forwarded for my attention, or
9 for my information, but I did not have any involvement
10 in this or any contact with the HSE in relation to it, 10:50
11 or anybody else.

12 107 Q. well, did you become aware that insofar as the
13 anonymous letter, and it didn't in any way wholly
14 relate to Mr. Harrison, it must be said, the HSE
15 inquired into that and the concerns which appear to 10:51
16 have arisen as between Mr. and Mrs. Simms and they had
17 no concerns in relation to the matter?

18 A. I accept that. That is correct, yes.

19 CHAIRMAN: Again, I'm sorry for missing the date,
20 Mr. McGuinness, and it wouldn't be on the transcript 10:51
21 unless we say it, I suppose, but the HSE then seem to
22 have closed off any inquiry in relation to the
23 anonymous letter on or about this time, which is what
24 date?

25 MR. MCGUINNESS: well, this is -- it's 10:51
26 Sergeant McGowan's report.

27 CHAIRMAN: Yes.

28 MR. MCGUINNESS: which postdates meetings on the 14th
29 March, and it's forwarded on by the superintendent on

1 the 3rd April.

2 CHAIRMAN: And that letter seems to say that the HSE
3 had carried out inquiries with a family doctor, the
4 public health nurse, the school where the eldest child
5 was attending, and they didn't feel there was cause for 10:52
6 further inquiries at that point.

7 MR. MCGUINNESS: Yes, yes. But it's in the context of,
8 it would appear, quoting from the letter:

9

10 "It would appear Mr. and Mrs. Simms are now back 10:52
11 together and residing at the family home... Court,
12 Milford."

13 CHAIRMAN: Yes. And the previous letter said that --

14 MR. MCGUINNESS: It seemed to be confirming that.

15 CHAIRMAN: -- Garda Harrison and Ms. Simms were not 10:52
16 together at that point.

17 MR. MCGUINNESS: Yes.

18 CHAIRMAN: Well --

19 108 Q. MR. MCGUINNESS: Do you accept that that was brought to
20 your attention at the time? 10:52

21 A. I accept that letter was sent to the office, yeah. I
22 certainly took no action.

23 109 Q. Just to be clear, did you have any hand, act or part in
24 initiating or supervising or being concerned with the
25 outcome of any HSE investigation at that point in time? 10:53

26 A. Absolutely not. I had no involvement whatever.

27 110 Q. Now, what other involvement did you have, if any, in
28 relation to Garda Harrison and any issues that arose in
29 Donegal?

1 A. I think the only other involvement I had was that in, I
2 think it was March 2012, Garda Harrison was detected
3 driving or using a vehicle without insurance and motor
4 tax, I think, and, arising out of that, I appointed
5 Superintendent Michael Finan, who was then in Glenties 10:53
6 station, to carry out a disciplinary investigation into
7 that.

8 111 Q. Well, there's a number of hearsay quotes contained in
9 Mr. Harrison's statement relating to you. He is
10 quoting Sergeant Durkin as reporting to him, as it 10:54
11 were, that he had to bring back anything, straight back
12 to your attention, that dealt -- that related to Garda
13 Harrison?

14 A. Absolutely not. I had no dealings with Garda Durkin, I
15 had no communications with Garda Durkin at any time in 10:54
16 relation to Garda Harrison, and for him to say that is
17 blatantly untrue.

18 112 Q. Well, when this issue of the tax disc on the car, or
19 whatever issue was concerned, did you leave that to be
20 investigated and dealt with according to law or did you 10:55
21 intervene in any way?

22 A. My role in the disciplinary matter is as appointing
23 officer. I appoint somebody to investigate it. I have
24 no role in the investigative process. There obviously
25 then was a criminal investigation on one side in 10:55
26 relation to it, which takes its course. In normal
27 circumstances, the discipline would be parked while
28 that process is in place. I appointed Superintendent
29 Finan. I have no involvement whatever in any of that

1 process, because at the end of that process, depending
2 on the findings of it, it is open to the person who is
3 under investigation to appeal the findings to me or he
4 can object to me and appeal to some other divisional
5 officer to do that. So I have absolutely no 10:56
6 involvement whatever in that process, nor did I in this
7 particular case.

8 113 Q. Is that procedure laid down in the Garda Discipline
9 Regulations?

10 A. That's correct, yes. 10:56

11 114 Q. And is that something in respect of which you are
12 subject to my direction or control by headquarters at
13 any stage?

14 A. Absolutely not.

15 115 Q. Now, were you consulted in relation to an application 10:56
16 by Garda Harrison to be moved from Donegal Town down to
17 Letterkenny, I think?

18 A. Not that I can recall, Judge, no.

19 116 Q. Can I ask you to look at a document, firstly at page
20 1350. This appears to be from Sergeant Durkin to the 10:57
21 superintendent at Ballyshannon?

22 A. Sorry, if you would just roll that back.

23 117 Q. It's dated 5th October 2011.

24 A. I was not in Donegal division in October 2011. I left
25 Donegal division in August 2011 and I returned in 10:57
26 February 2012.

27 118 Q. Yes. But this appears to be an application, which
28 appears to be supported by Sergeant Durkin, to
29 facilitate a transfer or a swap, really, between a

1 member in Letterkenny and Donegal Town, and I'm just
2 wondering were you consulted about that?

3 A. No, I was not.

4 119 Q. Because Superintendent Coen wrote a letter on the 13th
5 October 2011, which is on the next page, 1351, which is 10:58
6 sent to the chief superintendent at Letterkenny, and
7 that was Chief Superintendent McGinn at that time?

8 A. That is correct, yes.

9 120 Q. Okay. But the second paragraph, I suppose the full
10 letter reads as follows: 10:58
11

12 "Application forwarded for consideration. Having
13 regard to the circumstances in which Garda Harrison was
14 transferred to Donegal Town, I am of the view that any
15 transfer is not for conversation at this time. Chief 10:58
16 superintendent J. Sheridan dealt with the matter while
17 acting temporarily while Chief Superintendent McGinn
18 was off duty, would have a definite view on the matter
19 which I would concur with."
20 10:58

21 That's what I am asking you: were you consulted by
22 Superintendent Coen?

23 A. Well, I certainly wasn't consulted in relation to it,
24 no.

25 121 Q. And it is followed by Chief Superintendent McGinn's 10:58
26 decision on the 17th October, on the next page, 1352,
27 in which the application is not acceded to. Was that
28 her responsibility?

29 A. Absolutely, yes.

1 122 Q. Okay.

2 A. Absolutely. It's nothing to do with me.

3 123 Q. Just to be clear, neither the application of Garda
4 Harrison was sent to you nor were you consulted about
5 it by either Sergeant Durkin, Superintendent Coen, or 10:59
6 Chief Superintendent McGinn?

7 A. Absolutely not.

8 124 Q. Now, you returned, obviously, to Sligo-Leitrim but came
9 back for the period which ended then in 2012. Did you
10 have any involvement or knowledge of any referral to 10:59
11 Tusla of anything relating to Ms. Simms and/or Garda
12 Keith Harrison or both of them together?

13 A. No, Judge, I did not.

14 125 Q. Were you consulted in any way about it?

15 A. No, I was not. 10:59

16 126 Q. Are you aware of any matter which is relevant to the
17 Tribunal's inquiries in that regard, of your own
18 knowledge?

19 A. Not from my knowledge, Judge, no.

20 CHAIRMAN: You'll appreciate, Chief Superintendent, 11:00
21 that the allegation is that Garda Headquarters were
22 involved in that, and presumably you were an instrument
23 in that regard?

24 A. Well, I had never -- the only communication I ever had
25 with Garda Headquarters in relation to Garda Harrison, 11:00
26 one was advising HRM of the transfer, which is normal
27 practice, and two would be that when I would have made
28 the appointment for the discipline in relation to the
29 use of the car, a copy of that would go to internal

1 affairs in Garda Headquarters. I had absolutely no
2 other communication with anybody in Garda Headquarters
3 relating to Garda Harrison.

4 MR. MCGUINNESS: I have no further questions at this
5 stage for Mr. Sheridan. Thank you. 11:00

6
7 THE WITNESS WAS CROSS-EXAMINED BY MR. HARTY:

8
9 127 Q. MR. HARTY: Mr. Sheridan, my name is Mark Harty, and I
10 am acting on behalf of Garda Harrison. The terms of 11:01
11 reference here are to investigate contacts between An
12 Garda Síochána and Tusla in relation to Garda Harrison,
13 and, as a result, the initial Tusla involvement is, in
14 fact, relevant in relation to the terms of reference to
15 the Tribunal. But before we come to that, you were 11:01
16 perhaps, to a certain extent, an unwilling participant
17 but a participant in the transfer of Garda Harrison
18 from Athlone to Donegal, and you had dealings with, you
19 say, Assistant Commissioner Fanning, is that correct?

20 A. That's my recollection, yes. 11:01

21 128 Q. And what were they? How did those dealings take place?
22 Was it by way of correspondence?

23 A. I had a phone call from -- my recollection is that I
24 had a phone call from Assistant Commissioner Fanning to
25 see would I take Garda Harrison. I said I would take 11:02
26 him to Sligo, to the escort unit in Sligo.

27 129 Q. No more detail given?

28 A. I didn't go into any details in relation to it, not at
29 all.

1 130 Q. would you be surprised to learn that Garda Harrison's
2 transfer to a number of other divisions was rejected?
3 A. well, I wasn't aware of that, to be honest, Judge.
4 131 Q. would it be commonplace for a chief superintendent in a
5 division to refuse a direction from assistant 11:02
6 commissioner level to take a member on transfer?
7 A. I don't know that it would or not. I didn't refuse to
8 take anybody. I have taken other people who've --
9 132 Q. That's the question I'm asking you: Is it commonplace
10 or does it occur that, at division level, it is 11:03
11 possible and permissible to refuse an assistant
12 commissioner's request to accept a member?
13 A. I don't know, is the answer to that, Judge. I have not
14 ever refused to take anybody.
15 133 Q. The situation is that -- if we go to page 1305. In 11:03
16 fact, if we go to 1304 first. This is a circumstance
17 where Garda Harrison is attempting to be transferred
18 and is being assisted in that regard by Superintendent
19 Glacken. And that is going through Assistant
20 Commissioner Human Resource Manager, I take it that is 11:04
21 Assistant Commissioner Fanning?
22 A. That would be correct, yes.
23 134 Q. He would have been assistant commissioner at the time?
24 A. That's correct.
25 135 Q. "I am in receipt of the attached file --" this is from 11:04
26 chief superintendent Limerick division, re application
27 transfer of Garda Keith Harrison. "I am in receipt of
28 the attached file from chief superintendent Mullingar
29 and same is noted. I am aware of this member's

1 situation and transfer to Limerick would not be in his
2 or the organisation's best interests. It will not, in
3 my view, alleviate any of the problems he is
4 encountering."

11:04

6 So that is a response to a request to transfer from
7 Limerick. Would you see anything unusual about that
8 response?

9 A. I didn't write it, Judge. I don't know, to be honest,
10 what the conversation or what the correspondence was
11 about it, so --

11:04

12 136 Q. Mr. Sheridan you are a man with long experience. A man
13 of the equivalent rank to you, in an office in
14 Limerick, is writing a letter, having been requested to
15 facilitate a transfer, and he writes this. Do you say
16 that that response is one that you would expect or
17 would not expect? Do you say it is commonplace?

11:05

18 A. I wouldn't say it is commonplace, no.

19 137 Q. Something is up with that letter, isn't there?

20 A. I didn't write this letter, Judge, so I'm not in
21 possession of all of the facts in relation to all of
22 this, so --

11:05

23 138 Q. I appreciate that.

24 A. So I would suggest if he -- if looking for reasons for
25 this, ask the man who wrote it.

11:05

26 CHAIRMAN: I think Mr. Harty's point is this: You say,
27 okay, you know, I don't tend to refuse people. And I'm
28 sure there have been circumstances in the past where
29 it's a question of someone making a fresh start or

1 attempting to make a fresh start. I'm gathering from
2 what you are saying, at least I'm inferring at the
3 moment, that you're the kind of person who likes to
4 give people a chance, now that's it. There's two
5 questions essentially being asked by Mr. Harty. First 11:05
6 of all, surely the telephone conversation that you had
7 with Assistant Commissioner Farrell in February 2011 --
8 sorry, Fanning -- was much more detailed, in the sense
9 that surely he laid out there may have been problems in
10 the past, or whatever. I'm not tasked with looking 11:06
11 into those. And then, secondly, it seems he's been
12 given a greater range of choice than what you allowed
13 yourself. So those seem to be the two issues.

14 139 Q. MR. HARTY: well, first, the principal question I have
15 is: You're a man who has been involved in the 11:06
16 investigation of matters your entire professional life.
17 You would look at a letter like that and surely it
18 would raise questions for you as to what is going on.
19 Something unusual is happening in that letter, isn't
20 there? 11:06

21 A. Well, it's clear from the letter that the chief
22 superintendent in Henry Street did not want to accept
23 Garda Harrison.

24 140 Q. And there's something unusual as to why that is. It's
25 not because he has a surplus of men on the ground. 11:06
26 He's not saying he has no vacancies in his division.
27 It is personal and directly related to Garda Harrison,
28 isn't that correct?

29 A. It would appear to be, yeah.

1 141 Q. And it would appear that the chief superintendent in
2 Limerick was fully apprised of the situation in
3 relation to Garda Harrison, isn't that correct?
4 A. It would be, yes.

5 142 Q. Then if we come to the next page, which is page 105, 11:07
6 and this time it is from the chief superintendent in
7 Portlaoise, yet again to Assistant Commissioner
8 Fanning, and it says, and if I go to the nub of the
9 letter:
10
11 "I am unwilling to accommodate Garda Harrison in his
12 application for a transfer to Laois-Offaly division."
13
14 That, again, is a turn of phrase which suggests
15 something personal to Garda Harrison, would you accept 11:08
16 that?
17 A. I accept that he is making it clear he doesn't want to
18 accept Garda Harrison in the division, yes.

19 143 Q. It's not unable, it's unwilling?
20 A. That's correct, yes. 11:08

21 144 Q. The situation then is that at the time at which Garda
22 Harrison was seeking a transfer, he was being met with
23 opposition and, to a certain extent, it would appear,
24 dissent from people below the ranks to the assistant
25 commissioner, whereby they were not willing to 11:08
26 accommodate Garda Harrison, isn't that correct?
27 A. Yes, that appears correct, yes.

28 145 Q. And that appears to be directly related to something
29 personal to Garda Harrison, isn't that correct?

1 A. It would appear so, but I'm not aware of that, to be
2 honest, Judge.

3 146 Q. Now, in terms of your conversation with Assistant
4 Commissioner Fanning, what information did Assistant
5 Commissioner Fanning give you? 11:09

6 A. My recollection is, there was a very brief
7 conversation, I had a phone call from Assistant
8 Commissioner Fanning. He did advise me that there may
9 have been disciplinary matters. I did not go into them
10 and to this day I do not know what they are. I said, I 11:09
11 advised him that I would accept Garda Harrison to the
12 escort unit in Sligo Town, and that ended the
13 conversation, and I expected Garda Harrison to transfer
14 to Sligo-Leitrim, to Sligo Town. I heard no more about
15 it. The bulletin came out on the 15th March 2011, and 11:09
16 Garda Harrison was being transferred to Buncrana Garda
17 station.

18 147 Q. Can you explain to the Tribunal what exactly is an
19 escort unit compared to ordinary policing duty?

20 A. There's a bank holding centre in Sligo where cash is 11:10
21 retained, there's an escort unit there who escort the
22 bank -- the movement of cash from, I think, Monday to
23 Friday around the northwest, the west of Ireland into
24 the midlands, and that is the duty involved.

25 CHAIRMAN: I presume it's an armed duty? You go with 11:10
26 the --

27 A. Well, there is an army accompanying, the army units
28 accompany the vehicle and an unarmed marked Garda
29 patrol car.

1 148 Q. MR. HARTY: And it is not, in fact, full policing
2 duties, isn't that correct?
3 A. Sorry?
4 149 Q. It's limited policing duties; you would be on that unit
5 and they would be the only functions you would be 11:11
6 exercising?
7 A. You would be on that unit. Financially, it is a
8 rewarding-enough type of duty, but it is confined to an
9 escort unit. I had vacancies in it at the time, and I
10 was anxious, obviously, to fill some of those 11:11
11 vacancies. And I was getting a member in. And I
12 didn't have to give any other member away to get that
13 additional resource.
14 150 Q. When you learnt of the transfer to Donegal, what did
15 you do? 11:11
16 A. I didn't do anything.
17 151 Q. You didn't contact anybody?
18 A. No.
19 152 Q. You didn't contact Assistant Commissioner Fanning
20 wondering where your man was who was due to start the 11:11
21 next day?
22 A. No, and the bulletin came out showing that he was going
23 to Donegal Town. He wasn't starting the next day.
24 There is a timeframe between. The bulletin comes out,
25 and usually allows for two weeks or so in the 11:12
26 intervening period.
27 153 Q. But did you contact Assistant Commissioner Fanning and
28 point out that you had been promised a man for your
29 escort, cash escorts unit, and when would you receive

1 him?

2 A. No, I didn't, because the bulletin showed he was going
3 to Buncrana.

4 154 Q. But surely if you are planning, on the basis of a man
5 being added into your division and for a particular 11:12
6 function and particular role, if that man, for whatever
7 reason, doesn't appear, you would get on to human
8 resources and say, I need another man?

9 A. Well, the facts of the matter was that, at those times,
10 I was not going to get another man. The reality was, 11:12
11 and I had to accept it, and I did not ring Assistant
12 Commissioner Fanning or anybody in HRM, the bulletin
13 came out, I was surprised, he was on it, going to
14 Buncrana, he was on it, I accepted it.

15 155 Q. And that was that? 11:13

16 A. Absolutely.

17 156 Q. And you had no difficulty with that?

18 A. Well, I would have preferred he had gone to Sligo, but
19 he didn't, and so I had to accept it.

20 157 Q. You were short a man in Sligo, isn't that correct? 11:13

21 A. Well, I was short men in many places, but I was
22 definitely short in Sligo on the escort unit.

23 158 Q. You had a number of men in Sligo who wanted to be
24 transferred to Donegal, isn't that correct?

25 A. Well, absolutely, yes. 11:13

26 159 Q. And you had facilitated Assistant Commissioner Fanning
27 in taking Garda Harrison to Sligo, and now it would
28 appear that Garda Harrison had somehow managed to get a
29 place in Donegal?

1 A. Well, it wouldn't be the first member that I thought
2 might have been coming to the division and went to some
3 other division, Judge, in fairness, and that's reality
4 and one has got to accept it.

5 160 Q. You weren't annoyed, put out? 11:13

6 A. Well, as I said, I would have preferred he had gone to
7 Sligo. It would have alleviated the position I found
8 myself in. He didn't. There were vacancies in
9 Donegal, in Buncrana, just as well as in Sligo, and so
10 therefore I accepted it and got on with it. 11:14

11 161 Q. When it comes to the events then in May 2011, I think
12 your evidence is that you first learned of it on the
13 25th May, is that correct?

14 A. That's correct, Judge.

15 162 Q. And that was from contact from Superintendent English? 11:14

16 A. That's correct, yes.

17 163 Q. Would it be fair to say that Superintendent English had
18 been dealing with this matter for 48 hours at that
19 stage without contacting you first; I think it was the
20 23rd was when the incident took place? 11:14

21 A. Yeah, I think it happened on the evening of the 23rd,
22 yes.

23 164 Q. Yeah. Superintendent English took it upon himself to
24 contact Garda McLoughlin's family before contacting
25 you? 11:15

26 A. That's correct, yes.

27 165 Q. Superintendent English took it upon himself to deal
28 with various other members in the station, isn't that
29 correct?

1 A. That's correct, yes.

2 CHAIRMAN: Sorry, who is Garda McLoughlin?

3 MR. HARTY: He is the deceased.

4 A. The McLoughlin family.

5 CHAIRMAN: Oh, I beg your pardon, yes. I'm sorry for 11:15
6 forgetting. All right.

7 166 Q. MR. HARTY: And then he contacted you in relation to
8 it, isn't that correct?

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

10 167 Q. And he told you -- what did he say to you? 11:15

11 A. He outlined the circumstances of the incident at
12 Churchill and he advised me also that Garda Harrison's
13 partner was a sister of Martin McDermott.

14 168 Q. Did he say anything else?

15 A. He did advise me that, in his view, it was no longer 11:15
16 appropriate for Garda Harrison to serve in Buncrana
17 district.

18 169 Q. Why was it no longer appropriate?

19 A. Because obviously of the relationship of Garda
20 Harrison's partner with Martin McDermott. 11:16

21 170 Q. Okay. You will have to forgive me for being obtuse but
22 I don't see the obviousness of that, so can you explain
23 it to us?

24 A. Well, we had a situation, as I already outlined, where,
25 and again, as I said, I don't hold Marissa McDermott 11:16
26 responsible for the actions of her brother, but we had
27 a situation where Garda Harrison was working with
28 members who had worked with Garda McLoughlin, we had a
29 situation where the trial was coming up in July 2011

1 and the preparation for that had to be managed in
2 Buncrana station. The family of Garda McLoughlin were
3 in regular contact and would be in more contact with
4 them coming up to the trial in Buncrana station. And I
5 think, in fairness, everybody, including Garda 11:17
6 Harrison, it was not appropriate, given those
7 circumstances, that he would continue in Buncrana
8 station.

9 CHAIRMAN: Is that denied, Mr. Harty?

10 MR. HARTY: well, I would have to inquire. This is a 11:17
11 discipline force.

12 CHAIRMAN: No, no, I beg your pardon.

13 MR. HARTY: Sorry.

14 CHAIRMAN: Is it -- are you making the case that it
15 would have been acceptable for him to continue to serve 11:17
16 in Buncrana? And the second point is, at the meeting,
17 and I know you're coming to the meeting, it is alleged
18 that he accepted that he should have revealed this
19 relationship and that he was in the wrong in not doing
20 so, so maybe we could focus on that. 11:17

21 MR. HARTY: well, the one thing I would say, Chairman,
22 is that I don't accept that the way a discipline force
23 is operated is that if somebody is in a relationship
24 with somebody who does something bad, a very, very bad
25 thing, that simply because a person is in a 11:18
26 relationship with that person's sister, that that
27 person should be the subject of a punitive meeting. I
28 don't accept that.

29 CHAIRMAN: Does your client accept that he ought to

1 have revealed this prior to looking for a transfer to
2 Donegal Town, because that is what seems to be what
3 he -- certainly what Chief Superintendent Sheridan is
4 saying at the meeting?

5 MR. HARTY: Well, firstly, there was no question of my 11:18
6 client ever seeking a transfer to Buncrana. My client
7 sought a transfer to Donegal County division, not to
8 Buncrana town. So there was no particular station
9 sought by my client when he sought a transfer to the
10 Donegal division. He was then assigned to Buncrana. 11:18

11 CHAIRMAN: According to his statement, he wished to
12 transfer to Donegal because of the relationship with
13 Marissa Simms.

14 MR. HARTY: Yes. And that does not --

15 CHAIRMAN: And was there any question -- 11:18

16 MR. HARTY: No.

17 CHAIRMAN: Is it your client's position that he was
18 under no obligation to reveal that in going to Donegal
19 for fear that, given that there are a number of
20 stations, he might be there, and certainly Buncrana is 11:19
21 one of them, that he might be transferred there, no?

22 MR. HARTY: It would have been better, I accept, that
23 might have been the case, but it does not give rise to
24 a situation where I say that the only appropriate
25 response was a transfer out of Buncrana. There is a 11:19
26 multiplicity of appropriate responses and I wish to
27 inquire as to why these other appropriate responses
28 weren't considered.

29 CHAIRMAN: Please continue.

1 171 Q. MR. HARTY: There were a number of other responses that
2 could have been considered, isn't that correct?
3 A. Well, tell me what they are.
4 172 Q. Did you speak to the members in the station?
5 A. No, did I not. 11:19
6 173 Q. No?
7 A. But the superintendent did.
8 174 Q. And what was his view in relation to that?
9 A. His view, as I have said, was that it was not
10 appropriate for Garda Harrison to continue to serve in 11:19
11 Buncrana station, and he was supportive of him being
12 retained in Donegal division.
13 175 Q. Why was it not appropriate? This is where I come down
14 to it.
15 A. I have outlined it. 11:20
16 176 Q. No, you have outlined to me --
17 CHAIRMAN: Gentlemen, please, seriously, we're not
18 going to have a row. We are going to deal with this
19 nice and quietly.
20 177 Q. MR. HARTY: Why was it not appropriate? 11:20
21 A. I have outlined the -- if, as we have had -- say, for
22 argument's sake, that Gary McLoughlin's mother, who I
23 met a number of times in Buncrana station, was to ring
24 up Buncrana station and Garda Harrison answered the
25 phone, what position does that put Garda Harrison in? 11:20
26 What are the thoughts of Garda McLoughlin's mother,
27 parents in relation to that, from purely a human
28 perspective? And as I have said, as much for Garda
29 Harrison as anybody else, it was not appropriate, in my

1 view, and I am still very much of that view, that he
2 should continue to serve in Buncrana station. His
3 transfer was not a disciplinary transfer, and if he had
4 disclosed his relationship to Marissa Simms prior to
5 his transfer into the division, he would not have gone 11:21
6 to Buncrana station and this situation would not have
7 arisen.

8 178 Q. You see, I still am slightly lost in relation to it.
9 If Garda McLoughlin's family had rung up and spoken to
10 Garda Harrison, I assume that Garda McLoughlin's family 11:21
11 would conduct their side of the conversation in a sane,
12 civilised and normal manner, and there's nothing to
13 suggest that Garda Harrison wouldn't have done the
14 same. So I am at a loss to understand where the
15 difficulty is here. 11:21

16 A. Well, I have to say I differ and --

17 CHAIRMAN: Well, look, this is the plain reality. A
18 manslaughter case is coming up in a couple of weeks'
19 time. Presumably the Book of Evidence, etcetera, or
20 any additions thereto, is being prepared in a 11:22
21 particular station. Suppose something goes wrong and
22 the family find out that indeed one of the people who
23 is actually serving on the same unit as the deceased is
24 actually in a relationship with the accused's brother.
25 Mr. Harty, we have to face reality here now. If you 11:22
26 are challenging that, that is fine. You said, well, it
27 would have been better --

28 MR. HARTY: Chairman --

29 CHAIRMAN: Just hang on a minute, Mr. Harty. If you

1 are saying there was some kind of malice involved in
2 this, perhaps you should get to the point, but the way
3 I'm looking at it now, unless I am shown to the
4 contrary, that is as I see the scenario, and I am
5 finding it very hard to see it any other way. 11:22

6 MR. HARTY: Perhaps, Chairman, if you wait until the
7 end of my cross-examination it might become clearer,
8 but unfortunately --

9 CHAIRMAN: Mr. Harty, I think one thing I have to make
10 clear to you: I actually am entitled to interrupt, and 11:22
11 furthermore, I am actually entitled to direct both
12 examinations of my own counsel and yours in terms of
13 relevance and in terms of plain common sense, and I am
14 going to do that.

15 MR. HARTY: This is evidence which was called by the 11:23
16 Tribunal.

17 CHAIRMAN: No, that is the end of it. So if you
18 continue, please.

19 MR. HARTY: Yes.

20 179 Q. The situation is that you had a conversation on the 11:23
21 25th May, isn't that correct?

22 A. 25th May 2011, yes, Judge.

23 180 Q. Superintendent English, I take it he was very annoyed
24 about it?

25 A. He wasn't -- he obviously wasn't happy about it and he 11:23
26 was obviously disappointed about it. And as I said, he
27 outlined to me what his views on it were, but he also
28 was supportive of the fact that Garda Harrison could be
29 facilitated within Donegal division.

1 181 Q. He had done nothing which could give rise to a transfer
2 out of Donegal division, isn't that correct?
3 A. Okay, I'll accept that, Judge.
4 182 Q. So there's no question of anyone saying that he should
5 be transferred out of Donegal division, because that 11:24
6 would be a disciplinary move unless it is a voluntary
7 transfer, isn't that correct?
8 A. Yeah, it could be interpreted that way, Judge, yes, I
9 accept that.
10 183 Q. So where Superintendent English is saying that he 11:24
11 should have been accommodated within the Donegal
12 division, that clearly is what had to happen?
13 A. Well, that is what happened. Whether that is what
14 should have happened or had to happen is arguable.
15 184 Q. Well, as a matter of the Garda Code, it is the only 11:24
16 thing that could happen is that he would be
17 accommodated within the Donegal division unless he
18 sought transfer out of the division?
19 A. I'll accept that, yes, I'll accept it in the
20 circumstances. 11:25
21 185 Q. Because there was no breach of discipline?
22 A. Yes, no breach of discipline. It's arguable in
23 relation to the use of the patrol car, but I'm not
24 going to dwell on that point, Judge. I didn't take any
25 disciplinary action. I tried to be as fair as I could 11:25
26 be.
27 186 Q. Just to clarify in relation to that, his version is
28 that Sergeant Monaghan gave him permission to take the
29 patrol car.

1 A. Well, Sergeant Monaghan may differ from that.

2 187 Q. Well, we will hear from Sergeant Monaghan.

3 CHAIRMAN: I am actually taking no interest in the

4 patrol car.

5 MR. HARTY: I appreciate that. 11:25

6 CHAIRMAN: And I won't in the future. Even if people

7 tell me about the patrol car, it's irrelevant as far as

8 I am concerned.

9 188 Q. MR. HARTY: The situation is, you then met -- did you 11:25

10 form a decision on that phone call with Superintendent

11 English as to what to do?

12 A. No, I did not, no.

13 189 Q. So you met in Letterkenny; your date is the 30th May,

14 is that correct?

15 A. That's correct, yes. 11:25

16 190 Q. And at that meeting, do you have an idea what time that

17 meeting was at?

18 A. I would say it was around 2:30, or so.

19 191 Q. 2:30. And you met with Garda Harrison?

20 A. That is correct, yes. 11:26

21 192 Q. And Superintendent English?

22 A. That is correct.

23 193 Q. He gives a description in his statement of quite a

24 fraught meeting. Do you accept that it was a fraught

25 meeting? 11:26

26 A. Absolutely not.

27 194 Q. But you accept that he was -- he felt obliged to plead

28 with you to remain within the Donegal division?

29 A. Yes, he did, yes.

1 195 Q. So the use of the word 'plead' in those circumstances
2 of an apparently calm meeting, wouldn't pleading be
3 something that you'd expect in a heightened meeting
4 where people are annoyed?

5 A. Well, many people use different terminology to describe 11:26
6 different events. It was a calm meeting. He went
7 through, he pleaded with me to leave him in the
8 division. He outlined all I said earlier, the
9 circumstances of his relationship with Ms. Simms, and
10 these are all factors that I incorporated into my 11:27
11 decision-making.

12 196 Q. He says that you raised the fact of him being
13 transferred into Donegal in the first place?

14 A. I did say to him that originally he was to go to Sligo,
15 but that's as far as it went. 11:27

16 197 Q. Did you say to him that he had done something wrong by
17 not revealing his relationship with Marissa Simms?

18 A. I told him he should have revealed it, he accepted that
19 himself, and he accepted that he hadn't told anybody.

20 198 Q. Could you have characterised it as deceitful? 11:27
21 A. Well, I didn't use those words.

22 199 Q. What words did you use?

23 A. I advised him that he had not disclosed it and that he
24 should have disclosed it.

25 200 Q. To whom? 11:28
26 A. When he was making his transfer application. And I
27 would have thought, you know, if he had even -- when he
28 was coming to Buncrana, even if he had contact with the
29 divisional office in Donegal and advised us of the

1 relationship, then we could have prevented the transfer
2 to Buncrana and was facilitated somewhere else in
3 Donegal.

4 201 Q. Do you think he should have disclosed it to other
5 members in the station in Buncrana? 11:28

6 A. Well, obviously that was a matter for himself, but
7 given the circumstances I would have thought that it
8 would be appropriate that he would do so.

9 202 Q. Did you tell him that he should have done so?

10 A. No, I didn't. But he told me he had already done it at 11:28
11 that stage, in that he had done it, I think, the
12 evening before.

13 203 Q. Superintendent English had requested him to deal with
14 the matter, isn't that correct?

15 A. So I understand, but I was not involved in that, in 11:28
16 that matter.

17 204 Q. Did Superintendent English tell you that there were
18 difficulties with the station party in general in
19 relation to it?

20 A. He did say that some of the station party were not 11:28
21 happy in relation to it, yes.

22 205 Q. Did he give the impression that some of the station
23 party were unwilling to work with Garda Harrison?

24 A. I can't recall him using that type of terminology, but
25 he certainly did say that some of them were unhappy 11:29
26 about it.

27 206 Q. And in what regard were they unhappy?

28 A. Well, I don't know, I did not speak to them,
29 Superintendent English did, so depending on what -- and

1 I didn't inquire further into that, but that is
2 something that Superintendent English can deal with
3 when he is giving evidence.

4 207 Q. In your statement to the Tribunal, you say you deny 11:29
5 saying that you have a good mind to send Garda Harrison
6 far down the country?

7 A. Yeah, I didn't have the authority to send him far down
8 the country.

9 208 Q. But, in fact, you did consider sending him down to 11:30
10 Sligo-Leitrim?

11 A. No, I said to him that originally he was to go to
12 Sligo-Leitrim.

13 209 Q. No, you discuss, and the document was opened, in the
14 note of Garda English's note in relation to it, which
15 is, I think, KE1, it was opened by Mr. McGuinness, 11:30
16 reference is made directly to the fact that you
17 threatened and advised that you could send him to
18 Sligo-Leitrim?

19 A. I at no stage threatened Garda Harrison, and I resent
20 the use of that terminology. 11:30

21 210 Q. Sorry, you said you would send him to Sligo-Leitrim?
22 A. It is my recollection --

23 CHAIRMAN: Chief superintendent, you are a man of long
24 experience. You will appreciate counsel have to put
25 issues to you, so there is no point in any of us 11:30
26 resenting anything, or any of that kind of stuff. It's
27 his duty. So we will carry on. So was it any question
28 of you sending him, I don't know, to Cobh, or anything
29 like that?

1 A. Absolutely not.

2 211 Q. MR. HARTY: 2059. Page 2059. This is Superintendent
3 English's note, is that correct?

4 A. No, I think that is my note.

5 212 Q. That is your note? 11:31

6 A. So maybe that is a typed version of the notes of the
7 meeting.

8 213 Q. It's addressed to the chief's office Letterkenny, but
9 they're your notes?

10 A. No, the meeting was held in the chief's office in 11:31
11 Letterkenny.

12 214 Q. I see. And that's your notes of the meeting, isn't
13 that correct?

14 A. Yeah, that I can recall, yes.

15 215 Q. And it says: 11:31
16 "Chief mentioned Sligo-Leitrim..."

17 A. That's correct.

18 216 Q. "... in relation to the question of transfer out of
19 Buncrana."
20 Now, you might not have meant it as a threat, but you 11:32
21 will appreciate that Garda Harrison might have taken it
22 as a threat.

23 A. Well, what I mentioned was, as I said, that he was
24 originally to go to Sligo.

25 217 Q. That's not what the note says. "Garda Harrison 11:32
26 accepted that he could not remain in Buncrana and
27 requested to be kept anywhere within Donegal division.
28 The Chief had mentioned Sligo-Leitrim. Garda Harrison
29 explained impact if not kept within Donegal division."

1 A. I mentioned Sligo-Leitrim in the context that he was
2 originally to go to Sligo-Leitrim.

3 218 Q. That is not the context that is in the note.

4 A. Well, the note is not a full record of everything that
5 was said, but that's what I said. 11:32

6 219 Q. But that's your note, isn't that right?

7 A. That's correct, yes.

8 220 Q. And that's what the note reads?

9 A. That's correct. I mentioned Sligo-Leitrim.

10 221 Q. I see. So why would Garda Harrison have raised the 11:32
11 question of the impact if not kept within Donegal
12 division, if it was never raised?

13 A. Well, he could have mentioned it in the context that I
14 said to him that he was originally to go to Sligo and
15 maybe he interpreted it that he could go back to Sligo. 11:33
16 And in that context, he explained the impact it would
17 have on his family circumstances.

18 222 Q. I have to put it to you that your note of the meeting
19 coincides more accurately with Garda Harrison's
20 recollection than with yours? 11:33

21 A. Well, I don't accept that, because Garda Harrison has
22 misrepresented the meeting and, as I've outlined, many
23 other things as well.

24 223 Q. He "requested to be kept anywhere within the Donegal
25 division", to which the response is: "Chief mentioned 11:33
26 Sligo-Leitrim."

27 A. That's correct.

28 224 Q. And you're suggesting that those two sentences don't
29 follow each other?

1 A. Well, certainly it's not -- my intention at that stage
2 was to transfer him to Sligo.

3 225 Q. And that meeting took place at 2:30, is that correct?
4 A. Yeah, it was roughly around that, I would have thought,
5 yeah. 11:34

6 226 Q. And less than an hour later you have made a
7 determination that Garda Harrison is to be transferred
8 to Donegal Town?
9 A. That's correct, yes.

10 227 Q. Had you already made up your mind? 11:34
11 A. No, I had not.

12 228 Q. What inquiries did you carry out after the meeting?
13 A. I didn't carry out any inquiries in relation to it. I
14 assessed the information that had been given to me at
15 the meeting. As I said, I factored in the family 11:34
16 circumstances of Garda Harrison, and, in making my
17 decision, they were a factor in that decision-making.

18 229 Q. There are how many Garda stations between Buncrana and
19 Donegal Town?
20 A. Probably five or six. 11:35

21 230 Q. At least five or six?
22 A. Mm-hmm.

23 231 Q. Did you check on the availability of, or the
24 requirements of any of those stations?
25 A. Well, I would be aware of what the requirements were in 11:35
26 any station at that time.

27 232 Q. And the only station that would have need for policing
28 cover at that time was Donegal Town?
29 A. Well, it wasn't the only one, but I felt it was the

1 most appropriate one.

2 233 Q. why?

3 A. well, he didn't have any -- there would not be any

4 relations that I was aware of living in the district.

5 And it was roughly the same distance from where he 11:35

6 resided and where he had already been stationed in

7 Buncrana.

8 234 Q. But you hadn't done a check with Garda Harrison as to

9 what relations he had living in any other district at

10 this stage, had you? 11:35

11 A. well, I was aware that some of Ms. Simms's family, I

12 think, would live in both the Letterkenny district --

13 and obviously Buncrana district he had already been in.

14 235 Q. How did you know that?

15 A. well, I was the chief superintendent for the division. 11:36

16 236 Q. And you knew where everyone lived for the division?

17 A. No, I'm not saying that. But I was aware of the

18 circumstances surrounding the death of Garda

19 McLoughlin.

20 237 Q. And you had carried out research into where Martin 11:36

21 McDermott's family lived?

22 A. well, it was my understanding that some of them lived

23 in Raphoe, which is the Letterkenny district. And so,

24 therefore, I having looked at all the -- came to the

25 conclusion that Donegal down was the most appropriate. 11:37

26 238 Q. who carried out the searches for you?

27 A. I did it myself.

28 239 Q. You did it yourself?

29 A. That's correct.

1 240 Q. Did you take notes?
2 A. No.
3 241 Q. Did you note down names and addresses?
4 A. No. I had to look at it. He obviously was living in
5 Milford district, which ruled out Milford. Like, it 11:37
6 was open to me to send him to Glenties, far out in the
7 west, if I wanted to.
8 242 Q. Milford district is ruled out if he is living in it?
9 A. Yes.
10 243 Q. A guard isn't entitled to live in a district in which 11:37
11 he is serving?
12 A. Well, his family are living there.
13 244 Q. No, his family weren't. The only people who would be
14 living there would have been his partner and himself,
15 and that would have been perfectly legitimate within 11:37
16 the Code.
17 A. Well --
18 245 Q. So, you ruled out Milford district on the basis --
19 A. On the basis - if I might finish, Judge - Ms. Simms's
20 partner also lived in Milford district. 11:38
21 246 Q. Is that the basis on which you ruled it out?
22 A. It was a factor that I had to factor into my thinking
23 on the matter.
24 247 Q. And who else did you factor into your thinking on the
25 matter? 11:38
26 CHAIRMAN: well, there had been an incident. I don't
27 want to go into that, but there had been a very
28 definite incident, isn't that correct? I don't want to
29 drag anybody else into it who is not here already.

1 248 Q. MR. HARTY: who else did you factor into your
2 consideration?
3 A. I didn't factor anybody else. I looked at it, in my
4 view, Donegal Town was appropriate and I came to that
5 decision, very speedily I made that decision and I 11:38
6 circulated it.
7 249 Q. You made that decision remarkably speedily, isn't that
8 correct?
9 A. Absolutely. And as far as I was concerned it needed to
10 be made in a speedy fashion for all concerned. 11:38
11 250 Q. But you made that decision, can I just say, it's an
12 astounding fact that you start a meeting at 2:30 and at
13 3:23 you have a complete decision which involves
14 factoring in a number of different other matters,
15 including where a variety of disparate people are 11:39
16 residing, and you have decision reached less than an
17 hour later?
18 A. Absolutely. That was my decision and I made that
19 decision.
20 251 Q. When did you make that decision? 11:39
21 A. Shortly before I sent the email to Garda Headquarters.
22 252 Q. You didn't give it much consideration, did you?
23 A. I gave it ample consideration, Judge.
24 253 Q. How long did the meeting last?
25 A. Sorry? 11:39
26 254 Q. How long did the meeting last?
27 A. I would say it lasted a half hour anyway I would
28 imagine, yeah.
29 255 Q. You gave the matter 20 minutes consideration and did

1 research on the basis of the residency of all of Marisa
2 Simms's family --

3 A. No, I didn't --

4 256 Q. -- and reach a conclusion in order to email it by 3:23?
5 A. I made my decision, Judge, and I stand over that 11:40
6 decision.

7 257 Q. And do you say that decision was purely for operative
8 reasons?

9 A. Absolutely.

10 258 Q. So can we then come to page 1351. What conversation 11:40
11 did you have with Superintendent Coen in relation to
12 Garda Harrison?

13 A. When I -- prior to issuing the document or the email to
14 HRM, out of courtesy I rang Superintendent Coen, who
15 was the district officer covering Donegal Town, and I 11:41
16 advised him that I was transferring Garda Harrison from
17 Buncrana to Donegal Town and I outlined to him the
18 reasons why.

19 259 Q. And they were the reasons that you gave today?

20 A. That's correct, Judge. 11:41

21 260 Q. So I take it Superintendent Coen is a man not prone to
22 inventing views?

23 A. Well, I never found him to be that.

24 261 Q. And I take it that if Superintendent Coen was to
25 attribute views to somebody he would do so honestly? 11:42
26 A. I would say so, yes.

27 262 Q. So when he reports "Chief Superintendent J Sheridan,
28 who dealt with the matter whilst acting temporarily
29 while Chief Superintendent McGinn... would have a

1 definite view on the matter which I would concur with."

2

3

This is now October 2011, isn't that correct?

4

A. That's correct, yes.

5 263

Q. Martin McDermott has been tried and sentenced?

11:42

6

A. That's correct.

7 264

Q. And this is Letterkenny district, it's not the people in Buncrana station.

8

A. Donegal district, sorry.

10 265

Q. Sorry, this is a transfer to Letterkenny?

11:42

11

A. Ballyshannon district. Superintendent Coen is the district officer in Ballyshannon.

12

13 266

Q. Yes. But it was in relation to a transfer to -- an application, isn't that correct, for a transfer to Letterkenny?

11:42

14

15

A. That's correct, yes.

16

17 267

Q. Yes.

18

CHAIRMAN: This is a different matter. He is in Donegal and he's seeking to go to Letterkenny --

19

20

MR. HARTY: Yes.

11:43

21

CHAIRMAN: -- within the division, the Donegal division. Yes, okay.

22

23

MR. HARTY: Yes. I said division, I should have said district.

24

25 268

Q. But you had, and Superintendent Coen is clear on this, a very strong view, definite view, to use the exact word, as to whether or not Garda Harrison should be transferred to Letterkenny division. What was that strong view?

11:43

26

27

28

29

1 A. Well, I've no recollection of having any conversation
2 with Superintendent Coen, but I would certainly be of
3 the view at that time that it was much too soon for
4 Garda Harrison to transfer into Letterkenny district.

5 269 Q. why? 11:43

6 A. Because, where it would have been possible that, where
7 Garda Harrison resides, that there may be occasions, if
8 there were any incidents at his home, where the guards
9 in Letterkenny may be called at night in particular to
10 deal with it. 11:44

11 270 Q. So, that was why?

12 A. Well, that would be my view. But I certainly have no
13 recollection of having any conversation with
14 Superintendent Coen.

15 271 Q. We do accept that Superintendent Coen is not a man who 11:44
16 would be inclined to invent definite views on the part
17 of chief superintendents?

18 A. Yeah, I accept that. I've never found him to be a man
19 who would be.

20 272 Q. So we would have to accept that Superintendent Coen 11:44
21 when he's attributing a definite view to you in
22 relation to Garda Harrison being stationed in
23 Letterkenny that he received that definite view from
24 you?

25 A. Well, I've no recollection, as I have said, Judge, of 11:44
26 having any conversation with Superintendent Coen.

27 273 Q. I see. Where I have a difficulty --

28 A. Because I had left the division at this stage.

29 274 Q. The justification for moving Garda Harrison out of

1 Buncrana was because of the sensitivities in relation
2 to a trial which had already been completed?

3 A. That's correct, yes.

4 275 Q. So Garda Harrison is now seeking a transfer within the
5 division and Superintendent Coen is saying no, and the 11:45
6 reason he has given for that is that you have a
7 definite view as to where Garda Harrison should be
8 stationed, and you were saying you never communicated a
9 definite view to him?

10 A. Well, I have no recollection of having any conversation 11:45
11 around that with Superintendent Coen, but, as I said,
12 it would still be my view that it would have been too
13 soon at that stage to transfer Garda Harrison. But
14 that was a matter for the then chief superintendent,
15 Superintendent McGinn. 11:45

16 276 Q. But she was being urged on the basis of a view you
17 expressed, but you can't recall that view?

18 A. No, I can't in fairness.

19 277 Q. And you accepted that that would be, in terms of the
20 evidence that you are giving in relation to this, a 11:46
21 relevant matter?

22 A. That what would be a relevant matter?

23 278 Q. Why the transfer was to Donegal Town and why no
24 transfer to Letterkenny was considered, you're central
25 to both of those decisions. 11:46

26 A. I'm central to the transfer to Donegal Town, from
27 Buncrana to Donegal Town. I am not central to any
28 application made to transfer to Letterkenny, because I
29 was not the chief superintendent in Letterkenny at that

1 stage. That was matter for Chief Superintendent McGinn
2 to make her decision on.

3 279 Q. And you can't enlighten us as to what views you
4 expressed to Superintendent Coen?

5 A. I can't recall having a conversation with 11:46
6 Superintendent Coen at that time. I did -- when I was
7 transferring Garda Harrison from Buncrana to Donegal
8 Town, I did communicate with him, with Superintendent
9 Coen, I advised him of that. And that is the only
10 conversation I can recall having with him in relation 11:47
11 to Garda Harrison.

12 280 Q. None of which adds up to definite views?

13 A. Well, that is my recollection of what happened.

14 MR. HARTY: I don't know if the Tribunal proposes to
15 call Superintendent Coen? 11:47

16 CHAIRMAN: Well, just a couple of things, Mr. Harty.
17 First of all, the witness's evidence has been that your
18 client said at this meeting in Letterkenny on the 30th
19 May 2011 - let's just take that as a date, it could be
20 a couple of days in either direction, just for the 11:47
21 moment - that he accepted that he should have divulged
22 his relationship with Marisa Simms prior to seeking a
23 transfer to Donegal and in particular he ended up of
24 course in the very station which was dealing with the
25 homicide, and the unit which was dealing with the 11:48
26 homicide. Is that accepted or not?

27 MR. HARTY: well --

28 CHAIRMAN: No, but it has to be on the basis of
29 instructions.

1 MR. HARTY: The answer is: I have not cross-examined
2 the witness to say that he is incorrect when he says
3 that my client says it would have --

4 CHAIRMAN: No, I'm sorry, that is not good enough. And
5 this is a tribunal and the whole point of it is to try 11:48
6 and pin down as many facts as are not in dispute as
7 early as possible. Otherwise we would be here for
8 months. Other tribunals have been in places for years.
9 Your cross-examination has been very valuable to me and
10 thank you for it, but I do need to know that. 11:48

11 MR. HARTY: Yes.

12 CHAIRMAN: Secondly, as I understand from your client's
13 statement, which of course I have read, he is accusing
14 Chief Superintendent Sheridan of malice, in sending him
15 from Buncrana to Donegal Town and that hasn't been put, 11:48
16 and it ought to be put.

17 MR. HARTY: I will deal with that.

18 CHAIRMAN: Just those two things, please.

19 MR. HARTY: Well, in relation to the first matter: My
20 client does accept that he did accept that it would 11:48
21 have been better if he disclosed the matters. He
22 doesn't accept that it was incumbent upon him to do
23 that, but he does accept that at that meeting he
24 acknowledges that he ought to have disclosed those
25 matters. That is not an issue. 11:49

26 CHAIRMAN: And what the Garda Code says about it, how
27 is that to be explained?

28 MR. HARTY: The Garda Code does not say anything about
29 this situation.

1 CHAIRMAN: That is fine. That is fine. If that is
2 your view, that is fine. The second matter is this:
3 Is Chief Superintendent Sheridan being accused of
4 malice in transferring him to Donegal Town? Because
5 after all he is represented, I have an obligation under 11:49
6 Haughey v. Moriarty, In re Haughey, to make sure that I
7 don't take anybody's character save in circumstances
8 where there is fair process.

9 281 Q. MR. HARTY: In relation to the transfer I have to put
10 it to you that you were very annoyed with what had 11:49
11 taken place, isn't that correct?

12 A. I wasn't very annoyed. I was disappointed, as I have
13 said. If I was to get annoyed every day about issues
14 that arose while I was a divisional officer in any of
15 the divisions then I would be annoyed pretty regularly 11:50
16 I can tell you.

17 282 Q. The situation is that you did threaten -- and it is
18 clear from your own record, threatened transferring
19 Garda Harrison out of the Donegal division?

20 A. Absolutely not. 11:50

21 283 Q. Well, I have to put it to you that that is precisely
22 what your own minute of the meeting says?

23 A. No, it's not. I don't accept that. I don't accept
24 that I said that. I made a speedy decision in relation
25 to it, when the meeting concluded and I concluded -- 11:50
26 and I tried to be as fair as I could be to Garda
27 Harrison in where I transferred him to.

28 284 Q. You say in your statement that you could have
29 transferred him to much further parts of the county?

1 A. That's true.

2 285 Q. Why were you even considering transferring him to much
3 further parts of the county?

4 A. I'm not saying that I considered it, I said I could
5 have. 11:51

6 286 Q. But why do you reference it in your statement?
7 CHAIRMAN: In other words, he says if I was malicious I
8 could have sent him to Glenties. That is what I am
9 taking from it.

10 MR. HARTY: Well! 11:51

11 287 Q. Then we come to the question: why did you block any
12 future transfer out of Donegal Town?

13 A. I didn't block any future transfer out of Donegal Town.
14 It was a matter --

15 288 Q. Superintendent Coen -- 11:51

16 A. Superintendent Coen was only there for a very short
17 while after that, from my recollection. And another
18 superintendent came in. Superintendent McGinn has been
19 the chief superintendent in Donegal for quite a number
20 of years and she is more than capable of making up her 11:51
21 own mind in relation to any transfer applications that
22 she gets.

23 289 Q. Superintendent Coen expressly invokes your name to
24 prevent any transfer of Garda Harrison out of Donegal
25 down. I am taking it -- and unless you are saying that 11:51
26 he was lying when he wrote this, I am taking it that he
27 is telling the truth when he says you expressed strong
28 views.

29 A. Well, as I have said, I have no recollection of having

1 that conversation with Superintendent Coen. But I am
2 of the -- was of the view that at that time it would be
3 inappropriate to transfer him to Letterkenny.

4 290 Q. why?
5 A. As I have outlined, there were times when Letterkenny 11:52
6 would be covering Churchill and would be called to
7 incidents in Churchill, in particular at nighttime, and
8 Garda Harrison resided in Churchill and there had been
9 an incident there previously.

10 291 Q. That's the reason you gave to Superintendent Coen, is 11:52
11 it?
12 A. I don't recall, as I said, having that conversation
13 with Superintendent Coen, but that was my view. That
14 remains my view.

15 292 Q. The situation Superintendent Sheridan, is that 11:52
16 Superintendent Coen -- were you contacted by Chief
17 Superintendent McGinn in relation to the transfer from
18 Donegal Town?
19 A. No.

20 293 Q. So, do you know how your views were communicated to 11:53
21 Superintendent McGinn?
22 A. No, I have no idea. But as I have said, Chief
23 Superintendent McGinn is more than capable of making
24 her own decisions on these matters.

25 294 Q. Then why would Superintendent Coen reference your 11:53
26 views?
27 A. I don't know.

28 295 Q. You don't know?
29 A. I don't know.

1 296 Q. It's unusual, isn't it?
2 A. Yeah, it may be. But I certainly don't know. And
3 that's my recall of it. I have no recollection of
4 having any conversation with Superintendent Coen around
5 that matter. 11:54
6 297 Q. So we are to assume that Superintendent Coen invented
7 it?
8 A. I'm not saying he invented it. But I certainly have no
9 recollection of having any conversation with him about
10 it. 11:54
11 298 Q. You are quite clear you recall a conversation which you
12 think was transactional with Superintendent Coen?
13 A. I did ring Superintendent Coen prior to the transfer,
14 as I've said, of Garda Harrison from Buncrana to
15 Donegal Town, to advise him that I was doing it. 11:54
16 299 Q. And that's all?
17 A. That is my recollection, yes.
18 300 Q. So there's no question of you expressing any strong
19 views?
20 A. Absolutely not. And as I said, Chief Superintendent 11:54
21 McGinn is more than capable of making her own
22 decisions.
23 301 Q. I am asking about the decision that you made and what
24 precisely they were?
25 A. I made the decision to transfer Garda Harrison from 11:54
26 Buncrana to Donegal Town.
27 302 Q. And it appears from this note that that decision
28 included a requirement that Garda Harrison stay in
29 Donegal Town?

1 A. Absolutely not. Nowhere in any document that I sent in
2 relation to Garda Harrison's transfer does it stipulate
3 that.

4 303 Q. Except in this letter?

5 A. I didn't write this letter. 11:55

6 304 Q. So Superintendent Coen was making it up?

7 A. Well, I don't know, but I can't answer that question.

8 305 Q. The situation is, and I have to put it to you: That
9 the decision to transfer out of Buncrana could have
10 been a temporary decision, isn't that correct? 11:55

11 A. I don't accept that.

12 306 Q. Why not?

13 A. I think it would be inappropriate for Garda Harrison to
14 serve in Buncrana with the members who worked with
15 Garda McLoughlin. As I have said, Martin McDermott 11:56
16 escaped from custody one year later. He was located in
17 Derry. The guards in Buncrana at the time of his
18 escape were charged with making inquiries in relation
19 to it, and we're talking about a year down the road
20 here. So I think it would be wholly inappropriate for 11:56
21 me to transfer Garda Harrison temporarily out of
22 Buncrana.

23 307 Q. Are you saying that a garda should never be stationed
24 somewhere where an escaped felon to whom they are
25 related might appear? 11:56

26 A. What I am saying is, that given the circumstances of
27 this where a colleague lost his life, in the
28 circumstances that it happened and where at times Garda
29 Harrison describes it as an accident when it was a

1 deliberate act, I think it would be inappropriate for
2 him to serve in that station.

3 308 Q. Did Garda Harrison describe it as an accident to you?

4 A. He didn't describe it as an accident to me, but I was
5 the subject of criticism by a TD using Dáil privilege 11:57
6 on the basis of an affidavit made by Mr. Harrison,
7 where it is my recollection that he made reference to
8 that, to the death of Garda McLoughlin as an accident
9 or a traffic accident.

10 CHAIRMAN: Right. I think we can't let this go any 11:57
11 further. Obviously I've read all the documentation
12 that is available to the Tribunal and it's clear to me
13 that the late Garda McLoughlin was doing his duty and
14 was rammed. I am also aware, because obviously I was a
15 practising lawyer for 30 years or more, that motor a 11:58
16 manslaughter case is extremely case and very, very
17 difficult indeed to get a conviction on. But this was
18 motor manslaughter. That is homicide. Actual
19 manslaughter. It's not murder. It's homicide. It's a
20 lesser of the two. And that conviction was obtained. 11:58

21 And therefore the facts speak for themselves. No one
22 who is reasonable can refer to this as a traffic
23 accident. I am not criticising anyone for having done
24 so. Obviously family members or whatever may take a
25 view, but that is the way that it was. All right. And 11:58
26 references to other people and Dáil privilege,
27 etcetera, I appreciate, superintendent, you have a view
28 on the matter but that is the view I am taking.

29 MR. HARTY: The Tribunal was asking me to assess the

1 question of malice and that is what I am trying to
2 assess in relation to this witness's evidence. And it
3 would appear that this witness has said that a transfer
4 to Buncrana was not appropriate because Garda Harrison
5 had referred to it as an accident which at no time
6 relevant to the decision of Buncrana had he done so. 11:59
7 And that is relevant to the question of malice and the
8 decision-making on the part of Chief Superintendent
9 Sheridan.

10 CHAIRMAN: Mr. Harty, you're addressing me, but you 11:59
11 know it's neither here nor there to me. I am really
12 sorry that this happened. I was just wondering one
13 thing: If Garda Harrison didn't want to go to Donegal
14 Town, was he suggesting any other station at the
15 meeting that was more congenial, more convenient? 12:00
16 Because that might be of relevance.

17 MR. HARTY: That wasn't raised, because the nature of
18 the meeting, as described by Garda Harrison, was that
19 he was going to be transferred out of the division and
20 he would be lucky if he was allowed to stay. 12:00

21 CHAIRMAN: All right. And then, Donegal Town, did it
22 come up during the course of conversation?

23 MR. HARTY: No.

24 CHAIRMAN: It didn't. Okay. That was a wee bit later.

25 MR. HARTY: It wasn't identified. 12:00

26 CHAIRMAN: That was a wee bit later. All right. That
27 is fine. But he didn't say, look, I would prefer to be
28 in, I don't know, Alta Caron or some place like that?

29 MR. HARTY: It wasn't mentioned.

1 CHAIRMAN: That is fine. It is good to clarify that.
2 MR. HARTY: And it would appear that Chief
3 Superintendent Sheridan was aware of it as an option,
4 he must have been, but he didn't raise that at the
5 meeting, isn't that correct, chief superintendant? 12:00
6 A. That's correct, yes. He asked that he be kept within
7 the division.
8 309 Q. But you must have been aware, you must have been
9 thinking of Donegal Town?
10 A. Well, I knew it would be one of the options. 12:00
11 310 Q. Diametrically opposite from Bunrana in Donegal county?
12 A. Well, all I would be say is I would much prefer to
13 drive from Churchill to Donegal Town than I would from
14 Churchill to Bunrana.
15 311 Q. Now can we come back to why you say he could never have 12:01
16 been in Bunrana after the trial was over; can you
17 explain to me why?
18 A. I think given, as I have said, circumstances of the
19 death of Garda McLoughlin for his own sake as much as
20 anything else, purely I think any reasonable person in 12:01
21 my view looking at it could not conclude otherwise.
22 And I tried to look at it in a reasonable way.
23 312 Q. You see, I find it difficult to understand that.
24 Marisa Simms did not, does not and never had condoned
25 the actions of her brother, do you accept that? 12:01
26 A. I fully accept that. But if you put yourself in my
27 circumstances and the different things that I had to
28 manage, given that particular set of circumstances, I
29 find it difficult to believe that anybody doesn't think

1 the decision I made, given all of the circumstances,
2 was a reasonable decision.

3 313 Q. I am asking you about the decision after that to
4 never -- you have told me that he could not go back to
5 Buncrana, it couldn't be a temporary decision, it had 12:02
6 to be a permanent decision, and I am trying to get some
7 sense as to what that reasoning for that is?

8 A. Well, I have outlined my reasoning. The death, the
9 murder, or the homicide, sorry, of Garda McLoughlin,
10 will never be forgotten. Not only by the members in 12:02
11 Buncrana, by the people in Buncrana, and by the
12 McLoughlin family. They will always associate their
13 son with Buncrana. I think given the circumstances of
14 it -- and I was trying to be as fair as I could be to
15 your client. In those circumstances I deemed it 12:03
16 appropriate that he be transferred to Donegal Town.
17 There was no malice on my part in that decision, I
18 listened to what he had to say to me at that meeting in
19 Sligo -- or in Letterkenny, and I factored that into my
20 decision. 12:03

21 314 Q. What other stations did you consider?

22 A. Well, I considered Ballyshannon, it was district
23 headquarters, but it's further away. And the only
24 other option, as far as I was concerned, was Glenties
25 after that, and again that would be -- certainly parts 12:03
26 of it would be much further away.

27 315 Q. What about a temporary move?

28 A. I did not think it was something that could be dealt
29 with in a temporary manner.

1 316 Q. why? This is the bit I find very difficult to
2 understand. You are disciplined force, you were
3 leading a disciplined force, and you are saying that
4 one man can be required to move because that man's
5 partner's brother was involved in a motor homicide. 12:04

6 A. well --

7 317 Q. Neither of these people had any involvement or any
8 support for the act, no reasonable person --

9 CHAIRMAN: Sorry, Mr. Harty, he killed a garda. He is
10 guilty of the homicide of a garda serving in that 12:04
11 particular station. This is going on and on, and I am
12 getting increasingly puzzled as to what the point of it
13 is.

14 MR. HARTY: well, I am more puzzled than the Tribunal
15 is in circumstances whereby -- 12:04

16 CHAIRMAN: No, no, no. Sorry, what is going on in your
17 mind I actually don't want to know about it.

18 MR. HARTY: Yes.

19 CHAIRMAN: It is a question of directing this process
20 to a point where we are actually learning something. 12:04
21 Now, you seem to dispute, although your client says it
22 would have been better for him to disclose the
23 relationship with Marisa Simms prior to seeking a
24 transfer to Donegal, the case still seems to be made
25 that the transfer out of Buncrana was in some way not 12:05
26 just a bad idea but motivated by malice, I can't
27 understand it.

28 MR. HARTY: well, if the Tribunal could perhaps allow
29 me to explain, because the Tribunal seems to have a

1 difficulty with this, I don't understand how --
2 CHAIRMAN: Mr. Harty, seriously I am allowing you to
3 explain. I am terribly interested in everything you
4 are saying. But it just seems to me that this is,
5 perhaps, a dead horse at this point. Once it's 12:05
6 accepted this was a homicide of a garda who was serving
7 in Buncrana in division C, that Garda Harrison was
8 serving on, may have been a mistake, not to mention the
9 relationship with Marisa Simms, but surely it would be
10 a lot better from everybody's point of view. Everybody 12:05
11 knows that trials can go on, there can be at least, in
12 the best case, a 30% chance of mistakes being made, a
13 whole host of reasons, including personal reasons, the
14 fact that the family are there in that district, I
15 can't see any reason how anybody could say that he 12:05
16 should continue to serve there. And I can't see any
17 reason how anybody can say that he shouldn't have
18 revealed this relationship beforehand. And I accept
19 the biblical I am not my brother's keeper, by the way.
20 Even still, we are proud of our relations, we are proud 12:06
21 of our forbearers, we are proud of people who represent
22 us in the Olympics, unfortunately this is part of a
23 family situation.
24 MR. HARTY: And that wasn't the question I was asking,
25 Chairman. The question I'm asking is, why this could 12:06
26 not be a temporary removal with Garda Harrison
27 returning. The excuse which is given was because of
28 the family's involvement in the situation and the
29 involvement with the trial as it was going on. That

1 trial was concluded in the summer.

2 CHAIRMAN: I know, but he said that the McLoughlin
3 family continued to reside there.

4 A. No, the McLoughlin don't reside there, but they are in
5 regular contact with the station. 12:06

6 MR. HARTY: The McLoughlin family reside in Leitrim.
7 CHAIRMAN: They would have contact with the station.

8 A. Yes.

9 MR. HARTY: The McLoughlin family reside in Leitrim,
10 which was one of the alternatives that was being 12:07
11 suggested for the transfer of Garda Harrison.

12 CHAIRMAN: Why was your client so anxious to go to
13 Buncrana? Why was your client so anxious to go to
14 Buncrana? Having had to leave Buncrana in these
15 circumstances why was he so anxious to get back? 12:07

16 MR. HARTY: This line of questioning is about what was
17 going through Chief Superintendent Sheridan's mind at
18 the time of the transfer and why. It is not about what
19 is relevant to what my client was thinking at the time.
20 The Tribunal asked me to explore the question of 12:07
21 malice, which is what I am doing. And I am exploring
22 that.

23 CHAIRMAN: Well, I am going to explore the question
24 now, Mr. Harty. Did you maliciously transfer him from
25 Buncrana to Donegal Town -- 12:07

26 A. Absolutely not, Judge.

27 CHAIRMAN: -- in order to inconvenience him or punish
28 him in some way?

29 A. Absolutely not.

1 CHAIRMAN: All right. That is explored.

2 MR. HARTY: If the Tribunal then will accept that I
3 would inquire as to if Superintendent Coen will be
4 giving evidence before the Tribunal. He wasn't on any
5 list that I have seen to date. But I just recommend 12:07
6 that it might be investigated at some stage because
7 that is relevant.

8 CHAIRMAN: Mr. Harty, there has been voluminous
9 correspondence from your solicitor, much of it
10 rhetorical, much of it actually accusing the Tribunal 12:08
11 for what was said in counsel's opening statement -
12 accusing the Tribunal for what was said in counsel's
13 opening statement - I think it is made clear in
14 relation to that correspondence that in the event that
15 there was a witness that you wished to have called we 12:08
16 would certainly consider it. And indeed, the witness
17 list has already been amended in relation to some
18 witnesses you suggested. And your entitlement to
19 continue to make those representations is unfettered.
20 Now, that is fine. But a rhetorical statement as to 12:08
21 are we concealing something or why isn't Superintendent
22 Coen being called, it might work well with a jury but
23 it's not going to work well here.

24 MR. HARTY: Sorry, Chairman, I didn't ask was he being
25 called, I recommended he might be called. There was no 12:08
26 rhetorical question.

27 CHAIRMAN: Write through your solicitor, Mr. Harty, if
28 you feel there is a reason for that, please do, and I
29 will listen very carefully and read very carefully

1 anything you want to write in that regard. So, can we
2 move on please?

3 MR. HARTY: Yes.

4 318 Q. In relation to the transfer, I think you accept that no
5 consideration was given to the Garda Code in relation 12:09
6 to your decision to transfer, isn't that correct? You
7 were satisfied that it was for operational reasons on
8 the ground in Buncrana?

9 A. Yeah, that it wasn't appropriate that he continue to
10 serve in Buncrana. 12:09

11 319 Q. And it wasn't because he had done anything in breach of
12 the Garda Code?

13 A. Absolutely, yeah.

14 320 Q. The matters then which took place in the following
15 year. Garda Harrison has a recollection of a meeting 12:09
16 with you which took place in March of 2012 in relation
17 to the issue of the insurance on his car?

18 A. Garda Harrison had no meeting with me in relation to
19 the insurance on his car. He may have had a meeting
20 with the superintendent. I had a superintendent with 12:10
21 Garda Harrison in April 2012 in relation to his use of
22 Pulse, of accessing Pulse. I made an appointment in
23 March 2012 under the Disciplinary Regulations, it would
24 be wholly inappropriate for me in those circumstances
25 to have any meeting with Garda Harrison around the use 12:10
26 of his car, which was then under investigation.

27 321 Q. You say the meeting was in relation to Pulse. Can you
28 explain to the Tribunal in relation to accessing Pulse,
29 when any Garda accesses Pulse their names shows up in

1 the check, is that correct?

2 A. That is correct

3 322 Q. And is there any circumstance whereby Pulse can be
4 checked other than with the name being shown?

5 A. I'm not a technical expert, Judge, it may be 12:10
6 possible -- I'm not sure, and there are people who can
7 be called to give this type of evidence. It may be
8 possible if you check a vehicle owned by a person to
9 get into the name of the person, and I'm not sure in
10 those circumstances whether it would show up on Pulse 12:11
11 or not. But there are people who can explain all of
12 that to you that are much more technically minded than
13 I am.

14 323 Q. Is there any different clearance levels in relation to
15 accessing Pulse that you are aware of? 12:11

16 A. There are different clearance levels in relation to
17 sexual offences, some intelligence, that type of thing.

18 324 Q. And that is done through a different mechanism then, I
19 take it?

20 A. Yeah, I'm not an expert on Pulse. 12:11

21 325 Q. While the issue is arising I think it might be useful
22 to deal with it now. There is a possibility -- is
23 there a clearance, I mean if you don't know, known as
24 confidential cover in relation to it?

25 A. I'm not in a position address that matter. 12:11

26 326 Q. But in relation to that meeting, you say that meeting
27 was yet again simply transactional, and you told him he
28 wasn't to do it again?

29 A. I asked him about it, he had checked Ms. Simms a

1 multiplicity of times, over a period of time, he
2 couldn't give me any logical explanation for it and he
3 gave me an assurance that he would cease.

4 327 Q. well, he gave you an explanation for it, isn't that
5 correct? 12:12

6 A. He couldn't give me any explanation for it. He
7 admitted he had checked it, but he couldn't give me a
8 reason why he had checked it and that is the reality of
9 it.

10 328 Q. He doesn't recall that conversation? 12:12

11 A. well, it happened.

12 CHAIRMAN: There was a meeting?

13 MR. HARTY: There was a meeting. He understood the
14 meeting was in relation to the assurance. I don't
15 think it is particularly relevant to the issues before 12:12
16 the Tribunal, but there is a disparity.

17 CHAIRMAN: well, it may be. Is it accepted as a fact
18 that checked Marisa Simms's name on Pulse --

19 MR. HARTY: That is accepted.

20 CHAIRMAN: -- over 30 times? 12:12

21 MR. HARTY: Not over 30 times.

22 CHAIRMAN: How many times?

23 MR. HARTY: The number is incorrect. I think at the
24 time there was 22 checks reported by Sergeant McGowan.
25 And they were over -- from 2007. 12:13

26 CHAIRMAN: And do you want me to tell me the reason he
27 was doing that check?

28 MR. HARTY: He can give evidence in relation to it.

29 CHAIRMAN: No. Do you have instructions?

1 MR. HARTY: I do have instructions.

2 CHAIRMAN: It would help me. And I quite often write
3 down 'the case,' let us say, 'for the plaintiff on this
4 is...' when they are cross-examining the defendant or
5 vice versa. So, what was the reason? 12:13

6 MR. HARTY: He says that the majority of checks were in
7 relation to seeing who was checking on her, putting
8 entries in respect of her car.

9 CHAIRMAN: Of her?

10 MR. HARTY: Of her car. Who else was putting entries 12:13
11 on Pulse in relation to her car.

12 CHAIRMAN: I'm sorry, I'm not following.

13 MR. HARTY: That is the explanation he will give in
14 evidence.

15 CHAIRMAN: Why would anybody check that? 12:13

16 MR. HARTY: Because he believed at the time that they
17 were under surveillance.

18 CHAIRMAN: That Marisa Simms was under surveillance?

19 MR. HARTY: Both he and Marisa Simms, yes.

20 CHAIRMAN: By whom? 12:13

21 MR. HARTY: By members of An Garda Síochána.

22 CHAIRMAN: I'm not trying to be funny, Mr. Harty. I'm
23 not trying to be funny at all. So he suspects that he
24 is under surveillance by members of An Garda Síochána?

25 MR. HARTY: Yes, yes. 12:14

26 CHAIRMAN: Yes. Okay.

27 329 Q. MR. HARTY: And before the Tribunal says okay, can you
28 explain to me, Chief Superintendent Sheridan, why
29 discreet inquiries have to be made as to where Garda

1 Harrison is living?
2 CHAIRMAN: Sorry, Mr. Harty, please, I haven't
3 criticised you, I am not taking criticism from anybody.
4 It's as simple as that. I don't take thanks. I don't
5 take criticism. 12:14
6 MR. HARTY: Apologies.
7 CHAIRMAN: It's as simple as that. Now, the question
8 asked was: why did you make discreet inquiries as to
9 where Garda Harrison was living? I would thought in a
10 disciplined force that if someone came and lived in 12:14
11 your division, and it is the Donegal division, that
12 they would give you an address as to where they were.
13 A. Well, technically it is supposed to happen. I will
14 admit that it doesn't always happen Judge.
15 330 Q. MR. HARTY: But why discreet inquiries? why not open 12:15
16 inquires?
17 A. Where is the document that says -- that I wrote that
18 says discreet?
19 CHAIRMAN: Well, did you make inquiries as to where he
20 was living? 12:15
21 A. No, I had -- I knew from the incident on the 23rd May
22 where he was living.
23 CHAIRMAN: 23rd May 2011. That was Churchill.
24 A. Yeah.
25 CHAIRMAN: Which is -- I'm sorry, I know Donegal pretty 12:15
26 well, but where is that close to?
27 A. It's outside, between Letterkenny, as you go between
28 Letterkenny, Milford, up that direction.
29 CHAIRMAN: Yes. Okay. So let's suppose you did make

1 inquiries -- or did you make inquiries?

2 A. I didn't make inquiries. Absolutely not.

3 331 Q. MR. HARTY: There was a stream of correspondence which
4 has been opened in relation to you inquiring as to the
5 address of Garda Harrison and Marisa Simms, isn't that 12:15
6 correct?

7 A. Well, I haven't seen it. There was a report that came
8 in from the district officer in Milford where I sent
9 then from my office a report to the superintendent in
10 Letterkenny, giving the address of Garda Harrison and 12:16
11 Ms. Simms.

12 CHAIRMAN: Just as it has arisen. Was Garda Harrison
13 under surveillance?

14 A. Absolutely not.

15 CHAIRMAN: Was Ms. Simms under surveillance by the 12:16
16 Gardaí?

17 A. Absolutely not.

18 CHAIRMAN: Have you ever heard of Gardaí putting other
19 Gardaí under surveillance say for, let's say there is a
20 definite suspicion of them being involved in a crime 12:16
21 that is being investigated?

22 A. Not to my knowledge. Unless they were involved with a
23 criminal gang or something like that. But I certainly
24 have absolutely no knowledge during my tenure in
25 Donegal division, Chief Superintendent McGinn will be 12:17
26 in a position to address the other times, but
27 absolutely not.

28 332 Q. MR. HARTY: You're engaging in correspondence which is,
29 if we go to page 588, now it's referred to being in

1 relation to the anonymous letter, referring to the
2 Simms family, from the HSE, but it says:

3
4 "Please find attached report from superintendent
5 Milford. Garda Harrison resides along with his partner 12:17
6 and two children. The above is forwarded for your
7 information and attention in the event of any incident
8 being reported by Mr. Simms. The report and anonymous
9 letter are for your information only and not for
10 general circulation." 12:17
11
12

13 A. Yeah.

14 CHAIRMAN: Can we have a page number and put it up on
15 the screen? 12:18

16 333 Q. MR. HARTY: You see what I have a difficulty with, is
17 why nobody is just contacting Garda Harrison and saying
18 where are you living? will you keep us updated as to
19 where you are living? Nobody is.

20 A. This -- as far as I'm aware, and I had no involvement 12:18
21 in this, other than I got the report from
22 superintendent in Milford who will be in a position to
23 fully address you in relation to it, it is my
24 understanding at this remove that this relates to the
25 anonymous letter and it's giving the address in the 12:18
26 event -- it's giving the address to the superintendent
27 in Milford -- or superintendent in Letterkenny, sorry,
28 that in the event of there being another incident at
29 the house, that if the guards in Letterkenny had to

1 attend to it they would know where to go to it. That
2 is my understanding of it. The superintendent in
3 Milford will be in a position to fully explain it to
4 you because it originated with him.

5 334 Q. And my question is why simply it wasn't dealt with by 12:19
6 way of contact directly with Garda Harrison saying:
7 what is your address at the moment? Please keep us
8 updated.

9 A. I don't know where they got the address or how they got
10 the address, to be honest. But the superintendent 12:19
11 Milford will be able to address that.

12 335 Q. And you're aware that in the anonymous letter there is
13 no allegation at all made of any threat or danger to
14 any adult?

15 A. Sorry? 12:19

16 336 Q. The anonymous letter?

17 A. Yeah, I have no dealings with it. It was sent to my
18 office but I took no action in relation to it and I had
19 no involvement in it. And I accept what the findings
20 were out of that. 12:19

21 CHAIRMAN: Maybe you would get -- I don't know,
22 Mr. McGuinness, do you have a page number for the
23 anonymous letter? Could we get it up on the screen
24 please? I know I have read it and all that kind of
25 thing, but -- 12:20

26 MR. MCGUINNESS: Page 62.

27 CHAIRMAN: 62, yeah. Would you mind putting that up on
28 the screen, please?

29 337 Q. MR. HARTY: Had you seen this anonymous letter?

1 A. A copy of it was sent to the office, but I had no
2 involvement whatever.

3 338 Q. Did you read it at the time?

4 A. I probably did, but I don't recall it to be honest.

5 339 Q. I don't propose reading it out now. But effectively it 12:20
6 is suggesting that the children are upset and are not
7 being properly cared for, but no other allegation or
8 suggestion of threat or danger to any other person is
9 raised in relation to it?

10 A. That's correct, yes. 12:21

11 CHAIRMAN: So, this is the anonymous letter, January
12 2012, and Ms. McGettigan was someone who worked for the
13 HSE, isn't that right? Did you know Ms. McGettigan?

14 A. Oh, I have never met anybody in the HSE in Donegal.

15 340 Q. MR. HARTY: Sorry, just one document which I need to 12:21
16 clarify a date from you. It's page 1292. This is in
17 relation to the Pulse meeting. Can you recall what
18 date that letter was sent? It's dated in the index as
19 6th March 2012, but it refers to a meeting on the 24th
20 April 2012. So, just to correct the documentation. I 12:22
21 think you would accept that that has to postdate the
22 24th April 2012.

23 A. Yeah, I accept that. But the meeting from my records
24 would show that it was 24th April.

25 341 Q. The meeting was 24th April. And that is what it says 12:22
26 in the letter. So the dating on the letter obviously
27 is incorrect --

28 A. Yes.

29 342 Q. -- rather than the meeting?

1 A. Yes.

2 343 Q. It isn't a question of the date of the meeting, the
3 meeting was earlier. Thank you. I have no further
4 questions.

5 12:22

6 CHAIRMAN: Does anybody else want to ask any questions?
7 No.

8

9 MR. SHERIDAN WAS THEN CROSS-EXAMINED BY MR. O'HIGGINS

10 MR. O'HIGGINS: Thank you Chairman. Mr. 12:22

11 344 Q. Mr. Sheridan, Micheál O'Higgins with Mr. Dignam and
12 Mr. Whelan, appearing for certain members of An Garda
13 Síochána. Just to canvass a few matters with you just
14 by way of clarification please. You made mention of
15 the conversation you had with Assistant Commissioner 12:23
16 Fanning, I am bringing you now back to the transfer of
17 Garda Harrison. Just to set matters in time, he moved
18 in March 2011 to Buncrana, isn't that so?

19 A. That's correct, Judge. 15th March 2011.

20 345 Q. Yes. We've heard, you've made reference to the 12:23
21 incident in Churchill, that was on the 23rd May 2011,
22 isn't that right?

23 A. That's correct.

24 346 Q. Approximately, there's about a two month interval of
25 time between his actual transfer and the event in 12:23
26 Churchill?

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

28 347 Q. You told the Tribunal that -- and you said in February,
29 certainly prior to the actual transfer being

1 implemented you received a telephone, you had a
2 telephoned conversation with Fintan Fanning, assistant
3 commissioner?

4 A. Prior to his transfer, yes, into the division.

5 348 Q. Just broadly speaking, was that phone call from your 12:24
6 point of view good news or bad news?

7 A. Well, in the times we were operating at that stage it
8 was good news for me, in that I was getting an extra
9 resource without losing anybody because we were
10 absolutely operating on a skeleton staff during those 12:24
11 years when the moratorium was on recruitment.

12 349 Q. Right. We know that Garda Harrison went to Buncrana
13 and am I correct in my understanding that from your
14 point of view effectively you didn't hear any more
15 about it until May 2011? 12:24

16 A. That is correct, Judge. Any of my interactions -- I
17 never sought out Garda Harrison, any of my interactions
18 with Garda Harrison were arising out of matters
19 involving Garda Harrison.

20 350 Q. I see. You've explained to the Tribunal, and this is 12:24
21 my language now, that from your perspective, as I
22 understand it, the possibility of Garda Harrison being
23 posted to Buncrana would not have occurred had it
24 become known or had he made known the connection
25 between his partner and Martin McDermott? 12:25

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

27 351 Q. Can you assist the Tribunal, why was it such a complete
28 no-no that that would happen in terms of garda morale?

29 A. Well, in fairness to -- as I said, Judge, again, and I

1 know I have repeated this many times. Is that, in
2 fairness to Garda Harrison and indeed all of the other
3 matters that were arising out of this particular
4 matter, there was the unit, there was the family, there
5 was the trial, and I had to, as a manager had to try 12:25
6 and foresee any other eventualities that may occur, and
7 that's why in my view it was inappropriate. And as I
8 say I attach no blame to Marisa Simms whatever, she
9 cannot be her brother's keeper. I fully that. But
10 given the circumstances of what happened, as I have 12:26
11 said, I think any reasonable person would have to
12 condition include that it was inappropriate that he
13 would serve in Buncrana.

14 352 Q. As well as Garda McLoughlin, the deceased, there was
15 also another member injured in the incident, isn't that 12:26
16 so?

17 A. Yeah, there was a Garda Bernard McLoughlin, who was
18 also in the car that night, who was seriously injured.
19 It's my recollection, I'm open to correction on this,
20 is that he did not come back to Buncrana. I think he 12:26
21 took leave of absence for some time, and I think he
22 transferred to Galway or somewhere subsequently.
23 That's my recollection. I'm open to correction on
24 that, but yes.

25 353 Q. You occupy the role of chief superintendent, but were 12:27
26 you in a position to form a view as to whether or not
27 feelings were raw in the area arising from the killing?

28 A. They were, absolutely. You know, as I have said
29 earlier, it's something that will never go away. I met

1 the McLoughlin family a number -- I think on two
2 occasions in Buncrana during my time there, and I'm
3 conscious that even coverage of this today will bring
4 it back to them. But these are factors that I had to
5 factor into the decision-making that I made and the 12:27
6 conclusion that I came to in relation to it, and I
7 believe I acted reasonably. There was certainly no
8 malice in relation to anything I did in relation to
9 Garda Harrison.

10 354 Q. When you learnt of the relationship between Garda 12:27
11 Harrison's partner and the man who was ultimately
12 convicted of the killing, you met Garda Harrison,
13 you've told us about that, I think that was on the 30th
14 May, is that right?

15 A. That's correct, Judge, yes. 12:28

16 355 Q. And you told us that he accepted he couldn't stay in
17 Buncrana. Does it follow from that that the only
18 decision you had to make was not so much whether he
19 transferred but to where he transferred?

20 A. Well yeah, obviously that's basically it in its 12:28
21 simplest form, but I did not have the power to transfer
22 him anywhere outside of Donegal or Sligo-Leitrim, that
23 would be ultimately a matter for the assistant
24 commissioner HRM. I did not send any report to
25 headquarters in relation to it. As far as I was 12:28
26 concerned it had been dealt with, it was now closed and
27 was time to move on.

28 356 Q. You've given your evidence concerning what transpired
29 at that meeting. Can I ask you, Garda Harrison's

1 partner, Marisa Simms, has given a statement in which
2 she indicates she expressed concern to Garda Harrison
3 and indicated to him he should choose a different
4 station prior to his being transferred or putting in
5 for the transfer. Was that something that Garda 12:29
6 Harrison brought up at the meeting with you?

7 A. No.

8 357 Q. Were you aware of that?

9 A. No, I wasn't.

10 358 Q. His plea at the meeting or his request at the meeting 12:29
11 was that he would not be -- that he would stay in
12 Donegal, is that right?

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

14 359 Q. And that was your ultimate decision, you acceded to
15 that request? 12:29

16 A. Absolutely.

17 CHAIRMAN: I'm not sure, what is the point you are
18 making there, Mr. O'Higgins? I'm just not getting it,
19 it is my fault, I am sure, Mr. O'Higgins.

20 MR. O'HIGGINS: Sorry, the last question, Judge? 12:29

21 CHAIRMAN: No, the point about Marisa Simms and the
22 conversation.

23 MR. O'HIGGINS: Sorry, apologies, I may not have been
24 clear.

25 CHAIRMAN: No, my fault. 12:30

26 MR. O'HIGGINS: I was asking Mr. Sheridan whether it
27 came up at the meeting that he had been told by -- -
28 his partner had indicated concern at him choosing
29 Buncrana, and Mr. Sheridan --

1 CHAIRMAN: I understand, the conversation didn't come
2 up. Whether it happened or not is a different matter.
3 Yes.

4 360 Q. MR. O'HIGGINS: Now the decision that you made, how was
5 that put into effect? 12:30

6 A. I sent an email to HRM to advise them to include it in
7 the bulletin. I communicated verbally first of all
8 with Superintendent Coen in Ballyshannon that I was
9 transferring Garda Harrison from Buncrana to Donegal
10 Town and I sent an email to Superintendent Coen and to 12:30
11 Superintendent English in relation to it and
12 Superintendent English was to inform Garda Harrison of
13 the transfer.

14 361 Q. Yes. Now I think your next contact, as I understand
15 it, with Garda Harrison was in February 2012, after you 12:31
16 had received the report from Superintendent Eugene
17 McGovern concerning the accessing of Pulse?

18 A. Yeah. Well, I had that communication but I didn't meet
19 with Garda Harrison until April 2012.

20 362 Q. Yes. 12:31

21 A. But I got that correspondence from Superintendent
22 McGovern. As I explained, I issued directions to all
23 of Donegal division in relation to the accessing of
24 Pulse and the data protection issues around all of
25 that, to be noted by everybody. I met with Garda 12:31
26 Harrison then, as I have outlined, on the 24th April.

27 363 Q. Are you clear in your recollection that he did not deny
28 making the Pulse entries?

29 A. He accepted that he had made the inquiries on Pulse as

1 far as I can recall.

2 364 Q. Sorry, I said entries, the accessing of Pulse.

3 A. The access, yeah, to --

4 CHAIRMAN: That is accepted.

5 MR. O'HIGGINS: Yes. 12:32

6 365 Q. Garda Harrison, judging by his statements, seems to be
7 of the view that he represented a major thorn in the
8 side of Garda management, is that something you are in
9 a position to comment on?

10 A. Well, he was no thorn in my side. While he was there I 12:32
11 had the two meetings with him, I did not seek them out.
12 As I have said, Judge, they arose out of his actions
13 and other than that, he was not a thorn in my side.

14 366 Q. You left Donegal when?

15 A. I left Donegal, the final time, in November 2012. 12:32

16 367 Q. Prior to that you had departed for an interval of time,
17 is that right?

18 A. I originally went there on the first occasion, I was
19 the divisional officer in Sligo-Leitrim, I went there
20 the first time from November 2010 to August 2011. When 12:33
21 I went there again in February 2012 to November 2012 I
22 was chief superintendent for Cavan-Monaghan division.

23 368 Q. There's been mention in the materials of Inspector
24 Goretta Sheridan, who you indicated you were not
25 related to. Did you ever have a conversation with her 12:33
26 about Garda Keith Harrison?

27 A. As I said, Judge, earlier I can categorically state I
28 am not related to Inspector Sheridan, I never worked
29 with her in my life. She was not in the Donegal

1 division during any of my periods in charge of the
2 Donegal division. And I never had a conversation with
3 her in my life about Garda Harrison.

4 CHAIRMAN: You share a name, but then again you could
5 both be related to Richard Brinsley Sheridan for all we 12:34
6 know.

7 A. I just wish I was, Judge, to be honest.

8 369 Q. MR. O'HIGGINS: Did you participate in any plot to do
9 down Garda Sheridan [sic]?

10 A. Garda Harrison? 12:34

11 370 Q. Garda Harrison, excuse me.

12 A. Absolutely not, Judge. In my view, and it is for
13 others to judge, I believe, given the circumstances of
14 my meetings and interactions with Garda Harrison that I
15 treated him fairly and I certainly in no way targeted 12:34
16 him or in any way tried to undermine him at any time.

17 371 Q. Were you involved in any way in the decision on Garda
18 Harrison's transfer request in October?

19 A. Absolutely not, Judge. I have absolutely no
20 recollection of any communication with Superintendent 12:34
21 Coen in relation to it, and, as I have said, I wasn't
22 the divisional officer there at the time and it was a
23 matter for Chief Superintendent McGinn to adjudicate
24 on.

25 372 Q. Thank you. 12:35

26

27 CHAIRMAN: Is there anything in re-examination,
28 Mr. McGuinness?

29 MR. MCGUINNESS: Yes.

1 CHAIRMAN: I am sorry, I beg your pardon. Mr. Dwyer.
2 MR. DWYER: I'm not getting a red light here, Chairman.
3 I hope you can hear me.
4 CHAIRMAN: You have got a red light now.
5 MR. DWYER: It's just a point of clarification. I 12:35
6 appear for Superintendent Kevin English, with Mr. Brian
7 Gageby, instructed by Mr. Carthage Conlon. During the
8 examination and cross-examination of the witness there
9 was reference made to a contemporaneous note of a
10 meeting which occurred on the 30th May 2011, and it was 12:35
11 referred to pretty extensively in cross-examination and
12 evidence. It appears, Chairman, at page 2039 of the --
13 sorry, 2059 of the documents before the Tribunal. Now
14 according to the statement of Superintendent English at
15 page 9 of same he claims to be the author of that 12:36
16 particular note.
17 CHAIRMAN: All right. That is fine. Did you know
18 that, chief superintendent?
19 A. Well, I understood, and maybe I took Mr. McGuinness up
20 wrong, that they were a typed version of my notes, 12:36
21 but if they are I accept that.
22 MR. DWYER: That is all I wanted to clarify
23 CHAIRMAN: That is fine. Is there yet another version
24 of this then somewhere else?
25 A. Well, my notes were handwritten, the notes that I had 12:36
26 submitted, so --
27 CHAIRMAN: Yeah, okay.
28 A. So I may have misunderstood Mr. McGuinness, I apologise
29 for that.

1 CHAIRMAN: And do you have that, Mr. Harty?
2 MR. HARTY: I am not clear that I do, I must admit. I
3 can't be certain. If a difficulty arises I will ask --
4 CHAIRMAN: It's to be appreciated that we are dealing
5 with thousands and thousands of documents, if people 12:36
6 have a problem again they can write. But,
7 Mr. McGuinness, I wonder are there kind of handwritten
8 notes? We perhaps took it that these were the typed up
9 version of it.
10 MR. MCGUINNESS: No, I think the record will show that 12:37
11 I did introduce these as Superintendent English's typed
12 version.
13 CHAIRMAN: Yes.
14 MR. MCGUINNESS: Now the witness, Mr. Sheridan, did
15 refer to notes, having been made available to the 12:37
16 Tribunal. And I think he was certainly referring to
17 his own notes.
18 CHAIRMAN: Are they somewhere in the seven volumes?
19 MR. MCGUINNESS: I am trying to locate a legible copy
20 at present and we will deal with them. 12:37
21 CHAIRMAN: It's not a question of we have them
22 somewhere, everyone has been circulated with them,
23 so --
24 MR. MCDERMOTT: Chairman, if it helps I think they're
25 at page 2057. Certainly there's a typed or handwritten 12:37
26 notes which might be the ones.
27 CHAIRMAN: Yes, they're in volume 7.
28 A. No, that is not them.
29 MR. MCGUINNESS: They are Superintendent English's

1 notes.

2 CHAIRMAN: They're Superintendent English's notes.

3 A. They're not my notes.

4 MR. MCGUINNESS: Can I suggest, Chairman, that we will
5 investigate the matter to conclusion. 12:38

6 CHAIRMAN: Yes. I don't know, did you give them to
7 somebody like the garda solicitor?

8 A. I disclosed them anyway.

9 CHAIRMAN: Well, not to worry. There's a lot of
10 documents and mistakes will happen from time to time. 12:38
11 So if anything turns on it, you may have come back,
12 chief superintendent --

13 A. Okay, Judge.

14 CHAIRMAN: -- but I wouldn't ask for you to come back
15 unless it's absolutely necessary. 12:38

16

17 MR. SHERIDAN WAS RE-EXAMINED BY MR. MCGUINNESS

18 373 Q. MR. MCGUINNESS: Mr. Sheridan, could I just ask you to
19 look at a couple more documents. At page 1307, you may
20 recall Mr. Harty was asking you about some letters that 12:38
21 chief superintendents in other divisions had written in
22 relation to Garda Harrison's transfer requests. But
23 can I ask you, did you see this letter at page 1307?
24 It's where he has expressed his wish to amend his
25 preference away from Galway, Roscommon, Sligo, 12:39
26 Limerick, Laois, Offaly with a preference for the
27 Donegal division?

28 A. I have no recollection of seeing it.

29 374 Q. It says: "Due to personal reasons, a transfer to the

1 Donegal division would be greatly appreciated." Then
2 he refers to conversation with a garda stationed in
3 Dungloe, about swapping divisions. Do you see that?

4 A. I see that, yeah.

5 375 Q. You've no recollection of seeing that or being
6 informed?

12:39

7 A. I haven't, no, Judge.

8 CHAIRMAN: And the date of that, Mr. McGuinness, was?

9 MR. MCGUINNESS: That is the 3/2/2011.

10 CHAIRMAN: And that's Garda Harrison's letter? Yes.

12:39

11 MR. MCGUINNESS: Yes. Then that is forwarded on to the
12 assistant commissioner. If one looks at page 1310.

13 And that's from Superintendent Willy Ryan to the

14 Assistant Commissioner on the 4th February. Then on

15 the 7th February Garda Harrison writes again

12:40

16 withdrawing the transfer to the following divisions and
17 restricting it to Donegal division only.

18 CHAIRMAN: It's 1308.

19 MR. MCGUINNESS: 1311.

20 CHAIRMAN: 1311 yes.

12:40

21 MR. MCGUINNESS: He concludes that letter in the final
22 sentence by saying:

23

24 "I can confirm that if successful we will not be in
25 breach of any code regulations regarding distance from
26 native home to any newly appointed station in the
27 Donegal division. I would gratefully appreciate if my
28 request could be looked on favourably."

12:40

29

1 So it would appear that he was contemplating
2 appointments to any station in Donegal. Were you made
3 aware of that at the time?

4 A. I can't recall, Judge, I have to say, to be honest.

5 376 Q. Now in relation to the meeting that you had with him in 12:40
6 April, Mr. Harty has very helpfully clarified that
7 Garda Harrison accepted that it would have been better
8 if he had disclosed the relationship before the
9 transfer had occurred or perhaps even when it occurred,
10 but he didn't, I think it's clear, make any case to you 12:41
11 to stay in Buncrana at that meeting?

12 A. No, he didn't. He accepted at the meeting that he
13 would have to transfer out of Buncrana.

14 377 Q. And he didn't make any case to you, did he, that the
15 transfer out of Buncrana should be only for some 12:41
16 temporary period?

17 A. No, he did not, no.

18 378 Q. Could I ask you to look at page 8 of our book of
19 documents? In the bottom half of page 8 there's a
20 paragraph which states: 12:41
21
22 "In August/September 2011 I met with Chief
23 Superintendent McGinn with Garda Brian Tuohy in
24 Ballyshannon Garda Station where I sought a transfer to
25 Letterkenny Garda Station on welfare grounds." 12:42
26
27 And he goes on to recite:
28
29 "On this date I was told that a transfer to Letterkenny

1 would not be viable because Martin McDermott had
2 resided in the district and had family living there."

3
4 Now, just two matters. Were you consulted by Chief
5 Superintendent McGinn in or around that time in
6 relation to any decision that she might make? 12:42

7 A. No, I was not.

8 379 Q. You didn't seek to or actually influence her in any
9 way, is that right?

10 A. Absolutely. I was in another division at that stage 12:42
11 and what happened in Donegal division at that stage was
12 no business of mine.

13 380 Q. And did your action in relation to Garda Harrison, in
14 relation to dealing with him and his transfer at any
15 time, was that in any way intended to facilitate a 12:43
16 Tusla intervention in his family matters?

17 A. Absolutely not, Judge. Absolutely not.

18 381 Q. Thank you.

19

20 MR. SHERIDAN WAS QUESTIONED BY THE CHAIRMAN 12:43

21

22 382 Q. CHAIRMAN: Have you in your career had any interaction
23 with Tusla?

24 A. When I was the district officer in Dundalk I would have
25 had meetings with the HSE and Tusla, they would be 12:43
26 quarterly meetings. I had no meetings, interactions
27 with them in Donegal.

28 383 Q. CHAIRMAN: You're talking then about the child sexual
29 abuse type issues and that kind of thing, is it?

1 A. Yeah.

2 384 Q. CHAIRMAN: But I mean routine stuff?

3 A. No, I would have no dealings. Day-to-day routine stuff

4 are a matter for the district officers.

5 385 Q. CHAIRMAN: Have you any relations in Tulsa? 12:43

6 A. In where?

7 386 Q. CHAIRMAN: In Tulsa, Child and Family Agency?

8 A. No, I haven't.

9 CHAIRMAN: All right. So it's quarter to, will we say

10 quarter to two? Thank you. 12:43

11 THE HEARING THEN ADJOURNED FOR LUNCH

12

13

14 THE HEARING CONTINUED AFTER LUNCH AS FOLLOWS:

15 13:46

16 MR. MCGUINNESS: Chairman, apologies, we have looked

17 into that issue of Chief Superintendent Sheridan's

18 notes and we are making available very much better

19 photocopies of them and we will ask Mr. Sheridan to

20 return, as it were, to help us with the notes. 13:46

21 CHAIRMAN: He hasn't gone back, has he?

22 MR. MCGUINNESS: No, he is here.

23 CHAIRMAN: What page are they on, Mr. McGuinness?

24 MR. MCGUINNESS: We are going to work from a hand copy,

25 as it were. I don't think they are on the system. 13:46

26 CHAIRMAN: Is there one for me? The chief

27 superintendent is here, Mr. McGuinness.

28 MR. MCGUINNESS: Yes.

29 CHAIRMAN: Is this the one on the system here that we

1 have on page --
2 MR. MCGUINNESS: Yes, it is on the system there.
3 CHAIRMAN: And that is the same as what we got, is it?
4 MR. MCGUINNESS: I think that is the second page of it.
5 Or the third page. 13:46
6
7 MR. SHERIDAN WAS FURTHER EXAMINED BY MR. MCGUINNESS
8 387 Q. MR. MCGUINNESS: Mr. Sheridan, can you see the notes on
9 the system? Or have you a copy yourself in front of
10 you? 13:47
11 A. I haven't got a copy, but I can them. I gave the copy
12 to -- but I can see them here, yeah. [SAME HANDED]
13 388 Q. And I think there are four pages in the original, and
14 can you confirm that they are -- that is all your
15 handwriting? 13:47
16 A. That is my handwriting, Judge, yeah.
17 389 Q. And it starts on, at the bottom of half a page, and can
18 you confirm the omitted part isn't relevant?
19 A. It's not relevant, it's about other matters.
20 390 Q. And it has Garda Harrison's name on the top left-hand 13:47
21 corner and could you talk us through whether this is
22 Mr. Harrison, as it were, speaking to you or is it
23 Superintendent English or your notes?
24 A. These are my rough notes of -- obviously as the
25 conversation we were having, and I was writing at the 13:48
26 same time, so not everything would be there but --
27 391 Q. Yes.
28 A. It's, the personal matter is, my recollection is that
29 Garda Harrison understood that his relationship with

1 Marissa Simms was a personal matter. It was then
2 mentioned the partner was related to the death of --
3 that her brother was related to the death of Garda Gary
4 McLoughlin. "Unit that considers working environment.
5 The members were concerned they did not have prior 13:48
6 knowledge about it. He met with the unit and disclosed
7 details with them."
8 392 Q. Is that something -- can I just pause there, is that
9 something he said to you, that Superintendent English
10 was reporting or -- 13:48
11 A. From my recollection I think some of it may have been
12 said by Superintendent English in relation to the unit
13 and that type of thing.
14 393 Q. Yes. He said he met with the unit and disclosed
15 details with them, and then there is a phrase "Be kept 13:49
16 within the division"?
17 A. Yes.
18 394 Q. "Worked very well for the last three months"?
19 A. And "facilitated within the division".
20 395 Q. "Facilitated within the division." Is that reflecting 13:49
21 his request?
22 A. Yeah. Yeah, that reflects his request, yeah.
23 396 Q. The second page then, has the date on it?
24 A. The second page, a lot of that went into his
25 relationship, the commencement of his relationship back 13:49
26 12, 13 years ago --
27 397 Q. Yes.
28 A. -- with Ms. Simms.
29 398 Q. Yes. There's personal details then --

1 A. Yes.

2 399 Q. -- down to the middle of the page, we perhaps needn't
3 go into those. But he is saying there that Marisa has
4 a -- is that something about a cottage?

5 A. No, she teaches. 13:49

6 400 Q. Sorry, teaches?

7 A. The Deele, the Deele Cottage, I think it is, in Raphoe.

8 CHAIRMAN: Again, if I could ask the press please,
9 there is no need to report any of these personal
10 details about people's working environment. I don't 13:50
11 think it is of any interest to anybody anyway, but I
12 don't want to make life difficult for anybody.

13 401 Q. MR. MCGUINNESS: Could you continue there with the
14 sentence beginning "applied"?

15 A. "He had applied for the transfer. He was on Unit C 13:50
16 with Sergeant Danny Devlin." Again, there are parts
17 missing out, obviously I was trying to write and talk
18 and listen --

19 402 Q. Yes?

20 A. -- at the same time in relation to all of this. 13:50

21 403 Q. Yes.

22 A. He had connections with Unit C. I think they had
23 socialised somewhere as well, himself and Marisa. Then
24 there is mention of the incident that I have already
25 referred to. 13:50

26 404 Q. Yes.

27 A. "He met with Superintendent English and explained and
28 can accept and understand feeling of colleagues in
29 Buncrana."

1 CHAIRMAN: Yes, but it is important not to skip over
2 the fact that there was some -- did he express some
3 fear in relation to his life? Again, I am not blaming
4 anyone or bringing anyone into it. Was that fear
5 expressed? 13:51

6 A. Yeah, he did, in relation to the incident that had
7 happened at the house on the 23rd, that he feared for
8 his life and that of his partner and kids.

9 405 Q. MR. MCGUINNESS: That was in the context of having no
10 option but to report the matter? 13:51

11 A. Yes, yes.

12 406 Q. Yes. And that's how the connection with her brother
13 came out?

14 A. Came out, yeah, that's right.

15 407 Q. Yes. "Met with Superintendent English and informed
16 him", and what is that next phrase? 13:51

17 A. Sorry. "Can accept and understand feeling of
18 colleagues in Buncrana. He addressed the unit on 29/5.
19 His explanation was met very well and he was confident
20 that no issues working together. However, he did 13:52
21 understand that coming up to the trial that this is a
22 sensitive matter, for them and the McLoughlin family."
23 And the Circuit Court, the trial was in July. "And
24 accept out of courtesy and ease of unit and people
25 Buncrana that a transfer is imminent. He has roots put 13:52
26 down into the community." And he goes into the
27 relationship between himself and Marisa - "have no
28 doubt will be successful" - and future together. "He
29 has no contact with her brother. She feels responsible

1 for what has happened. Asked that a transfer within
2 the division be considered. Assured that his work
3 ethic, practice and ethics, that Superintendent English
4 had outlined will continue." Then he goes into where
5 they were living, they had a contract signed for 12 13:53
6 months. Two children. That Marisa, as I explained
7 earlier, Judge, had met arising out of the incident on
8 23rd and they had come to an understanding and there
9 would be no further incidents. He did not disclose
10 relationship, "thought in time people would see as two 13:53
11 people separately, not judge them. Approximately 18
12 miles from school." I am not sure if that refers to
13 where Marisa may be teaching. "Back off maternity
14 leave, two to three weeks extended." Then he goes in
15 where he is a native of, where Marisa was a native of, 13:53
16 the stations he had been in. And that was it.

17 408 Q. Okay. And then there is, it seems to be a separate
18 note which refers to the 2nd of June there. Can you
19 just explain what that is? It seems the duty of the
20 Unit C leave was up, was he on leave at that time? 13:54

21 A. Yeah, he may have been on leave and the leave was up on
22 2nd of June, yeah.

23 409 Q. Thank you. Could you answer any further questions.
24

25 CHAIRMAN: All right, if anything has come out of that, 13:54
26 maybe it has? You are very welcome, Mr. Harty, if
27 there is something.

28 MR. HARTY: No.

29 CHAIRMAN: Is there something?

1 MR. HARTY: No, I don't believe there is anything that
2 arises, sir.

3 CHAIRMAN: All right. And in fact that was at the
4 very, very back of volume 7, I think, that this was.

5 MR. HARTY: It arrived, yes.

13:54

6 MR. MCGUINNESS: No more questions, thank you.

7

8 THE WITNESS THEN WITHDREW

9

10 MS. LEADER: The next witness, sir, is Sergeant Daniel
11 Devlin. His statement is in volume 2 at page 625 of
12 the materials.

13:55

13

14 SERGEANT DANIEL DEVLIN, HAVING BEEN SWORN, WAS EXAMINED

15 BY MS. LEADER AS FOLLOWS:

13:55

16 410 Q. MS. LEADER: Now, Sergeant Devlin, I understand that
17 you retired from An Garda Síochána in 2017 and you were
18 at sergeant rank at that time, is that correct?

19 A. That's correct. I retired on 1st of February this
20 year.

13:55

21 411 Q. And could you summarise to the Tribunal your career in
22 An Garda Síochána prior to that date, please?

23 A. Yes. Well, I joined An Garda Síochána in 1986. I
24 spent the next eleven years stationed in Rathfarnham in
25 Dublin here. I then got transferred to Donegal, and I
26 spent the following 18 years in the Inishowen
27 peninsula, between Carndonagh, Buncrana and Moville,
28 and for the last two years I have been doing inservice
29 training in Letterkenny Garda station.

13:56

1 412 Q. Okay. Now, when you were in Buncrana Garda station,
2 you were a sergeant at that time, is that correct?
3 A. That's correct, yes.

4 413 Q. And in relation to March 2011, I think you were
5 allocated to a particular unit in Buncrana Garda 13:56
6 station?
7 A. Yes.

8 414 Q. Could you tell us about that please?
9 A. I was on Unit C in Buncrana Garda station. I was the
10 supervisory sergeant there. 13:56

11 415 Q. How many guards are attached to Unit C --
12 A. At that --
13 416 Q. -- approximately?
14 A. -- exact time, approximately six, seven, roughly around
15 that. 13:57

16 417 Q. Okay. And could that go up to ten on some occasions or
17 a number like that?
18 A. It could get higher, it could get lower, just
19 depending. There would have been a reshuffle of some
20 of the units after the death of Gary McLoughlin, so -- 13:57

21 418 Q. And Buncrana Garda station, altogether how many guards
22 were attached to it?
23 A. Approximately 50, I would think.

24 419 Q. Okay. Now, Garda Harrison was transferred to Buncrana
25 in March 2011, do you remember that? Do you have a 13:57
26 memory of that?
27 A. I remember that.

28 420 Q. Yes. And were you his sergeant at that time?
29 A. I was the sergeant on Unit C at that time.

1 421 Q. Okay. And can you tell the Tribunal how he got on
2 in -- from March 2011 generally? Did he settle into
3 the station?

4 A. Yeah. He settled in very well into the station party.
5 He was a good worker. His files were done very well as 13:58
6 well. And behaviour-wise in general, he was -- do you
7 know what I mean, I had no difficulties with him.

8 422 Q. Okay. And with regard to relations with his colleagues,
9 they were all on good terms?

10 A. Yes. He integrated well with them, yes. 13:58

11 423 Q. Now, you mentioned Garda McLoughlin, he had died in
12 2009, is that correct?

13 A. That's correct. On 14th of December 2009.

14 424 Q. And were you attached to Buncrana Garda station at that
15 time? 13:58

16 A. Yes, I was Garda McLoughlin's sergeant at that time.

17 425 Q. At that time. And could you tell the Tribunal in very
18 general terms how his death and the circumstances
19 surrounding his death impacted on the guards in
20 Buncrana generally and in his unit, in Unit C? 13:59

21 A. Well, it had a devastating effect, maybe primarily on
22 the unit that he actually worked on and especially the
23 colleagues that would have been working with him that
24 particular night, but for the station in general, for
25 the district, even for the whole division and probably 13:59
26 nationally, it had a major impact. Emotionally, like,
27 everybody would have been very badly impacted within
28 the station at that time.

29 426 Q. Okay. And following Garda McLoughlin's death was there

1 a connection kept with his family?

2 A. Oh, yeah, there was, and still is, too. I would, I
3 would contact the parents even up to recently, just
4 even for a chat or whatever else. His parents, Noel
5 and Una, would have come up to Buncrana on regular 14:00
6 occasions as well, would have come up for anniversary
7 masses and stuff like that there, and they would also
8 be in contact with other unit members that would have
9 worked with Gary at the time.

10 427 Q. Okay. Now, I think you have set out in your statement 14:00
11 that you were in Dublin on duty in the last part of May
12 2011, is that correct?

13 A. That's correct, yeah.

14 428 Q. And when you came back to Buncrana you learned 14:00
15 something in relation to Garda Harrison and could you
16 tell the Tribunal about that and how it came about that
17 you learned that?

18 A. It was on the return, I was on duty in Dublin at the, I
19 think it was the President Obama visit, and on
20 returning to Buncrana I was informed by Sergeant 14:00
21 Doherty, who was the sergeant in charge of the station
22 at the time, that an incident had happened the previous
23 night and I didn't learn much of the incident, but what
24 came out of it was that there was a connection
25 discovered between Garda Harrison and Martin McDermott 14:01
26 as and through Garda Harrison's partner was a sister of
27 Martin McDermott, the person responsible for the death
28 of Gary McLoughlin.

29 429 Q. Okay. And did you discuss that with any more senior

1 members of An Garda Síochána at that time?

2 A. I don't recall. I know I certainly didn't have a
3 meeting of any sort. Whether in casual conversation or
4 not I don't recall particularly, no.

5 430 Q. Okay. So you said Sergeant Doherty told you about it, 14:01
6 is that correct?

7 A. Sergeant Doherty told me, yeah.

8 431 Q. Were you or are you aware of any reaction amongst
9 Gardaí in Buncrana to this piece of news?

10 A. At that particular time, it was only a number of weeks 14:02
11 before the trial of Martin McDermott, so emotions
12 probably within the unit now were sort of a bit taut,
13 let's say, with that coming up. Whenever the unit
14 found out about it, I got the sense of anger, maybe
15 annoyance, from the members of the unit. 14:02

16 432 Q. Okay.

17 A. Sort of, it came out of the blue, really.

18 433 Q. When you say you got a sense of it, did anybody say
19 anything directly to you about it?

20 A. I recall someone mentioned actually they found it very, 14:02
21 very difficult to work alongside Garda Harrison.

22 434 Q. Okay. And was that just within Unit C or was it
23 further?

24 A. That would be a summary on my own unit at the time, but
25 I know that the station party in general would have -- 14:03
26 the sense that I got off it now is there was a lot of
27 ill feeling towards it.

28 435 Q. Okay. When did you next meet Garda Harrison after
29 returning from Dublin, do you think?

1 A. To the best of my recollection it was whenever we went
2 back on night duty. And on that particular night Garda
3 Harrison approached me and he asked me if I could call
4 the unit together as he wanted to say a few words to
5 the unit on that night. I think it was a Friday night, 14:03
6 now. But I know we were starting work at 10:00.

7 436 Q. Okay. And had you met him prior to that after
8 returning from Dublin?

9 A. We would have been rest days up to that, so I think
10 that is probably the first night that we would have, I 14:03
11 would have met him.

12 437 Q. Did you have any conversation with him in relation to
13 his partner's connection?

14 A. Well, I know that he did address the unit. Now, I
15 know -- I recall separate from the address as well that 14:04
16 he mentioned there that he didn't disclose his
17 partner's connection at the time because he thought it
18 may have an impact on his transfer. Now, my view at
19 that time was that if he had moved into the division
20 and disclosed it, you know what I mean, if he realised 14:04
21 that he was going on to the unit that Gary had been on,
22 that if he would've brought it to the attention of
23 management that he would have been facilitated
24 somewhere else maybe, you know, if that was the case.

25 438 Q. Okay. So, were you present when he addressed the unit 14:04
26 on the issue of Garda McLoughlin?

27 A. I was, yeah, yes.

28 439 Q. And what did he say?

29 A. Basically, he addressed the unit because obviously he

1 probably would have been aware at that stage that the
2 unit would have heard of that particular connection.
3 So he, in a way, maybe, was apologising maybe for not
4 disclosing it earlier, but he would have been of the
5 opinion that -- he actually said to me now that he was 14:05
6 very, very happy on the unit and working with the unit
7 and the longer he stayed with the unit the more
8 difficult it got to actually disclose or -- and maybe
9 introduce his partner.

10 440 Q. Was that something he said to you or to the unit? 14:05
11 A. Yeah, no, well I remember him saying it all right.
12 Now, whether it was part of his address to the unit --
13 but I do remember him saying that that night now.

14 441 Q. OK. And was that a tense meeting with the unit or can
15 you say? 14:06
16 A. From my recollection now Garda Harrison would have been
17 doing the talking and the unit sort would have been
18 listening. There wasn't much maybe talking or
19 interaction from the unit. They were more or less into
20 what he had to say. 14:06

21 442 Q. And moving on from there, did Garda Harrison stay in
22 Buncrana or what can you tell the Tribunal about that?
23 A. No, he was then -- he was transferred to Donegal town
24 after that.

25 443 Q. Okay. We know that, but did he work again in Buncrana 14:06
26 after addressing the unit?
27 A. Not from my recollection. I think that particular
28 night I think he was taking stuff from the unit or from
29 his locker there.

1 444 Q. You say in your statement that after addressing the
2 unit, that he went on leave until his transfer to
3 Donegal town. Do you think that's correct now? It's
4 at page 626 of the materials.

5 A. I don't actually recall. I know it's six years ago but 14:07
6 I don't -- I remember that particular night now, but I
7 don't think he actually worked after that now.

8 445 Q. Okay. And I think you said you had no dealings with
9 Garda Harrison after he left Buncrana, is that correct?

10 A. No, no. 14:07

11 446 Q. Now, did you consult with any senior members in
12 relation to him leaving Buncrana Garda station?

13 A. Not to my recollection. As I say, I certainly didn't
14 have a meeting with anybody. Now, if I did talk to the
15 inspector or the superintendent, it would have been as 14:07
16 in casual conversation. As I say, I don't know if I
17 did or not, but if I was asked about my feelings at the
18 time in relation to Garda Harrison, I would have -- my
19 feelings at the time was that there was very high
20 tension, let's say on the unit, people were 14:08
21 apprehensive in relation to working alongside him at
22 that particular time. But as I say, I don't distinctly
23 remember actually talking to anyone in particular.

24 447 Q. Okay. And can you say whether that tension was
25 alleviated when he left the unit? 14:08

26 A. Yeah. Well, there was no, obviously there was --
27 nothing happened afterwards or just things seemed to
28 sort of settle back again then. Although the trial
29 would have been in a few weeks' time after that, but

1 there was nothing sort of linking Garda Harrison at
2 that particular time to the trial.

3 448 Q. Okay. And I think the trial was in July 2011, is that
4 correct?

5 A. Yeah, around that time, yeah. 14:08

6 449 Q. And do you know if any members of An Garda Síochána
7 from Buncrana Garda station were giving evidence in
8 that trial?

9 A. There was a couple of detectives working on the unit
10 that particular night. Detective Garda Noel Jones and 14:08
11 Detective Garda Bernard Mullins I think may have
12 actually been working that night. I know they would
13 have been. Maybe Detective Sergeant Egan would have
14 been in Buncrana at that time. As I say, I wasn't
15 actually involved in the actual investigation itself 14:09
16 so -- or what witnesses were called, or I wasn't
17 involved in the trial.

18 CHAIRMAN: Sorry, there was just one thing that was on
19 my mind. Was it a contested case or did he plead
20 guilty? 14:09

21 A. I understand that the trial was about to start, from my
22 recollection and then there was a plea then. So I
23 don't think there was actually evidence given in it.

24 CHAIRMAN: Right. It was at the last minute then?

25 A. Yeah. I think so, yes. 14:09

26 450 Q. MS. LEADER: Is that what you think is the case?

27 A. That is my recollection of it. Now, I am sure there's
28 records there will verify that or maybe Chief
29 Superintendent McGinn might be able to shed light on

1 it, but that is my recollection at the time. That, I
2 don't think actually -- I don't think it went into
3 evidence as far as I know, I am not too sure.

4 451 Q. Okay. Maybe it's something we might clarify with Chief
5 Superintendent McGinn. Just in relation to any 14:10
6 dealings you might have had with the HSE or Tusla in
7 connection with Garda Harrison, what can you tell the
8 Tribunal about that?

9 A. Well, I had no dealings with the HSE or Tusla or any
10 work dealings necessarily with Garda Harrison after he 14:10
11 left Buncrana.

12 452 Q. Okay. If you'd answer any questions anybody else might
13 have for you.
14

15 SERGEANT DANIEL DEVLIN WAS CROSS-EXAMINED BY MR. HARTY: 14:10

16 453 Q. MR. HARTY: Sergeant Devlin, Mark Harty, I am
17 representing Garda Harrison. Just firstly in relation
18 to the question of after he left Buncrana, Garda
19 Harrison would have been back in Buncrana on a number
20 of occasions just dealing with matters that were still 14:10
21 before court. Do you have any recollection in relation
22 to that?

23 A. He may well have been but he wasn't working --

24 454 Q. No, but just --

25 A. -- he could well have been, yeah. 14:10

26 455 Q. And that would be normal practice?

27 A. Yeah. And he would have cases before the court at that
28 time, yes.

29 456 Q. Yes. You weren't present on the night that this became

1 knowledge within the unit; you were in Dublin at the
2 time?

3 A. I was in Dublin at the time.

4 457 Q. And you say you didn't have any, report any matters to
5 Superintendent English or anybody else? 14:11

6 A. Not from my recollection. There was certainly no
7 reports or meetings or nothing like that, no.

8 458 Q. Yes. In relation to the first dealings you had then
9 with it were being told by various members that they
10 had difficulty -- one member you can recall saying they 14:11
11 would have difficulty working with Garda Harrison. At
12 that stage, Garda Harrison had been working in the unit
13 for about two months, is that correct, just --

14 A. Possibly three months, thereabouts, yes.

15 459 Q. And was a very productive and hard-working member? 14:11

16 A. Yeah, I had no difficulty with him that way, no.

17 460 Q. And when he spoke to the unit, would it be fair to say
18 that he spoke openly to the unit?

19 A. Oh, he did, yeah, yeah.

20 461 Q. And spoke honestly to the unit? 14:12

21 A. From what I believe, yeah.

22 462 Q. Yes. And did you get any sense that he in any way
23 wanted to justify the actions of Martin McDermott?

24 A. No. Like, he spelt out that he has no connection
25 whatsoever with Martin McDermott or his partner, 14:12
26 Mrs. Simms, had no connection. Do you know what I
27 mean, that they weren't even, I don't think, on
28 speaking terms for that matter.

29 463 Q. would it be fair to say that he would have condemned

1 his actions just as much as anybody else and obviously
2 the result of Martin McDermott's actions just as much
3 as anybody else?

4 A. well, he never actually mentioned, you know what I
5 mean, because we didn't actually know beforehand, do 14:12
6 you know what I mean?

7 464 Q. No, but I am saying that he would have -- when he
8 addressed the unit, it was clear that he had held the
9 same view of Martin McDermott as the unit?

10 A. Oh, certainly not. He just basically said he had 14:12
11 nothing whatsoever to do with Martin McDermott.

12 465 Q. Right. And there was no question of him in any way
13 trying to under-state what Martin McDermott had done?

14 A. I don't think he talked much about Martin McDermott
15 that night other than he had no connection with him. 14:13
16 He didn't necessarily go into the case or anything like
17 that.

18 466 Q. would it be fair to say that there was nothing in his
19 behaviour to suggest that he would try to interfere
20 with the trial of Martin McDermott? 14:13

21 A. I would have no reason to -- you know what I mean, I
22 would have no reason to believe that he would interfere
23 in any way, no.

24 467 Q. And it would be fair so say that you didn't have any
25 reason to think it, so you wouldn't have had any fears 14:13
26 in that regard?

27 A. well, I would have no reason to think that he would
28 interfere, no.

29 468 Q. up until that point he had gotten on well with the

1 unit, isn't that correct?

2 A. Yes.

3 469 Q. And could you understand how it was quite devastating
4 for him that this, what he considered to be a
5 peripheral matter, had cut short his time within the 14:13
6 unit and within Buncrana -- in Buncrana?

7 A. Yeah, I know it did have an impact on him and you could
8 actually see that on the particular night, whenever he
9 was addressing the unit there that -- you know what I
10 mean, it did have an impact on him, yeah. 14:14

11 470 Q. Finally, this predated the meeting with Superintendent
12 Sheridan, Chief Superintendent Sheridan, so when did
13 you learn that he was being transferred?

14 A. For some reason or other -- now, I know it is a number
15 of years ago, but for some reason or other I actually 14:14
16 thought it was that particular night that he was aware
17 of it, but that is my recollection.

18 471 Q. I think there is -- we haven't yet heard the evidence
19 from Superintendent English, the matter had been raised
20 by Superintendent English the day before, but it's 14:14
21 before the decision was made by Chief Superintendent
22 Sheridan later?

23 A. Yeah.

24 472 Q. So you, at that stage of that night as far as you were
25 concerned -- 14:15

26 A. My impression at that particular time was that he was
27 going on transfer, yes.

28 473 Q. Right.

29 CHAIRMAN: I am sorry, sergeant, but you are dropping

1 your voice towards the end of sentences and you could
2 be a wee bit closer to that microphone it would
3 actually help. Thanks. Not a criticism. But just the
4 end of things I am not getting. Thanks.

5 MR. HARTY: Thank you very much, sergeant. I have no 14:15
6 further questions.

7 CHAIRMAN: Any other questions?

8 MR. DIGNAM: I have a few questions, Chairman.

9

10 SERGEANT DANIEL DEVLIN WAS CROSS-EXAMINED BY 14:15

11 MR. DIGNAM:

12 474 Q. MR. DIGNAM: Mr. Devlin, you were sergeant, supervising
13 sergeant of unit C in Buncrana Garda station at the
14 time when Garda McLoughlin was killed. When Garda
15 Harrison joined the unit how many of the members of the 14:15
16 unit at that stage had also been on the unit when Garda
17 McLoughlin was killed?

18 A. I would think three, possibly four, around that there,
19 which maybe would represent maybe about half the unit
20 or thereabouts. I know after Garda McLoughlin died 14:16
21 that there was some reshuffling within the station, so
22 I know some new members would have come on the unit
23 that didn't actually work on the unit at that time.

24 475 Q. And did they come from Buncrana Garda station --

25 A. Yeah, yeah. 14:16

26 476 Q. -- from other units?

27 A. Generally within the station, yeah. I know there was
28 one new member came to the station after Gary
29 McLoughlin died, that was on the unit that wouldn't

1 have worked along with Gary at the station. But I
2 think everybody else would have been.

3 477 Q. So the majority of members on the unit were at least in
4 the Garda station or attached to Buncrana Garda Station
5 when Garda McLoughlin was killed. 14:16

6 A. That's correct.

7 478 Q. And Garda McLoughlin was a young man, isn't that right?

8 A. Yeah, I think he was 23, 24, around that.

9 479 Q. The investigation into his death, that was being run
10 from Buncrana Garda Station, is that right? 14:16

11 A. That's my understanding, yes.

12 480 Q. When Garda Harrison joined the unit, you said that he
13 integrated well, he worked well and integrated well.
14 Did you have any social interactions with him?

15 A. Not necessarily going out for a pint or nothing like 14:17
16 that now, but we would have maybe shared lifts from
17 Letterkenny to Buncrana. There was three or four
18 people in, living in Letterkenny area working in
19 Buncrana, so we shared cars from day-to-day. But other
20 than that now, sort of socially out, not really, no. 14:17

21 481 Q. And did he at any stage tell you about his relationship
22 with his partner, Ms. Simms?

23 A. No, not before this, no.

24 482 Q. And did he intimate or tell you about any connection
25 with Mr. McDermott? 14:17

26 A. No.

27 483 Q. When Garda Harrison addressed the unit, I think he
28 asked you to call the unit together and when he
29 addressed the unit what was the reaction of the members

1 of the unit to his few words?

2 A. I could sort of feel, let's say, tension there. The
3 conversation was mostly one way. As in, Garda Harrison
4 would have been making known his feelings and his
5 connections and maybe reasoning why the disclosure was 14:18
6 only coming at that time. I don't think there was many
7 maybe questions or sort of a two-way conversation had.

8 484 Q. It was put to you that Garda Harrison considered it a
9 peripheral matter. Would you consider his connection
10 with Mr. McDermott through Ms. Simms to be a peripheral 14:18
11 matter?

12 A. Not really, no. I think, if you actually worked on the
13 unit and had a colleague killed on the unit and then
14 there was an immediate connection to the person that
15 actually killed it, you know what I mean, the feelings 14:18
16 would be fairly high on that.

17 485 Q. Could you have envisaged Garda Harrison continuing to
18 work on the unit after this had come to light?

19 A. It would be very, very difficult, I would think.

20 486 Q. Thank you, Mr. Devlin. 14:19
21

22 CHAIRMAN: Is there anything else, Ms. Leader? No.
23

24 SERGEANT DANIEL DEVLIN WAS QUESTIONED BY THE CHAIRMAN:

25 487 Q. CHAIRMAN: Did he seem to accept that - just that last 14:19
26 question - at the time? I mean, it's mentioned to me
27 and I am trying to see what inference I could draw from
28 it, that he went on leave immediately. I take it, if
29 he was addressing the unit on the night-shift that he

1 was due to work the night-shift that night, am I wrong?
2 A. Yeah. Well, from my recollection that particular
3 night, after he addressed the unit he was clearing out
4 his locker and files and stuff like that, that is why I
5 was of the opinion that he knew that he was going on 14:19
6 transfer.

7 488 Q. CHAIRMAN: Right. And this address, again I am not
8 getting a sense of what it was, but was it an address
9 saying 'you have got it all wrong', was it an address
10 of 'I regret I am in this situation', was it an address 14:20
11 'I regret I have put you in this situation'? I am just
12 getting no sense of what he said. Maybe you would help
13 me.

14 A. My impression of it was that he was apologising to the
15 unit for maybe not disclosing the connection earlier. 14:20
16 That was my impression of it.

17 489 Q. CHAIRMAN: You have mentioned this conversation of
18 saying to you, look, the longer I was there, kind of
19 the happier I was but the harder it was to say this.
20 Was that mentioned to the unit as such? 14:20

21 A. I remember him saying it to me in particular and I
22 think that may have been a private conversation we had
23 just after he addressed the unit. Now, again, he may
24 have mentioned it in speaking to the unit, but I know
25 definitely when I was talking to him now he did mention 14:20
26 that.

27 490 Q. CHAIRMAN: Well, you have been a garda for it seems to
28 be 31 years, did you get any sense he was being
29 victimised by anybody?

1 A. While he was in Buncrana, I wasn't aware of any
2 interaction between himself and any senior member or
3 being victimised in any way. Whenever he worked in my
4 unit he was treated the same as everybody else and he
5 was allocated a variety of duties, the same as 14:21
6 everybody else, so there is no difference made in that
7 way.

8 491 Q. CHAIRMAN: And as far as you were concerned he was
9 satisfactory?

10 A. Yes. Oh, yes, yes. His work was good. His files were 14:21
11 good. He appeared in court. He had a special interest
12 in road traffic offences as well, and drink drivers and
13 stuff like that there, so he was a good enough worker,
14 yeah.

15 CHAIRMAN: Thanks. 14:21

16 MS. LEADER: Thank you very much.

17

18 THE WITNESS THEN WITHDREW

19

20 MS. LEADER: The next witness, sir, is Garda Peter 14:21
21 Kearins and his statement is in volume 7 of the
22 materials at page 2203.

23

24 GARDA PETER KEARINS, HAVING BEEN SWORN, WAS EXAMINED BY

25 MS. LEADER AS FOLLOWS: 14:22

26 492 Q. MS. LEADER: Garda Kearins, you are presently attached
27 to Ballina Garda station, is that correct?

28 A. That's correct, yes.

29 493 Q. And if you could outline to the Tribunal your career in

1 An Garda Síochána to date and the various stations you
2 have been attached to?

3 A. I joined in 2006 and went from Templemore to Milford
4 Garda Station, and in 2011, in August/September 2011 I
5 transferred to Ballina. 14:23

6 494 Q. So in May 2011 you were attached to Milford?

7 A. That's correct.

8 495 Q. That is the period in time that the Tribunal is
9 interested in. I think on the 23rd of May 2011 you
10 received a telephone call from Garda Harrison, is that 14:23
11 correct?

12 A. That's correct, yes.

13 496 Q. And that was in relation to a personal matter that he
14 was reporting to you as a member of An Garda Síochána,
15 is that correct? 14:23

16 A. That's correct, yes.

17 497 Q. And I think in particular, he relayed to you that he
18 was living in Gartan, Churchill, is that correct --

19 A. That's correct.

20 498 Q. -- with his partner, Ms. Simms, and her children, and 14:23
21 he told you about a domestic dispute there had been
22 between Ms. Simms and her partner, is that correct?

23 A. That's correct, yes.

24 499 Q. Now, I think at the time, that was at the night of the
25 23rd of May, is that correct? 14:23

26 A. Yeah, I think the original phone call was at about
27 9:00pm.

28 500 Q. 9:00pm. Okay. And I think you entered that into the
29 occurrence book in Milford Garda Station, is that

1 correct?

2 A. I was in Kilmacrennan when I got the phone call, we
3 were in the car and I went directly to Milford station
4 and entered it into the occurrence book.

5 501 Q. Into the occurrence book. And you have attached a copy 14:24
6 of the occurrence book to your statement, and that
7 appears at page 2206 of the materials. And
8 essentially, Garda Harrison told you that his partner,
9 who you have referred to it, would appear as herself,
10 was having problems with her ex-husband and there was a 14:24
11 threat made against her and he was anxious that the
12 guards know where she lived, is that correct?

13 A. I just didn't hear what you said at the last point
14 there.

15 502 Q. And he was anxious that the guards know where she lived 14:25
16 so as to be able to respond to any calls?

17 A. Yes. That was correct, yes.

18 503 Q. And I am correct, that was the purpose of the call, is
19 that correct?

20 A. Yeah, I assume so. It was strange that he phoned me to 14:25
21 my own phone rather than ringing Milford station,
22 but --

23 504 Q. Okay. And --
24 CHAIRMAN: Oh, he rang your mobile?

25 A. He rang my mobile, yeah. That is why I went back to 14:25
26 Milford, to enter it into the occurrence book.

27 505 Q. MS. LEADER: Did you inform your sergeant about the
28 matter?

29 A. Yeah. Sergeant Gillespie was the sergeant on duty that

1 evening and I informed Sergeant Gillespie.

2 506 Q. Now, I think you made -- Garda Harrison asked that you
3 meet him at Churchill Garda Station with a view to him
4 showing you the exact location of where Ms. Simms was
5 living, is that correct? 14:25

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

7 507 Q. And what did you do on foot of that request?

8 A. Myself and Garda Hynes, who were in the patrol car, met
9 him at Churchill Garda Station with local guards, Garda
10 Shevlin and Detective Garda McGowan. And while we were 14:26
11 at the station we spoke for a number of minutes and I
12 invited him to make a statement I think in relation to
13 the incident or the alleged threats that had been made
14 to him. At that point he refused to make a statement,
15 he said he didn't want to go down that road but I did 14:26
16 tell him I would take a memo in my notebook.

17 508 Q. Okay. And that memo that you recorded in your notebook
18 appears from page 2209 to 2211 of the materials, is
19 that correct?

20 A. That's correct, yes. 14:26

21 509 Q. And I think Garda Harrison signed the memo that you
22 took in your notebook of what had transpired during the
23 evening, is that correct?

24 A. Yeah, that's correct, yes.

25 510 Q. Now, if I could just turn, you understand the Tribunal 14:26
26 isn't particularly concerned about the details of what
27 is alleged to have occurred in relation to Mr. Simms,
28 but it is recorded at page 2210 that Ms. Simms was in
29 fear of her former partner and Garda Harrison also took

1 the threat seriously, is that correct?

2 A. That is what Garda Harrison alleged, yes.

3 511 Q. Okay. And that is recorded at the last page of your
4 notes, and the very end of the second-last page, is
5 that correct? 14:27

6 A. That's correct, yes.

7 512 Q. I wonder if you could just read out that particular
8 part of the notes. I think it should be on the screen
9 in front of you.

10 A. I have that notebook with me. 14:27

11 513 Q. Yes.

12 A. It's down at the bottom.

13 514 Q. You can read it from the screen. I presume you can
14 read your own writing?

15 CHAIRMAN: Well, sorry, I am sorry, Ms. Leader, that we 14:27
16 perhaps didn't discuss this beforehand but I am kind of
17 reluctant to have this detail read out in the sense
18 that, you know, there is another person involved. And
19 it perhaps suffices to simply describe it as a domestic
20 dispute that had escalated into a state of high passion 14:28
21 and from which anything could happen and threats were
22 made, and that does happen in life, so -- would that be
23 fair to say?

24 A. Yes.

25 CHAIRMAN: But it wasn't a trivial matter at all. I 14:28
26 mean, there was a threat of violence of an explicit
27 kind.

28 A. Well, it wasn't -- I didn't believe -- when I went to
29 the scene I didn't believe that that threat was as

1 serious as it had originally been made out to us to be.
2 When I saw who was there, I didn't believe there to be
3 that threat.

4 CHAIRMAN: But it was reported as a serious threat,
5 yes.

14:28

6 A. Yeah.

7 CHAIRMAN: Whether you believed it or not, the reality
8 is, you would have been duty-bound to take it
9 seriously.

10 A. Yes, absolutely.

14:29

11 515 Q. MS. LEADER: And I suppose it would appear from your
12 notes that certainly Garda Harrison took it seriously?

13 A. Absolutely, yes, yes.

14 516 Q. So you went to the house and you took a memo from Garda
15 Harrison, and then later on, approximately an hour
16 later, you got a call from the public office at
17 Milford, is that correct?

14:29

18 A. That's correct, yes.

19 517 Q. And I think as a result of that call, yourself and
20 Garda Hynes went again to the house that you had
21 already been to that night?

14:29

22 A. Yes, that we had been seeing, yeah.

23 518 Q. And Garda McGowan and Garda Shevlin and Garda Gillespie
24 followed in another car, is that correct?

25 A. That's correct, yes.

14:29

26 519 Q. Now, matters resolved that night, is that correct?

27 A. Yeah, yeah, very quickly.

28 520 Q. Yes. And in relation to any statements that were taken
29 from anybody could you tell the Tribunal about that,

1 please?

2 A. Well, at the house in Churchill I again asked -- well,
3 I asked Ms. Simms and I asked Mr. Harrison, I invited
4 them both to make statements but they declined to do
5 so. 14:30

6 521 Q. Now, I think on the same day you completed a report in
7 relation to the matter and you submitted that to the
8 sergeant in charge in Milford Garda Station?

9 A. That's correct.

10 522 Q. Is that correct? And that report appears at page 2204 14:30
11 of the materials. Now, does that complete your
12 involvement in relation to that incident?

13 A. Yes.

14 523 Q. Now, it wasn't recorded on PULSE. Do you know if it
15 has since been recorded on PULSE? 14:30

16 A. I am not aware if it has or it hasn't. I haven't
17 checked PULSE to see if it has.

18 524 Q. Okay. But you certainly didn't record it?

19 A. I didn't enter it on PULSE, but I did write at the end
20 of it that I wasn't aware of what category would 14:30
21 reflect its status and seek direction on it.

22 525 Q. Okay. In normal circumstances would it have been your
23 responsibility to record it on PULSE?

24 A. Yes, it would, yes.

25 526 Q. And that is as the guard who the complaint was made to, 14:31
26 is that correct?

27 A. Yes, that is correct.

28 527 Q. Now, do you remember anything about that night in
29 relation to Ms. Simms and her connection to

1 Mr. McDermott?

2 A. No.

3 528 Q. You weren't party to any conversation?

4 A. Not at that time, no.

5 529 Q. Not at that time. Did you hear any conversation in 14:31
6 relation to it?

7 A. Not during that incident.

8 530 Q. Not during that incident.

9 A. No.

10 531 Q. Did you find out afterwards? 14:31

11 A. Yes. But I was actually in Ballina when I found out
12 afterwards.

13 532 Q. Yes. So, you transferred to Ballina, when was it?

14 A. Months after, in September.

15 533 Q. So, sometime after? 14:31

16 A. Yes.

17 534 Q. Thanks very much. If you would answer any questions.
18

19 MR. HARTY: I have no questions.

20 MR. O'HIGGINS: Just two matters, Chairman. 14:31

21

22 GARDA PETER KEARINS WAS CROSS-EXAMINED BY

23 MR. O'HIGGINS:

24 535 Q. MR. O'HIGGINS: Garda Kearins, the phone call that you 14:31
25 received from Garda Harrison was to your personal
26 mobile phone. Had you given him your number?

27 A. No. I had never spoken to Mr. Harrison before that.

28 536 Q. And you entered the -- made reference to the matter in
29 the occurrence book in the Garda station?

1 A. Yes, that's correct.

2 537 Q. What was your purpose in doing that?

3 A. Well, when I would have received the phone call to my
4 own phone it wouldn't have been logged through the
5 station. When you'd ring the person sitting at station 14:32
6 orderly or public officer would record it in the
7 occurrence book. It wouldn't have been done. And so,
8 I had received a call so I felt duty-bound to go and
9 write it in the occurrence book.

10 MR. O'HIGGINS: Thank you. 14:32
11

12 GARDA PETER KEARINS WAS QUESTIONED BY THE CHAIRMAN:

13 538 Q. CHAIRMAN: I just read your statement and some of the
14 notes, and obviously in these domestic stations it's
15 difficult for an outsider to make up their mind and we 14:32
16 all appreciate the degree of emotion that is involved
17 which takes people over. You were also worried I think
18 for the other party, the husband, and whether he was
19 going to survive it all?

20 A. Yes, he was extremely upset. 14:33

21 539 Q. CHAIRMAN: Yes. It was just one of these very
22 upsetting situations.

23 A. Absolutely. Heartbreaking for all concerned, I
24 suppose.

25 540 Q. CHAIRMAN: Yes. And that was really your read of the 14:33
26 thing.

27 A. Yeah, absolutely. Yeah, I didn't -- I didn't feel that
28 there was a threat per se. Mr. Simms had, he had money
29 in his hand to give over.

1 541 Q. CHAIRMAN: Yes. But presumably he was distraught as
2 well.
3 A. Oh presumably so, yeah.
4 542 Q. CHAIRMAN: So, there it was. As a garda you would have
5 been, I suppose, familiar with these things, they can 14:33
6 lead to very bad situations.
7 A. Absolutely. You don't know what will happen in a
8 domestic situation.
9 543 Q. CHAIRMAN: Sure. Hopefully most of the time they won't
10 but you can never tell. 14:33
11 A. No, no, you never know.
12 CHAIRMAN: Thanks.
13
14 GARDA PETER KEARINS WAS RE-EXAMINED BY MS. LEADER:
15 544 Q. MS. LEADER: There is one question I should have asked 14:33
16 you, Garda Kearins. Did you at any time contact the
17 HSE or Tusla in connection with either Ms. Simms or
18 Garda Harrison?
19 A. No, I didn't. At the time I didn't feel that the
20 children were in any -- I wasn't in fear for them at 14:34
21 all.
22 MS. LEADER: I don't know if there are any questions.
23 CHAIRMAN: Thanks, Ms. Leader. Thank you, Garda.
24
25 THE WITNESS THEN WITHDREW 14:34
26
27 MS. LEADER: Garda Michael Shevlin, please.
28
29

RETIRED GARDA MICHAEL SHEVLIN, HAVING BEEN SWORN, WAS
EXAMINED BY MS. LEADER AS FOLLOWS:

- 1
2
3
- 4 545 Q. MS. LEADER: Now, Garda Shevlin hasn't actually
5 provided a statement as yet to the Tribunal, but he is 14:34
6 referred to at page 185 of the materials by
7 Superintendent Eugene McGovern, and there are two
8 minutes which he prepared at pages 254 and 270 of the
9 materials, Chairman?
- 10 546 Q. Now, Garda Shevlin, you are no longer a member of An 14:35
11 Garda Síochána, am I correct?
- 12 A. That's correct.
- 13 547 Q. Yes. So when did you retire from An Garda Síochána?
14 A. I retired on the 14th of January 2012.
- 15 548 Q. Okay. And what rank were you at that stage? 14:35
16 A. Garda.
- 17 549 Q. Garda. And if you could briefly outline to the
18 Tribunal your career, give us a brief summary of it.
- 19 A. I joined An Garda Síochána in 1982 and I spent my first
20 two-and-a-half years in Monaghan station. I then 14:35
21 transferred to Clones. I transferred then to Buncrana
22 and Lifford, Falcarragh, Milford, and I spent my last
23 nine years in Churchill.
- 24 550 Q. In Churchill, okay. So you have served in quite a lot
25 of stations in County Donegal in general? 14:36
26 A. I have, yes.
- 27 551 Q. Were you familiar about the circumstances connected
28 with Garda McLoughlin's death in 2009?
29 A. I was aware of his death and the circumstances around

1 it, yes.

2 552 Q. Okay. All right. Now, Garda Shevlin, you were part of
3 the party that went to Garda Harrison's residence in
4 May 2011, is that correct?

5 A. I was, yes. 14:36

6 553 Q. Okay. You didn't prepare any statement in relation to
7 your attendance there, isn't that correct, at that
8 time?

9 A. Yes, when I was approached or I was spoken on the
10 telephone about a statement and I picked it up wrong, I 14:36
11 thought they were --

12 554 Q. No, there is no difficulty with that, but there is no
13 records from that time?

14 A. No, no. I made no notes.

15 555 Q. All right. So Superintendent McGovern says on the 23rd 14:36
16 of May 2011, that you phoned him and made him aware of
17 an incident at Churchill and he also says that you told
18 him that it was the residence of Marissa Simms and of
19 Keith Harrison and you also told him of the connection
20 between -- in relation to -- in the matter. Do you 14:37
21 remember that at all?

22 A. I don't recall that now. I do remember speaking to
23 Superintendent McGovern in relation to it. I just made
24 him aware of it.

25 556 Q. Maybe if page 186 could be brought up in front of you 14:37
26 and you will see that Superintendent McGovern says:
27 "Garda Shevlin made me aware of the fact that Marissa
28 Simms was the sister of Martin McDermott, who had
29 caused the death by dangerous driving of Garda

1 McLoughlin at Burt, County Donegal."

2 A. I may have made that, I am not sure. I can't -- as I
3 say, I made no notes on that date.

4 557 Q. Okay. Well, maybe do you think that is correct, if
5 Superintendent McGovern has -- 14:38

6 A. It probably is, yes, if he said it, yes.

7 558 Q. -- included it in his statement? And were you aware of
8 the connection between Ms. Simms and Mr. McDermott?

9 A. No, I wasn't -- I wasn't aware of -- I don't know the
10 woman and I have never met her. 14:38

11 559 Q. Yes.

12 A. I didn't even know she was living in the Churchill
13 sub-district until this incident took place.

14 560 Q. Yes. Okay. So it may be that Superintendent McGovern
15 is mistaken in his recollection? 14:38

16 A. It's possible.

17 561 Q. Okay. But it's also possible you may have told him
18 that?

19 A. It's possible. I don't know, I can't remember.

20 CHAIRMAN: You have no reason to doubt it, in any
21 event? 14:38

22 A. No, no.

23 CHAIRMAN: Yes. Somebody had to have told him; it
24 could have been you, it could have been somebody else,
25 but -- 14:39

26 A. When I arrived at this incident, the Milford Garda team
27 were there and they were dealing with the matter, so I
28 wasn't involved in the investigation of it.

29 562 Q. MS. LEADER: Do you think you were aware of the

1 connection between Ms. Simms and Mr. McDermott?

2 A. I can't recall at that time. I can't recall whether it
3 was before or after the incident --

4 563 Q. Okay.

5 A. -- you know. I am aware of it now, but I don't know at 14:39
6 that time.

7 564 Q. And do you know how you became aware of it, if I can
8 ask you, put it that way?

9 A. No. It's probably, you know, through Garda circles,
10 you know. 14:39

11 565 Q. Okay. All right. Now, I think, afterwards, you
12 carried out certain inquiries about where Garda
13 Harrison lived, for Superintendent McGovern; do you
14 remember that?

15 A. I would have called to the house, yes. I just called 14:39
16 by the house but there was nobody there.

17 566 Q. Okay. And you minuted those, at the time you did that.
18 Do you have a memory of that?

19 A. I would have responded to Superintendent McGovern's
20 directions, yeah. 14:40

21 567 Q. So if we could just have page 254 of the materials. It
22 would appear that you wrote to the superintendent in
23 Milford on the 22nd of May 2011 updating him on the
24 whereabouts of Ms. Simms?

25 A. Yeah. 14:40

26 568 Q. Is that your -- that is your writing, and that is your
27 letter, is that correct?

28 A. I can't see it on the screen. It's blurred.

29 CHAIRMAN: Could you read it? I am having a problem.

1 Can you read it out? I don't know if you can.

2 MS. LEADER: It's dated the 22nd of May 2011. It's a
3 letter addressed to the superintendent in Milford, and
4 I think that is apparent from the copy, and it says:
5
6 "Re alleged threats made to Marissa Simms and Keith
7 Harrison of Gartan, Churchill, by Mr. Simms of" -- and
8 there is an address there contained in it. And you
9 say:
10
11 "With reference to the above and to the attached
12 correspondence, I am to report as follows:
13 The content of the attached correspondence has been
14 noted and any further incidents will be reported. I
15 have been informed by" -- a named person -- "that on
16 18th June 2011 that Marissa Simms has now left
17 Mr. Harrison and has returned to her husband with her
18 children."
19 A. Yeah, that's correct.

20 569 Q. And then you say: "For your information, please". And
21 it's signed "Michael Shevlin, Garda," and the number
22 "23195K". Is that your number?
23 A. That's correct, yes, yes.

24 570 Q. So it would appear that the superintendent,
25 Superintendent McGovern, was making sure that he knew
26 where Ms. Simms lived, is that correct?
27 A. That's correct, yeah.

28 571 Q. Okay. And then if I could turn to page 270 of the
29 materials, it's a similar type letter written by you on

1 the 22nd of January 2012, with the same heading that
2 was on the last piece of correspondence, and you report
3 in that that you have "made several inquiries in
4 relation to the above-mentioned Keith Harrison and
5 Marissa Simms. I believe that Keith Harrison may now 14:42
6 be living in Thornberry area of Letterkenny. It would
7 appear that he moved away from Churchill area. A
8 number of visits to the proximity of the house in
9 Tirargus would indicate that the house is now vacant.
10 I do not know what the current situation is in regard 14:43
11 to the relationship with Ms. Simms."
12

13 And that is signed by you again, is that correct?

14 A. That's correct, yes.

15 572 Q. And that would have been an inquiry carried out by you 14:43
16 at the behest of your superintendent?

17 A. Yes.

18 573 Q. Now, I don't know if you could help me in any way,
19 Garda Shevlin, but are those usual type inquiries that
20 are carried out by the guards in the wake of domestic 14:43
21 incidents?

22 A. Yes, the superintendent would follow up and make
23 inquiries in relation to incidents, just to keep tabs
24 on things.

25 574 Q. Okay. 14:43

26 A. And make sure that we don't have any further incidents.

27 575 Q. Have you conducted similar such inquiries in relation
28 to other unconnected domestic disputes?

29 A. I would have. Through the years, I would have, yes.

1 576 Q. And would you report directly to the superintendent or
2 would you report to your sergeant in relation to them?
3 A. Well, in that situation I would -- it would be the
4 superintendent or the sergeant. I was in a station on
5 my own. 14:44

6 577 Q. Oh, I didn't appreciate that.
7 A. It's a one-man station. And if the sergeant in my
8 parent station wasn't available, you would report
9 directly back to the superintendent.

10 578 Q. Now, in view of what Superintendent McGovern has set 14:44
11 out in his statement, do you remember any other
12 conversations or any conversations you had with any
13 superior officers in connection with Garda Harrison or
14 Marissa Simms?
15 A. No. 14:44

16 579 Q. Okay. Do you think it's likely that you had any?
17 A. I don't recall any, no.

18 580 Q. Okay. And in relation to Marissa Simms, you at some
19 stage found out the connection between her and --
20 A. I did, yes, but I just don't know when, you know. 14:44

21 581 Q. Okay.
22 A. It would have been around that time.

23 582 Q. Yes. You think it was around that time?
24 A. Yes.

25 583 Q. Okay. But -- 14:45
26 A. I just don't know who told me.

27 584 Q. Okay. And you don't have any recollection of informing
28 Superintendent McGovern on the night in question?
29 A. No.

1 MS. LEADER: Okay. If you'd answer any questions
2 anybody else might have for you.

3

4 THE WITNESS WAS CROSS-EXAMINED BY MR. HARTY:

5

14:45

6 585 Q. MR. HARTY: Garda Shevlin, firstly, can I be correct in
7 saying that prior to the night when you went to the
8 domestic incident at the house, you had never had any
9 previous dealings at all with Ms. Simms or her husband,
10 her then-husband?

14:45

11 A. None.

12 586 Q. And you had no dealings with Garda Harrison?

13 A. No, no.

14 587 Q. And that in relation to dealing with those three
15 people, it was the guards from Milford who were dealing
16 with it, is that correct, who were taking statements
17 from or speaking to the various parties?

14:45

18 A. The matter was investigated by the members from Milford
19 station. That would be Sergeant Gillespie and Garda
20 Kearins.

14:46

21 588 Q. Yes. Is there any basis on which you would have known
22 any connection between Marissa Simms and Martin
23 McDermott before that night?

24 A. No, none.

25 589 Q. And could you explain to the Tribunal how you might
26 have become aware of it on the night?

14:46

27 A. I didn't -- I don't know when I was made aware of it.
28 I don't -- I honestly don't know. I had a conversation
29 with several people that night at the scene, but I

1 don't know whether -- whether it emanated from there or
2 who told me.

3 590 Q. So you can't enlighten this Tribunal as to how it is
4 that Superintendent McGovern thinks that you told him
5 about the connection? 14:46

6 A. No, I can't, no.

7 591 Q. You can't recall telling him?

8 A. I can't, no.

9 592 Q. In relation then just to the follow-up, I understand
10 that it is necessary to keep track of people in certain 14:47
11 circumstances and that you have done it before. Can I
12 just confirm that what sort of a follow-up would you be
13 asked to do ordinarily?

14 A. Well, you'd just be asked to pay attention to the
15 situation and, you know, occasionally call around. In 14:47
16 my situation, I wasn't able to call that often because
17 I didn't have a patrol car.

18 593 Q. Right.

19 A. There was no patrol car attached to my station.

20 CHAIRMAN: What did you have? 14:47

21 A. I had the use of -- well, if an incident took place, I
22 had to call in Milford or Kilmacrennan to assist me.

23 CHAIRMAN: Had you a bicycle?

24 A. No, I didn't.

25 CHAIRMAN: I will ask no more questions. 14:47

26 594 Q. MR. HARTY: But you made a number of visits to the
27 house?

28 A. Once or twice I called by the house, and I think I
29 asked the local postman if he had been delivering

1 letters or if anybody was there and, you know, I think
2 I actually talked to the owner of the house, but I was
3 eventually informed that they had moved away.

4 595 Q. Just to confirm that at page 270 there, this is a
5 letter which is written by you, and it says:

14:48

6

7 "With reference to the above and the attached
8 correspondence, I am to report as follows:

9 I have made several inquiries in relation to the
10 above-mentioned Keith Harrison and Marissa Simms. I
11 believe that Keith Harrison may now be living in the
12 Thornberry area of Letterkenny. It would appear that
13 he has moved away from the Churchill area. A number of
14 visits to the proximity of the house at" -- and there
15 is an address there -- "would appear that the house is
16 now vacant. I do not know what the current situation
17 is in regard to his relationship with Marissa Simms."

14:48

14:48

18 A. That's correct.

19 596 Q. You wrote that letter?

20 A. Yes.

14:49

21 597 Q. And in relation to a letter which I am just going to
22 refer you to at page 257, it is a letter from
23 Superintendent McGovern, I think attaching your letter
24 which I think has already been opened at 258, which was
25 a letter of yours on 22nd of May 2011, and that says --
26 that was where you suggested that you were informed by
27 a third party that Marissa Simms had left Keith
28 Harrison and returned to her husband, and that was a
29 report that you compiled, it would appear, on the 22nd

14:49

1 of June 2011.

2 A. I did.

3 598 Q. The date isn't entirely clear on it, but it post-dates
4 the 18th of June 2011. While there is a date at the
5 top saying the 22nd of May, that seems unlikely. So
6 around that date, in the middle of June of 2011, you
7 sent that letter?

14:50

8 A. This letter here?

9 599 Q. Yes.

10 A. It's dated the 23rd of June, I think.

14:50

11 600 Q. In any event, you sent that letter in June of 2011?

12 A. Yes.

13 601 Q. And the reason why -- I want you to look now at the
14 letter that was enclosed in, which is the 29th of June
15 2011, and it's a note from Sergeant Gillespie which
16 appears to have been typed onto a letter sent by
17 Superintendent McGovern, and it says:

14:50

18
19 "In July 2011 I called a number of times to Keith
20 Harrison's house at Tirargus and tried to make contact
21 by phone with Keith Harrison and Marissa Simms but got
22 no reply. I understand they are moving from the area,
23 renting in Letterkenny. At this stage, it would be the
24 opinion that any perceived threat has abated. I would
25 be of the view that it would be inappropriate to ask
26 Keith Harrison or Marissa Simms if they are still in a
27 relationship. Perhaps Garda Shevlin might be able to
28 establish the current status of their relationship."
29

14:51

14:51

1 Do you recall being asked that by either Superintendent
2 McGovern or Sergeant Gillespie?

3 A. No, I was asked just to see if they were there at that
4 address in Churchill.

5 CHAIRMAN: But you did at some stage reply saying, 'I 14:51
6 think she is with her husband again'?

7 A. That's correct, yes.

8 CHAIRMAN: Yes. I don't think anyone is saying there
9 is anything wrong with any of this, by the way. Am
10 I -- 14:51

11 MR. HARTY: No, I am putting the trail together just in
12 relation to it.

13 A. A lot of this, I handed all over correspondence when I
14 retired, and I haven't been able to refer --

15 CHAIRMAN: And I appreciate that, Garda Shevlin. Thank 14:52
16 you.

17 MR. HARTY: I have no further questions. Thank you,
18 Garda.

19 CHAIRMAN: There is no other questions?

20 MR. DIGNAM: No, Chairman. 14:52

21

22 THE WITNESS WAS QUESTIONED BY THE CHAIRMAN:

23

24 602 Q. CHAIRMAN: There is just one thing that is puzzling me.
25 As a garda, and indeed you have a lot of experience, 14:52
26 you are from Donegal, I take it?

27 A. I am, yes.

28 603 Q. CHAIRMAN: Which part?

29 A. I am from a place called Downings.

1 604 Q. CHAIRMAN: Yes, originally, yes.
2 A. Yes.

3 605 Q. CHAIRMAN: When you joined -- did you spend all your
4 career in the Donegal division?
5 A. No, I spent five years in Cavan-Monaghan. 14:52

6 606 Q. CHAIRMAN: Yes. And then the rest?
7 A. Yes, in Donegal.

8 607 Q. CHAIRMAN: Are you obliged to tell your superintendent
9 where you are living?
10 A. Well, you are supposed to, yes. They are supposed to 14:52
11 be aware of your address.

12 608 Q. CHAIRMAN: Is there a reason, like, for postage
13 purposes or -- it may be, in the old days, people got
14 sent a cheque or -- I don't know how things work.
15 A. Just, I don't -- the district office have to be aware. 14:52
16 If there are incidents that take place, you have to be
17 contactable.

18 609 Q. CHAIRMAN: As to where you are?
19 A. Yes.

20 CHAIRMAN: And if -- I mean, everybody has a mobile 14:53
21 phone nowadays, but that wouldn't have been the case
22 necessarily 10, certainly not 20 years ago, but --
23 A. No, they wouldn't.

24 610 Q. CHAIRMAN: -- would you be obliged to give your mobile
25 phone as well or is that a more recent -- 14:53
26 A. There is no obligation on you to give it, no.

27 611 Q. CHAIRMAN: Is that right? But you have to say where
28 you are living?
29 A. Yes.

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CHAIRMAN: Thank you.

THE WITNESS THEN WITHDREW

MS. LEADER: The next witness, sir, is Sergeant
Gillespie, and his statement is at volume 7 of the
materials at page 2212.

14:53

1 RETIRED SERGEANT PHILIP GILLESPIE, HAVING BEEN SWORN,
2 WAS EXAMINED BY MS. LEADER:

3

4 612 Q. MS. LEADER: Sergeant Gillespie, when did you retire
5 from An Garda Síochána? 14:54

6 A. In August 2012.

7 613 Q. 2012. And if you could tell the Tribunal where you had
8 served and at what rank prior to that, please?

9 A. I started off in Buncrana in 1982, August 1982, and --
10 sorry, January 1983, and I spent two-and-a-half years 14:54
11 in Buncrana and then I -- or in Buncrana, and then I
12 moved to Ballyshannon. Then I moved to Monaghan and
13 spent a number of years in Monaghan; I was in detective
14 branch for nine years. Then I was promoted in 1994 to
15 the rank of sergeant, and I returned to Donegal where I 14:54
16 served in Burnfoot, Ballybofey, Letterkenny, and ended
17 up being stationed in the Milford sub-district.

18 614 Q. So in May 2011 you were a sergeant in Milford --

19 A. That's correct.

20 615 Q. -- am I correct in saying that? And I think Garda 14:55
21 Kearins, in May 2011, told you that he had been
22 contacted by Garda Harrison in relation to a domestic
23 incident, is that correct?

24 CHAIRMAN: And again I am not sure it's necessary to
25 put this on the screen, I know you didn't ask for it to 14:55
26 be there, but can we just have a blank, please.

27 MS. LEADER: Yes.

28 616 Q. You were contacted by Garda Kearins, is that correct?

29 A. That's correct, yes.

1 617 Q. And did you know Garda Harrison at that time?
2 A. No, I didn't, no.

3 618 Q. And I think, as a result, you travelled to the house
4 where Garda Harrison had indicated the guards should
5 attend, is that correct? 14:56
6 A. That's correct.

7 619 Q. Okay. And there was a return trip there also an hour
8 later, is that correct, in order to deal with the
9 presence of Ms. Simms' former partner, is that correct?
10 A. Yeah, and I didn't attend initially. I think -- but I 14:56
11 attended to the second --

12 620 Q. On the second occasion?
13 A. -- report. Yes.

14 621 Q. Okay. Were you -- I think that situation resolved
15 itself, and we have heard what Garda Kearins has said 14:56
16 in relation to the matter, isn't that correct?
17 A. That's correct, yes.

18 622 Q. Now, did you at that stage make a connection between
19 Ms. Simms and Mr. McLoughlin?
20 A. No. 14:56

21 623 Q. Okay. You are certain of that?
22 A. Yeah. No, I didn't.

23 624 Q. And insofar as the last witness says he doesn't think
24 he contacted Superintendent McGovern on the night in
25 question, do you think you at any time phoned 14:56
26 Superintendent McGovern?
27 A. No.

28 625 Q. Are you fairly certain of that?
29 A. Certain, yeah.

1 626 Q. Okay. when did you become aware of the connection
2 between Ms. Simms and Mr. McDermott --

3 A. I can't recall, but I am sure it was sometime after
4 that. I don't know was it days later or months later.
5 I just can't recall when exactly I became aware. 14:57

6 627 Q. Okay. well, insofar as management in Donegal became
7 aware of it and seemed to have become aware of it as a
8 result of this incident, do you think it was because of
9 this incident that you became aware of the connection
10 between Garda Harrison, Ms. Simms and Mr. McDermott? 14:57

11 A. I am not sure. I don't think I became aware of it over
12 that incident. That may have -- other people may have
13 become aware of it. I can't actually recall being made
14 aware of it after that, as a result of that incident.
15 But I know I became aware some time later. 14:58

16 628 Q. Some time later. And you don't think it figured in any
17 place in your communications with Superintendent
18 McGovern in relation to this incident, either in a
19 formal or informal level?

20 A. Well, I am not sure. I became aware. I don't know how 14:58
21 I became aware, but not formally.

22 629 Q. Yes.

23 A. I wasn't notified formally by a superintendent or
24 anybody else.

25 630 Q. Okay. Now, as a result of attending at that incident, 14:58
26 I think one of your colleagues, Sergeant Forkin,
27 reported to the superintendent in Milford in relation
28 to the matter, is that correct?

29 A. Yes, that is my understanding, yes.

1 631 Q. And that was on the day after, the 24th of May 2011?
2 A. Yes.

3 632 Q. That would be normal --
4 A. Yes, I accept that, yes.

5 633 Q. And that would be a normal thing to do? 14:58
6 A. That would be normal, yes.

7 634 Q. And thereafter, it would appear that you were tasked
8 with investigating what had happened, is that correct?
9 A. Well, I was tasked with complying with a HQ circular in
10 relation to informing persons who are under threat, 14:59
11 there is a threat to their safety, to comply with a HQ
12 circular, basically notifying them of that threat.

13 635 Q. Okay. There would appear to have been a letter written
14 to the sergeant in charge in Milford from
15 Superintendent McGovern attaching a letter that was 14:59
16 sent to the chief superintendent in Letterkenny in
17 relation to the matter, and that appears at page 221 of
18 the materials.

19 A. I don't have that.

20 636 Q. It might be -- it will come up in front of you. 14:59
21 A. Sorry, yeah. Sorry, when was that dated there, please?

22 637 Q. It would appear to be dated the 25th of May 2011.
23 A. And what is the issues identified at 1 to 3?

24 638 Q. Yes, so the letter enclosed is at page 222 of the 15:00
25 materials, Sergeant, and you will see it was to
26 complete the procedures in accordance with HQ200-07,
27 and that would appear to be in relation to threats to
28 people, is that correct?
29 A. That's correct, yes.

1 639 Q. Am I correct in saying that? "To contact Sergeant
2 wallace and have him call with both parties and provide
3 crime prevention advice." And as I understand it,
4 Sergeant wallace is in charge of assessing threats, is
5 that correct? 15:01

6 A. That's correct, yes.

7 640 Q. So that would be something he would look after. And
8 then it would say:

9
10 "To record statement from both parties that no criminal 15:01
11 complaint is forthcoming and that they do not wish for
12 any Garda investigation."

13

14 And that fell to you to do, is that correct?

15 A. That's correct, yes. 15:01

16 641 Q. And on foot of that, you wrote back to the
17 superintendent in Milford on the 26th of May, saying
18 that you'd called to Mr. Harrison, Garda Harrison, on
19 the 25th of May 2011 and followed the procedures in
20 relation to threats being made to people. On the 15:01
21 following day, the 26th of May 2011, you met with
22 Ms. Simms and went through the same procedure, is that
23 correct?

24 A. That's correct, yes.

25 642 Q. And Sergeant wallace was contacted and advised of the 15:01
26 situation, is that correct?

27 A. That's correct.

28 643 Q. And you took statements both from Garda Harrison and
29 Ms. Simms which outlined that they didn't want any

1 further Garda involvement in the matter, is that
2 correct?

3 A. That's correct, yes.

4 644 Q. And all of that was sent to Superintendent McGovern, is
5 that correct? 15:02

6 A. That's correct, yes.

7 645 Q. Also there was a question of carrying out certain
8 inquiries in relation to Mr. Simms, Ms. Simms' former
9 partner, and that had been done to your satisfaction,
10 is that correct, and that appears in the documentation? 15:02

11 A. Where is that -- where does that appear?

12 646 Q. Page 224 of the materials at point 4. That was in
13 relation to the nature of the threat. I think that was
14 carried out by you as well?

15 A. Point number 4? 15:02

16 647 Q. Yes.

17 A. Yes.

18 648 Q. You were happy about that?

19 A. Yes, yes.

20 649 Q. And I think you also briefed members of An Garda 15:02
21 Síochána in relation to the incident as reported and
22 the possible threat into the future, is that correct?

23 A. Well, I am certain I would have briefed members that
24 particular night. I don't know did I carry out a
25 general briefing of all members, but I am sure they 15:03
26 were briefed.

27 650 Q. Well, if we could just look at the final paragraph of
28 your letter of the 26th of May, it would appear from
29 point 6 of that, that members of Milford and Churchill

1 have been briefed in relation to the incident and the
2 possible threat.

3 A. Yeah.

4 651 Q. Now, in relation to the statements which were taken 15:03
5 from Garda Harrison and Ms. Simms, I think both of them
6 confirm, first of all, that they didn't want to make a
7 statement of a complaint to the Gardaí in relation to
8 it, but they did set out what the threats were in those
9 statements. They appear at page 246 and 247 of the
10 materials. 15:04

11 A. That's correct, yes.

12 652 Q. Okay.

13 CHAIRMAN: And again, I don't think we should put them
14 on the screen. We are content with that.

15 653 Q. MS. LEADER: And both of them said they didn't believe 15:04
16 that Mr. Simms wouldn't carry out the threats, that
17 they were just said in the heat of the moment, is that
18 correct?

19 A. Yes, that was their belief on the 25th and 26th.

20 654 Q. Now, in relation to what had transpired, did you at any 15:04
21 time see fit to contact the HSE, as it was at that
22 time, in relation to what happened?

23 A. No.

24 655 Q. Okay. I think in line with your instructions from 15:04
25 Superintendent McGovern, you directed members -- you
26 kept an eye on where Garda Harrison was living and
27 Ms. Simms, is that correct?

28 A. I am not -- I can't recall was there any particular --
29 did I keep an eye on it -- I am not -- I have no

1 recollection.

2 656 Q. well, maybe if we could go to the bottom of 257 of the
3 materials, it would appear that you --

4 A. Right, yeah, yeah. I accept --

5 657 Q. -- documented -- yes. 15:05

6 A. I am just not privy to that and I can't -- my
7 recollection of this isn't 100 percent.

8 658 Q. It's six years ago, so...

9 A. Yeah.

10 659 Q. If we go to the bottom of page 257 of the materials. 15:05

11 A. I can't really make it out, I am afraid.

12 660 Q. You may not be able to read that but --

13 CHAIRMAN: Somebody said they called.

14 MS. LEADER: Yes.

15 661 Q. And then you said you informed your superintendent that 15:05
16 you would be of the opinion that any perceived threat
17 has abated.

18 A. I accept that.

19 662 Q. Was that your opinion at the time?

20 A. Certainly, yeah. 15:05

21 663 Q. Okay. Did you have any other dealings with Garda
22 Harrison or Ms. Simms?

23 A. No.

24 MS. LEADER: If you would answer any questions anybody
25 else might have for you. 15:06

26

27 THE WITNESS WAS CROSS-EXAMINED BY MR. HARTY:

28

29 664 Q. MR. HARTY: Just on that last document at page 257.

1 A. I just can't read that clearly myself.

2 665 Q. Yes. So perhaps if I can read it out for you. I have
3 it in hard copy. It says:

4
5 "In July 2011 I called a number of times to Keith 15:06
6 Harrison's house at Tirargus and tried to make contact
7 by phone with both Keith Harrison and Marissa Simms,
8 but got no reply. I understand they are moving from
9 the area and renting in Letterkenny. At this stage, I
10 would be of the opinion that any perceived threat has 15:06
11 abated. I would be of the view that it would be
12 inappropriate to ask Keith Harrison or Marissa Simms if
13 they are still in a relationship. Perhaps Garda
14 Shevlin may be able to establish the current status of
15 their relationship." 15:06

16
17 who wanted to know the status of their relationship or
18 why was that relevant?

19 CHAIRMAN: Well, it is relevant. Sorry, it has to be
20 relevant. If they are living together, then they know 15:07
21 they are in a particular place. If they are not living
22 together, then they are in two different places.

23 MR. HARTY: But the issue is being raised as to what
24 the status of their relationship is. There is no
25 question in the letter to -- which is attached raising 15:07
26 whether or not there is any change in the status of
27 their relationship.

28 666 Q. And so I am just asking, can you recall why?

29 A. I can't recall and perhaps it's in some other

1 documentation there that I am not privy to. I don't
2 know. I can't recall why I said that.

3 CHAIRMAN: But is there anything wrong with making that
4 inquiry?

5 MR. HARTY: Well, I suppose my question is, why was the 15:07
6 inquiry being made?

7 CHAIRMAN: Yes, but -- and where does that lead us to?
8 I mean, there was a situation that night, I think
9 everyone accepts there was that situation that night.
10 As I said on a number of occasions, I don't want to 15:08
11 drag anybody else into it. There was a perception,
12 there was a great deal of upset. Anyone who was
13 relevant wasn't holding a licensed firearm. The party
14 blamed had a completely different view, according to
15 the Garda interviews with that person, and then there 15:08
16 was a -- well, there was a Headquarters direction that
17 if there was a threat to someone, this is what you do.
18 But I am not sure -- is there anything wrong anywhere
19 in any of this?

20 MR. HARTY: I don't believe that Sergeant Gillespie did 15:08
21 anything wrong. I am asking Sergeant Gillespie does he
22 recall why he was asked in relation to the status of
23 the relationship. As to whether there is anything
24 wrong in it or not, I suppose it depends on the
25 evidence that is heard by the Tribunal. The 15:08
26 Tribunal -- I wouldn't expect the Tribunal to come to
27 any conclusions as to what is right or wrong until it's
28 heard the evidence.

29 CHAIRMAN: I am not at the moment, but I have to rule

1 things out and not rush down rabbit holes. Is there
2 something wrong with knowing, for instance, where they
3 are both living, given that they have reported a
4 threat? Let's suppose there actually was a threat, I
5 am not saying there was, let's suppose there was a 15:09
6 threat against A and B, and A and B are living
7 together, but then A and B are not living together, so
8 where are A and B now, supposing the person making the
9 threat wants to carry it out? Is that not relevant?
10 MR. HARTY: That is relevant, although it's perhaps not 15:09
11 relevant in relation to the status of the relationship.
12 It is relevant in terms of -- the phraseology is "the
13 status of their relationship".
14 CHAIRMAN: Yes, but there was -- but is there a
15 complaint about this, Mr. Harty? Is it leading to 15:09
16 anywhere else? And it may be that I am not seeing
17 something I ought to see and I would wish to be
18 informed if I am not.
19 MR. HARTY: The answer is, sir, that Garda Harrison has
20 complained that he felt that his home was under 15:10
21 surveillance, and that is in his statement, and this --
22 while this pre-dates the time when Garda Harrison felt
23 that that had been in existence, it is relevant to the
24 fact that people were asking for information in
25 relation to the status of his relationship and his 15:10
26 residence with Ms. Simms.
27 CHAIRMAN: And is it accepted that he is obliged to
28 tell his superintendent where he is residing? That is
29 a simple question.

1 MR. HARTY: well, I wouldn't imagine there's any
2 difficulty with that --

3 CHAIRMAN: Is it accepted, as a matter of Garda
4 discipline, that he is obliged to tell his
5 superintendent where he is living? 15:10

6 MR. HARTY: If asked, yes.

7 CHAIRMAN: And I don't mean Garda Harrison; I mean any
8 garda. It is? Yes? No?

9 MR. HARTY: I wouldn't think there is any difficulty
10 with that. 15:10

11 CHAIRMAN: well, sorry, is it accepted that a person
12 who is a serving garda must tell their superintendent
13 where they are living?

14 MR. HARTY: I think that is accepted, and therefore the
15 question arises, why do superintendents engage in 15:10
16 covert inquiries as to where gardaí are living.

17 CHAIRMAN: well, I was told by his chief superintendent
18 this morning sometimes they don't know.

19 MR. HARTY: Yes. But if they are obliged to tell, the
20 simple way to find out a guard's address is to ask him 15:11
21 the question.

22 CHAIRMAN: Maybe so.

23 MR. HARTY: And the question therefore arises, which is
24 why do you not simply ask the garda the question and
25 engage in inquiries. 15:11

26 CHAIRMAN: I am not following, I am not following. As
27 you say, this is a long time beforehand. I mean, the
28 fact that one believes something is neither here nor
29 there. If someone actually has made a threat against

1 somebody else and if the Garda do nothing about it,
2 don't follow the Headquarters direction, they can
3 certainly be criticised. If the Garda don't ascertain
4 where the person is and perhaps at least pay some
5 attention to the house for some period of time until 15:11
6 they are certain the threat has abated, if there ever
7 was a threat, and I don't know that, they may well be
8 criticised. I don't know where this is going.

9 MR. HARTY: Where it's going is why -- you yourself,
10 sir, made the point, if the superintendent wished to 15:12
11 know where Garda Harrison lived, he was fully empowered
12 to ask the question.

13 CHAIRMAN: That is different, Mr. Harty. It's
14 different, Mr. Harty. I tell my boss where I am living
15 and I give other details. I am actually obliged to do 15:12
16 that, I am. Gardaí, apparently, are as well, so there
17 is no need for an inquiry.

18 MR. HARTY: That is the point. So why were there
19 inquiries?

20 CHAIRMAN: Well, I don't know whether he knew or not. 15:12
21 Maybe you could inform us. Did he, in fact, inform his
22 superintendent where he was, that he was in Churchill,
23 that he was living there? Did he tell him that he had
24 moved down and had moved somewhere else? That disposes
25 of a lot of questions. 15:12

26 MR. HARTY: He doesn't recall on any specific occasion
27 doing it, no, is the answer to that.

28 CHAIRMAN: So the superintendent didn't know where he
29 was?

1 MR. HARTY: And the question is why the superintendent
2 didn't ask him but instead asked a number of other
3 guards.

4 CHAIRMAN: Sorry, one can go around this in a kind of a
5 Celtic spiral for a very long time, but forgive me for 15:13
6 taking a very simple version of it, which is that if
7 you are obliged to tell your boss where you are living,
8 you are obliged to tell your boss where you are living,
9 and your boss is not obliged to ask you where you are
10 living. 15:13

11 MR. HARTY: I haven't checked the precise details of
12 the Garda Code, and I will look at that to see --

13 CHAIRMAN: Well, that is the evidence I have, in any
14 event, from this morning.

15 MR. HARTY: I will have a look at that. 15:13

16 CHAIRMAN: That is the evidence I have from this
17 morning, and it seems to have been accepted by you
18 within the last three minutes.

19 MR. HARTY: Sorry, I will have an opportunity to view
20 the Code. 15:13

21 CHAIRMAN: Where was he, in fact, living, if you
22 wouldn't mind telling me, after the 23rd of May 2011?
23 Had he moved from Churchill? And I don't want a
24 specific address. I don't want anyone dragged into
25 this. 15:13

26 MR. HARTY: Thornberry, Letterkenny.

27 CHAIRMAN: He had moved to Letterkenny?

28 MR. HARTY: Yes.

29 CHAIRMAN: And had he told his superintendent that?

1 MR. HARTY: He didn't tell his superintendent that and
2 his superintendent never asked.

3 CHAIRMAN: But he accepts that he was obliged to tell
4 his superintendent?

5 MR. HARTY: No, I don't accept that there is a positive 15:14
6 obligation to tell -- to inform when you change
7 address.

8 CHAIRMAN: Well, maybe I would ask the sergeant that.
9 Are you obliged to tell your superintendent when you
10 change address? 15:14

11 A. It's my understanding you are obliged to give your
12 current address, yes.

13 CHAIRMAN: All right. I wouldn't hold anything against
14 him for that. That could be a simple mistake, but that
15 makes things a bit clearer. 15:14

16 667 Q. MR. HARTY: Do you recall why you were, in February of
17 2012, you were still updating as to Garda Harrison's
18 address?

19 A. I can only assume I was asked about it, but I can't
20 actually recall why. And is that February, sorry? I 15:14
21 can't see the date. Is that February? Are we still on
22 the same document?

23 668 Q. No, we are not on the same document. That document is
24 June, but I think there is a later one in February.
25 The 12th of January, I should say -- 22nd of January, 15:15
26 which is at page 270.

27 A. Right.

28 669 Q. That is Garda Shevlin, sorry, is carrying out inquiries
29 at that stage. It wasn't you.

1 A. NO.

2 MR. HARTY: Thank you. I have no further questions.

3 MR. O'HIGGINS: No questions, Chairman.

4 CHAIRMAN: It would help me, Mr. O'Higgins, if you
5 wouldn't mind, given that the Garda Code is an immense 15:15
6 document with which I am not familiar and it's probably
7 more complicated than the Code of Canon Law, again with
8 which I am not familiar, and the relevant Fogra Thora,
9 if I am doing the grammar correctly, what is the rule
10 vis-à-vis telling your superintendent where you are 15:16
11 living? If someone would tell me that definitively, if
12 you wouldn't mind. And then, secondly, what is the
13 rule vis-à-vis disclosure of any reason why you
14 shouldn't serve in a division or in a district or
15 anything that might be relevant as to whether you 15:16
16 should serve in a division or district. I know in
17 Chief Superintendent McGinn's statement she references
18 one, and I am assuming her to be a person of knowledge,
19 but is that the only thing? If you wouldn't mind at
20 some stage drawing it to my attention. 15:16

21 MR. O'HIGGINS: Certainly, Chairman. I will endeavour
22 to get those instructions overnight.

23 MS. LEADER: There is nothing arising.

24

25 THE WITNESS THEN WITHDREW 15:16

26

27 MR. MARRINAN: Sir, the next witness today is
28 Superintendent Kevin English, who unfortunately isn't
29 well and is unable to give evidence today. Hopefully

1 he will be available next week. So that is as far as
2 we can bring matters today.

3
4 THE HEARING WAS THEN ADJOURNED TO TUESDAY, 19TH
5 SEPTEMBER 2017 AT 10AM.

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