

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

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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 TUESDAY, 19TH SEPTEMBER 2017 - DAY 20

20

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

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GWEN MALONE STENOGRAPHY  
SERVICES

APPEARANCES

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

REGISTRAR: MR. PETER KAVANAGH

FOR THE TRIBUNAL: MR. DIARMAID MCGUINNESS SC  
MR. PATRICK MARRINAN SC  
MS. KATHLEEN LEADER BL  
MS. ELIZABETH MULLAN, SOLICITOR

FOR THE COMMISSIONER: MR. MÍCHEÁL P. O'HIGGINS SC  
MR. CONOR DIGNAM SC  
MR. NOEL WHELAN BL

INSTRUCTED BY: MS. KATHY DONALD  
CHIEF STATE SOLICITOR'S OFFICE  
OSMOND HOUSE  
LITTLE SHIP STREET  
DUBLIN 8

FOR TUSLA: MR. PAUL ANTHONY McDERMOTT SC  
MS. SARAH MCKECHNIE BL

INSTRUCTED BY: ARTHUR COX  
TEN EARLSFORT TERRACE  
DUBLIN 2

FOR GARDA HARRISON: MR. MARK HARTY SC  
INSTRUCTED BY: KILFEATHER & COMPANY SOLICITORS  
THE HALLS QUAY STREET  
GALWAY

FOR SUPT. ENGLISH: MR. PADRAIG DWYER SC  
MR. BRIAN GAGEBY BL

INSTRUCTED BY: MR. CARTHAGE CONLON  
M.E. HANAHOE SOLICITORS  
SUNLIGHT CHAMBERS  
21 PARLIAMENT STREET  
DUBLIN 2

FOR MARISA SIMMS: MR. HUGH HARTNETT SC  
MR. JOSEPH BARNES BL

FOR C/SUPT. MCGINN: MR. CONOR POWER SC  
MR. CATHAL Ó BRAONÁIN BL

INSTRUCTED BY: DANIEL SPRING & COMPANY  
50 FITZWILLIAM SQUARE  
DUBLIN 2

INDEX

WITNESS	PAGE
<u>MR. WILLIAM BOGLE</u> .....	5 .....
DIRECTLY EXAMINED BY MR. MARRINAN .....	5 ..
CROSS-EXAMINED BY MR. HARTY .....	20 ..
CROSS-EXAMINED BY MR. DIGNAM .....	26 ..
 <u>MS. KERRY BOGLE</u> .....	 26 .....
EXAMINED BY .....	26 .....
MR. MARRINAN	
CROSS-EXAMINED BY MR. O'HIGGINS .....	33 ..
 <u>MR. JAMES QUINN</u> .....	 34 .....
EXAMINED BY MR. MARRINAN .....	34 .....
CROSS-EXAMINED BY MR. HARTY .....	52 ..
CROSS-EXAMINED BY MR. DIGNAM .....	56 ..
QUESTIONED BY THE CHAIRMAN .....	68 ..
 <u>GARDA IAN OATES</u> .....	 70 .....
EXAMINED BY MR. MCGUINNESS .....	70 .....
CROSS-EXAMINED BY MR. HARTY .....	77 ..
CROSS-EXAMINED BY MR. O'HIGGINS .....	78 ..
RE-EXAMINED BY MR. MCGUINNESS .....	81 ..
QUESTIONED BY THE CHAIRMAN .....	82 ..
 <u>SERGEANT AIDAN DOHERTY</u> .....	 84 ..
EXAMINED BY MR. MCGUINNESS .....	84 .....
CROSS-EXAMINED BY MR. HARTY .....	92 ..
CROSS-EXAMINED BY MR. DOCKERY .....	94 ..
RE-EXAMINED BY MR. MCGUINNESS .....	96 ..
QUESTIONED BY THE CHAIRMAN .....	97 ..

<u>GARDA EOIN WATERS</u> . . . . .	98 . . .
DIRECTLY EXAMINED BY MR. MCGUINNESS . . . . .	98 .
CROSS-EXAMINED BY MR. HARTY . . . . .	102 . .
QUESTIONED BY THE CHAIRMAN . . . . .	104 . .
<u>MR. JAMES QUINN</u> . . . . .	105 . . .
CROSS-EXAMINED BY MR. HARTNETT . . . . .	105 .
QUESTIONED BY THE CHAIRMAN . . . . .	110 . .

1 THE HEARING RESUMED ON TUESDAY, 19TH DAY OF  
2 SEPTEMBER, 2017 AS FOLLOWS:

3  
4 MR. MARRINAN: The first witness this morning is  
5 William Bogle, please. His evidence is to be found at 10:03  
6 volume 4, sir, at page 1114.  
7

8 MR. WILLIAM BOGLE, HAVING BEEN SWORN, WAS DIRECTLY  
9 EXAMINED BY MR. MARRINAN:

10 1 Q. MR. MARRINAN: Now, Mr. Bogle, I think that you are 10:03  
11 called here today to give evidence in relation to  
12 events that occurred on the 30th of March going into  
13 the 1st of April of 2013. You want to point out at the  
14 outset that your memory is somewhat impaired as a  
15 result of a medical condition that you have suffered 10:04  
16 since these events, isn't that right?

17 A. Yes, yes.

18 2 Q. It is your intention to cooperate very fully with the  
19 Tribunal and to recall all matters that you actually do  
20 recall? 10:04

21 A. What I can recall, yeah.

22 3 Q. Now, I think in the first instance, where were you  
23 residing in March of 2013?

24 A. Sorry?

25 4 Q. Where were you living? 10:04

26 A. 16 Cathedral Hill.

27 5 Q. That is in Raphoe?

28 A. Yeah, yeah.

29 6 Q. And I think that you are a brother of Rita McDermott,

1 is that right?

2 A. That's correct.

3 7 Q. And Rita McDermott is the mother of Marisa Simms?

4 A. Yes.

5 8 Q. And I think that there is also part of the story that 10:05  
6 emerges and the people who were with you that evening,  
7 you had a niece of yours who was there, who is Kerry,  
8 is that right?

9 A. That is my daughter.

10 9 Q. Sorry, she is your daughter, I beg your pardon. Also 10:05  
11 your son, Lee, is that right?

12 A. Correct, yeah.

13 10 Q. And were they all present in the house with you on the  
14 evening of the 30th of March of 2013?

15 A. Yes. 10:05

16 11 Q. And in terms of Keith Harrison, did you know anything  
17 about him at that time?

18 A. I know absolutely nothing at all about him.

19 12 Q. Now I think you were aware that Marisa was married,  
20 isn't that right? 10:05

21 A. I was, yeah.

22 13 Q. And you knew her husband, you had met him on occasions?

23 A. I met him on occasions, yeah.

24 14 Q. Yes. And thought well of him, is that right?

25 A. Yeah. 10:05

26 15 Q. And I think that you were aware of the fact that Marisa  
27 had taken up with a garda but you didn't know his name,  
28 is that right?

29 A. I hadn't got a clue who he was. I still don't.

1 16 Q. You had never met him, is that so?  
2 A. Once.  
3 17 Q. Once?  
4 A. Yeah.  
5 18 Q. And when was that, do you recall? 10:06  
6 A. It was in -- I wasn't talking to him, it was in Dublin,  
7 whenever my sister was up, she won lottery or --  
8 19 Q. Winning Streak?  
9 A. Winning Streak, yeah.  
10 20 Q. All right. So what, did all the family go up to 10:06  
11 Dublin --  
12 A. We all went up.  
13 21 Q. -- to support her when she went on the television  
14 programme, is that right?  
15 A. That's correct. 10:06  
16 22 Q. And you met him then?  
17 A. I saw him, yeah.  
18 23 Q. You saw him.  
19 A. Yeah.  
20 24 Q. But were you talking to him? 10:06  
21 A. No.  
22 25 Q. So you were asked by our Tribunal investigators how you  
23 would characterise the relationship at that time  
24 between Marisa Simms and Keith Harrison, and your  
25 answer was "I know absolutely nothing of their 10:06  
26 relationship", and that is the position, is that so?  
27 A. That is the position, yeah.  
28 26 Q. Now, regrettably, your brother died on 1st of --  
29 A. Yeah, the next day, yeah.

1 27 Q. -- April of 2013?  
2 A. That's correct, yeah.  
3 28 Q. The evening before he died, do you recall a phone call  
4 being received in the house by either yourself or by  
5 your daughter, Kerry? 10:07  
6 A. No, I don't recall it, no. I don't recall it.  
7 29 Q. And have you any recollection of Rita phoning in  
8 relation to her daughter, Marisa?  
9 A. I was told that she did.  
10 30 Q. Mmm? 10:07  
11 A. I was told that she did.  
12 31 Q. You were told?  
13 A. Yeah.  
14 32 Q. So you don't believe it was you who received the phone  
15 call? 10:07  
16 A. No, it wasn't me, no.  
17 33 Q. And there were only two other people there; there was  
18 Lee and there was Kerry, is that right?  
19 A. Yeah, yeah.  
20 34 Q. So it had to be one of those two? 10:07  
21 A. It had to be one, yeah.  
22 35 Q. And where was Rita McDermott when she phoned?  
23 A. As far as I know, she was in Mayo.  
24 36 Q. And what was her concern, what were you told?  
25 MR. HARTY: Sorry, sir, I think it would be appropriate 10:08  
26 if the witness was asked things that the witness  
27 himself knows, not what was reported to him by third  
28 parties.  
29 CHAIRMAN: Sure. No, I see your point, Mr. Harty, and



1 if this was a court case I wouldn't have any  
2 hesitation. There's just two points, however.  
3 Firstly, I am not bound by the hearsay rule. But in  
4 the event that there is hearsay, obviously I have to  
5 regard it as evidence that is not tested by 10:08  
6 cross-examination, it's not given under oath, the  
7 classic analysis in other words. But secondly, this is  
8 about whether things appeared to be so in consequence  
9 of what people reported; in other words, it is in a way  
10 like a libel action, and it is the fact of the report 10:08  
11 that is important. So --  
12 MR. HARTY: I think it would be better if the witness  
13 gave his own evidence rather than being led in this  
14 sort of detail though in relation to it. I am in the  
15 hands of the Tribunal. 10:09  
16 CHAIRMAN: Again there is no such rule here. In the  
17 event that Mr. Murrinan puts words in his mouth I will  
18 bear that in mind, but he hasn't done that so far and  
19 we are now on day 21. So, I think we will just go on.  
20 37 Q. MR. MARRINAN: I was asking you what was Rita's 10:09  
21 concern?  
22 A. Rita's concern, as far as I recall, it was about  
23 Marisa, about, that she was being -- that she was  
24 walking the roads.  
25 38 Q. And did you know where Marisa was living at the time? 10:09  
26 A. No, I hadn't got a clue.  
27 39 Q. You had no idea?  
28 A. No.  
29 40 Q. So Rita McDermott phones, you think it might have been

1 Kerry or Lee?

2 A. It was Kerry or Lee, yeah.

3 41 Q. It was Kerry. And she is concerned because her  
4 daughter is walking the roads --

5 A. Yeah. 10:10

6 42 Q. -- is that right? And at the time, were you aware of  
7 the fact that Marisa Simms was living with Keith  
8 Harrison?

9 A. I was told it just, that's the way it was.

10 43 Q. You were told? 10:10

11 A. Yeah. I mean, I didn't know. I don't even know him.

12 44 Q. And as a result of that call that came in from Rita  
13 McDermott, was there an effort then made to contact  
14 Marisa by phone?

15 A. Yeah. As far as I know my daughter rang her a few 10:10  
16 times but she got no reply.

17 45 Q. And was a text message also sent to Marisa in the hope  
18 that she would reply?

19 A. Yeah.

20 46 Q. And when she didn't reply, were you concerned about 10:10  
21 that?

22 A. We were concerned, yeah.

23 47 Q. You have a recollection that as you were getting  
24 concerned, that you went to the Garda station in  
25 Letterkenny, is that right? 10:11

26 A. Yeah.

27 48 Q. Before you went to the Garda station in Letterkenny, do  
28 you recall phoning the Gardaí?

29 A. No, I have no recollection of that at all.

1 49 Q. You have no recollection of it?  
2 A. No, no.  
3 50 Q. Do you recall, had you been drinking that evening?  
4 A. It's quite possible, yes. I probably was but there's  
5 things I can remember and things I can't. 10:11  
6 51 Q. Yeah. Well, is it because of the injury that you  
7 suffered that you can't recall --  
8 A. I had the injury, yeah.  
9 52 Q. -- or is it because of the fact that maybe you'd had a  
10 few drinks taken? 10:11  
11 A. I had a few drinks, but this is going back to whatever  
12 I was told, I would have a memory loss.  
13 53 Q. Yeah. All right. But in any event, we are aware of  
14 the fact that you did phone the Gardaí. You don't have  
15 a recollection now of that? 10:12  
16 A. None whatsoever.  
17 54 Q. Of that phone call?  
18 A. None.  
19 55 Q. Okay. Well, we have the recording, which is the best  
20 evidence of the call. 10:12  
21 A. That's fine.  
22 56 Q. And we will just play it for you now, all right. So if  
23 you just listen to it and you will be able to hear your  
24 own voice and you will be able to hear the  
25 conversation. The other person is a Garda Oates that 10:12  
26 you are speaking to, who is in Letterkenny Garda  
27 station, okay, and I think that we can hear the voice  
28 of your daughter as well during the course of the  
29 conversation. We will just play that now, sir.

1 [AUDIO RECORDING OF TELEPHONE CALL PLAYED]

2

3

Now, you have heard that being played?

4

A. Yeah.

5

57 Q. The conversation. Before it descended into a spelling test, you had advised Garda Oates that there were children in the house, did you hear yourself say that? 10:18

6

7

8

A. Yeah, I heard it, yeah.

9

58 Q. Where did you get that information from, do you recall?

10

A. Well, I only assumed that the kids were there because I mean they would be with their mother, wouldn't they? 10:18

11

12

59 Q. By inference you are saying that her partner, who is Garda Harrison, was racing after her through Letterkenny, where did you get that information from?

13

14

15

A. From Rita. 10:19

16

60 Q. From Rita.

17

A. Yeah.

18

61 Q. And that he was giving her a lot of abuse, where did you get that information from?

19

20

A. That came from Rita. 10:19

21

62 Q. And as a result of that call, that jogs your memory now, how did you feel about it? Were you happy with the way Garda Oates had responded or were you unhappy?

22

23

24

A. Well, me not knowing him I couldn't actually say, you know, what -- I wasn't happy that what was happening to me niece. 10:19

25

26

27

63 Q. And did you then go out with your daughter and your son?

28

29

A. Yeah, yeah.

1 64 Q. And where did you go?  
2 A. We must have went to wherever my -- my daughter must  
3 have knew where they lived.  
4 65 Q. We now it's in Churchill in Donegal. Do you recall  
5 going out there? Was your daughter driving? 10:19  
6 A. Yeah.  
7 CHAIRMAN: I wonder, Mr. Murrinan, at that point, was  
8 it Churchill or had he moved to Letterkenny?  
9 MR. MARRINAN: No, I understand it was Churchill.  
10 CHAIRMAN: Yes, I am completely uncertain about this 10:20  
11 but I presume that the superintendent would have the  
12 address.  
13 MR. MARRINAN: Yes. No, sir, it was Churchill.  
14 CHAIRMAN: Was it? Okay.  
15 66 Q. MR. MARRINAN: So you went in the car, you weren't 10:20  
16 driving, your daughter was driving, is that right?  
17 A. Yeah.  
18 67 Q. If I could come back to the conversation with Garda  
19 Oates on the phone. We heard a number of voices there,  
20 you identify your own voice obviously -- 10:20  
21 A. Yeah.  
22 68 Q. -- and your daughter's voice. Who else? Did we hear a  
23 third voice?  
24 A. My son.  
25 69 Q. Your son. He came in at the very end, is that right? 10:20  
26 A. Yeah.  
27 70 Q. So do you recall driving out to where Marisa was  
28 living?  
29 A. No idea.

1 71 Q. You have no idea.  
2 A. No.  
3 72 Q. You have no recollection of it at all?  
4 A. No, I haven't.  
5 73 Q. But in any event, did you manage to make contact with 10:20  
6 Marisa at all?  
7 A. No. The first time I saw her was the next day after  
8 meeting when my brother died.  
9 74 Q. And then do you recall returning to the Garda station?  
10 A. Returning to it? 10:21  
11 75 Q. Yes. Going to the Garda station.  
12 A. Yeah, I just recall going in, going into the Garda  
13 station.  
14 76 Q. And why at that stage -- this early in the early  
15 morning, is it? 10:21  
16 A. Yeah, I don't know what time it was. 12:00, 1:00, I  
17 haven't a clue.  
18 77 Q. And do you recall why it was that you went to the Garda  
19 station?  
20 A. Sorry? 10:21  
21 78 Q. Why did you call to the Garda station?  
22 A. Because we couldn't find Marisa.  
23 79 Q. And do you recall meeting with a garda there?  
24 A. There was some guard I was talking to but I don't know  
25 who he was. 10:21  
26 80 Q. I think the position is that you can't recall whether  
27 it was a male or a female --  
28 A. I can't recall, no.  
29 81 Q. -- garda, is that right? If we could just have page

1 2226 up on the screen, please. This is a statement  
2 from Garda Tina Fowley who was on duty in the early  
3 hours of the morning of 1st April of 2013, all right?  
4 A. Yeah.  
5 82 Q. The statement will come up there in front of you on the 10:22  
6 screen. I will read from the statement, I am just  
7 going to read her account to see what your reaction to  
8 it is or whether it jogs your memory, all right? Just  
9 down towards the end of the first page there, it says:  
10  
11 "I recall two males and a female calling to the public 10:22  
12 office counter at Letterkenny Garda station during the  
13 early hours of the morning. One of the males, a  
14 Mr. William Bogle, stated he had rung earlier and  
15 expressed concerns for the safety of his niece, Marisa 10:22  
16 Simms."  
17  
18 Do you recall that?  
19 A. No.  
20 83 Q. No. But you did call, isn't that right? 10:23  
21 A. Yeah. Well, according to that, yeah.  
22 84 Q. And in fact you had called earlier on by phone, isn't  
23 that right?  
24 A. Yeah.  
25 85 Q. So it would appear what Garda Fowley is saying in 10:23  
26 relation to that is correct?  
27 A. Yeah, it has to be, yeah.  
28 86 Q. "He stated that they had been driving around  
29 Letterkenny looking for her as she was in a car being

1           pursued by her partner."

2

3

4

5

It appears as a result of what you said on the phone call to Garda Oates that we have heard played, that that is what you believed at the time, is that right?

10:23

6

A. Yeah, correct, yeah.

7

87

Q. "He was unable to provide me with details of the vehicles involved. I asked for his niece's address and the name of her partner. William Bogle did not know the address."

10:23

10

11

12

which is the position, isn't that right?

13

A. That's correct.

14

88

Q. "However, Kerry Bogle, his daughter, stated it was in the Churchill area."

10:23

15

16

17

Do you remember that?

18

A. No.

19

89

Q. You don't, all right.

20

10:24

21

"William Bogle was also accompanied by his son."

22

23

That's correct, isn't that right?

24

A. Yeah.

25

90

Q. "William Bogle stated that I should know her partner well as he was one of my colleagues here. William Bogle was surprised that I didn't know who he was talking about. I again asked him for the partner's name and he informed me he was Garda Keith Harrison."

10:24

26

27

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Do you recall that?

A. No.

91 Q. "I then explained to William Bogle that Garda Harrison was not stationed in Letterkenny but was attached to Donegal town Garda station."

10:24

Have you any recollection of her saying that to you?

A. I remember her saying something, that he wasn't there and she thought -- she said he was in Donegal town.

10:24

92 Q. "William Bogle had drink consumed and was intoxicated." You are not going to quarrel with that, is that right?

A. Probably not, no.

93 Q. "He suggested that very little would be done about this. I assured him that the matter would be dealt with."

10:25

Do you recall saying that to the guard?

A. Saying what?

94 Q. That very little would be done about this. I mean, the inference is that you had phoned Garda Oates --

10:25

A. Yeah.

95 Q. -- you told him what you knew, you then went out to Churchill and then you called to the Garda station, it might suggest that you were unhappy with Garda Oates and his response to the call, and then you went in and you made a complaint to the garda on duty, do you understand?

10:25

A. Yeah, yeah.

1 96 Q. And then at the end of it, you are telling her that you  
2 are surprised that she doesn't know the guard because  
3 he is a colleague, she points out that he is  
4 stationed -- asks his name, and you give the name and  
5 she says he is stationed down in Donegal and you say 10:26  
6 that very little is going to be done about this, it  
7 might suggest that you are suggesting that the guards  
8 won't do anything because it's a garda who is involved,  
9 do you understand?

10 A. Yeah, yeah. 10:26

11 97 Q. Was that the position?

12 A. It's possible, yeah.

13 98 Q. It's possible. She then said that she went off and  
14 made contact with the communications room. And she  
15 then spoke to you again and advised you that the patrol 10:26  
16 crews were dealing with the matter and that she  
17 believed that the matter was in the process of being  
18 dealt with "but that I could not give him any further  
19 information".

20 CHAIRMAN: Can you scroll up a wee bit, please? The 10:26  
21 screen is on the wrong part.

22 99 Q. MR. MARRINAN: Sorry. If you just scroll down there.  
23 "I advised him he should speak to Marisa on the  
24 following day to establish what has occurred."  
25 10:27  
26 Do you recall that?

27 A. Talk to Marisa?

28 100 Q. That she was advising you, the garda, that you should  
29 talk to Marisa the following day to find out what had

1                   happened?

2           A.    Yeah.

3 101 Q.    She also goes on to say: "I also informed him that  
4           Marisa, as the injured party, would be the person who  
5           would have to make her statement of complaint in                   10:27  
6           relation to the incident."  
7

8           I think that she then goes on to say that she spoke to  
9           your daughter, just to establish that she was driving  
10          the car because she was concerned about that, do you                   10:27  
11          recall that?

12          A.    No.

13 102 Q.    But in any event, Mr. Bogle, I think that you left,  
14          along with your daughter, Kerry, is that right --

15          A.    Yeah.   10:27

16 103 Q.    -- and your son, and you went home?

17          A.    Yeah.

18 104 Q.    And that was your dealings with it. It would appear  
19          that as a result of your conversation with Garda Fowley  
20          that you were happy with the response that you got at                   10:28  
21          that stage and you were happy that everything was all  
22          right?

23          A.    Well, I wasn't happy because I didn't -- we couldn't  
24          make contact with her, like, you know. Not until the  
25          next day.   10:28

26 105 Q.    So you all went home and even though subsequently you  
27          met Marisa, you didn't discuss the matter with her, is  
28          that right?

29          A.    No, no.

1 CHAIRMAN: well, you had other things on your mind I  
2 presume.

3 A. well, my brother died the next day.

4 CHAIRMAN: was he living at home?

5 A. No, no, he was in Letterkenny for three months, or 10:28  
6 whatever, in the hospital, and came out.

7 CHAIRMAN: He was bad anyway.

8 A. Yeah, very bad.

9 MR. MARRINAN: would you answer any questions, please.  
10 10:28

11 MR. BOGLE WAS CROSS-EXAMINED BY MR. HARTY:

12 106 Q. MR. HARTY: Mr. Bogle, I think your brother died the  
13 next day and in fact at that stage you were expecting  
14 the news imminently, isn't that correct?

15 A. We were expecting it, yes. 10:29

16 107 Q. And it was a rather tense time in your house, I  
17 imagine, as a result of that. You yourself had had  
18 some drinks that evening, isn't that correct?

19 A. Yeah.

20 108 Q. And insofar as your recollection now is impaired, it's 10:29  
21 impaired because of a medical condition afterwards but  
22 also you had drink taken on the night in question?

23 A. Yeah.

24 109 Q. So that would be correct. And I think the important  
25 point in relation to it, is that in relation to the 10:29  
26 details of what took place, I think Garda Fowley says  
27 it fairly, that you had an amount of drink consumed and  
28 that you had no actual information to offer because it  
29 was all hearsay, you understand? It was all third

1 party, fourth party, you were relating and joining  
2 dots, isn't that correct?

3 A. Yeah.

4 110 Q. And Garda Fowley I think fairly assumed that there was  
5 nothing concrete to go on in relation to it, isn't that 10:30  
6 correct?

7 A. Yeah.

8 111 Q. The situation is, is that you were the one who made the  
9 surmise that there were children in the house, nobody  
10 had said that to you, isn't that right? 10:30

11 A. Yeah, it's me just surmising.

12 112 Q. In fact, there were no children in the house.

13 A. Sorry?

14 113 Q. There were no children in the house.

15 A. Well, I didn't know that. 10:30

16 114 Q. And in relation to the situation as you relayed it to  
17 the guards, that in fact bears no relation at all to  
18 what actually happened, but that's garbled messages  
19 between Rita McDermott and you and then from you  
20 passing down to the guards, wouldn't that be fair 10:30  
21 enough?

22 A. Yes.

23 115 Q. And that Marisa Simms in fact left the house entirely  
24 of her own will in the company of a friend, Mr. Jim  
25 Quinn? 10:31

26 A. Well, I didn't know what way she left.

27 116 Q. You don't know that?

28 A. No.

29 117 Q. And the situation is in relation to it, that there was

1 no incident that night which led to any act of violence  
2 on the part of Garda Harrison and that is accepted by  
3 everybody who was in that room?  
4 A. I am only going by what I was told.  
5 118 Q. Yes. And we will hear evidence from the people who 10:31  
6 told you that then, I'm sure, in relation to it. And  
7 that in fact Marisa Simms asked Jim Quinn to give her a  
8 lift from the house on the night in question?  
9 A. Well, that's something I don't know.  
10 119 Q. You didn't check the next day, either? 10:31  
11 A. I didn't check the next day because I was too upset  
12 about my brother.  
13 120 Q. I appreciate that, I appreciate that. Thank you  
14 Mr. Bogle.  
15 CHAIRMAN: So, Mr. Harty, again, this isn't a criminal 10:31  
16 trial, you are not the accused. I am entitled to know  
17 what your instructions are in relation to this because  
18 it is important, I appreciate you have gone a  
19 particular distance. What time, first of all, did she  
20 leave the house? 10:32  
21 MR. HARTY: The Tribunal has a statement from Mr. Jim  
22 Quinn.  
23 CHAIRMAN: No, I am asking now, please. The reason  
24 that I am asking -- sorry, please, would you please let  
25 me finish. 10:32  
26 MR. HARTY: Yes.  
27 CHAIRMAN: The function of a tribunal is very  
28 different. It's not a case of a plaintiff and a  
29 defendant, it's not a case of the people of Ireland

1 against the accused, I am actually inquiring into  
2 facts, and there is a duty to cooperate, not just  
3 legally, there is also a patriotic duty to cooperate.  
4 Now, I want to know what your instructions are on  
5 particular points because this is important. Your 10:32  
6 client is saying that social work should never have  
7 been involved in relation to anything to do with his  
8 family situation. Now, first of all, I want to know  
9 was there a row that night, and I want an answer to  
10 that, please. 10:32

11 MR. HARTY: Well, sorry, sir. The situation here:  
12 This Tribunal never sought to interview my client in  
13 relation to any -- never requested to interview him,  
14 never requested any information from him other than the  
15 statement he gave -- 10:33

16 CHAIRMAN: Mr. Harty, Mr. Harty, Mr. Harty, Mr. Harty,  
17 stop telling me in either correspondence or by way of  
18 submission that the Tribunal is being unfair. It  
19 isn't. The Tribunal is here and is tasked with finding  
20 out the truth. Now, I am asking a very simple 10:33  
21 question.

22 MR. HARTY: I cannot give you that answer.

23 CHAIRMAN: I am asking a very simple question: Was  
24 there a row between Keith Harrison and Marisa Simms  
25 that night or not? 10:33

26 MR. HARTY: Well, firstly you asked me what time it  
27 took place, and I simply do not know the answer to  
28 that. It's not something that I could be expected to  
29 give the answer to on the hoof in circumstances whereby

1 nobody has sought to ask my client that before. In  
2 terms of the nature of the row, there was a --  
3 CHAIRMAN: Mr. Harty, who is that sitting behind you?  
4 MR. HARTY: Sorry, I would perhaps prefer to take  
5 instructions from my client in circumstances where I 10:34  
6 can speak freely with him.  
7 CHAIRMAN: Very well. You know what I want, so I will  
8 rise.  
9  
10 THE HEARING ADJOURNED BRIEFLY AND THEN RESUMED 10:34  
11 AS FOLLOWS:  
12 CHAIRMAN: So we are back.  
13 MR. HARTY: Yes, thank you for the opportunity, Chair.  
14 The situation is that at approximately 1:00 in the  
15 morning, Ms. Simms indicated that she wished to go back 10:41  
16 and stay in her mother's and Garda Harrison rang  
17 Mr. Quinn because both Ms. Simms had been -- had drink  
18 taken and couldn't drive and Garda Harrison had also  
19 had some drinks at home that evening, and also couldn't  
20 drive. So he rang Mr. Quinn and Mr. Quinn came and 10:41  
21 collected Ms. Simms and brought her, I think, to her  
22 mother's house to stay.  
23 CHAIRMAN: And the reason she wanted to leave was?  
24 MR. HARTY: Because they'd had a disagreement.  
25 CHAIRMAN: Well, I had asked that question. 10:42  
26 MR. HARTY: Yes.  
27 CHAIRMAN: How bad?  
28 MR. HARTY: Well, clearly Mr. Harrison was of the view  
29 it wasn't a major disagreement, Ms. Simms was very



1 upset, for whatever reason.

2 CHAIRMAN: For whatever reason she was upset, so it was  
3 her fault?

4 MR. HARTY: Nobody is attempting to blame anybody.  
5 People have rows, where one person gets upset because 10:42  
6 something is said. That is in the normal course of  
7 most relationships. And that person decides that they  
8 wish to leave. Mr. Quinn -- the Tribunal has the  
9 statement of Mr. Quinn who was present on the night as  
10 the third party. It is a clear statement of what took 10:43  
11 place. Which, as far as he was concerned, Mr. Harrison  
12 was entirely together and calm and Ms. Simms was very  
13 upset, and had more drink taken than Mr. Harrison on  
14 the night in question.

15 CHAIRMAN: And did Mr. Quinn come in later or was he 10:43  
16 there during the row?

17 MR. HARTY: Not during the row. He came in because he  
18 was contacted by Garda Harrison.

19 CHAIRMAN: In order to ferry his wife to some place  
20 else? 10:43

21 MR. HARTY: Partner. Who said she was --

22 CHAIRMAN: I beg your pardon, I am going to get these  
23 terms wrong, please forgive me, Mr. Hartly.

24 MR. HARTY: Who said she was going to leave there and  
25 then, for whatever reason, which has happened in many 10:43  
26 homes across this country on many occasions.

27 CHAIRMAN: All right. Well, thank you for that  
28 clarification.

29 MR. HARTY: Sorry, Mr. Bogle, I have no further

1 questions. Thank you.

2

3

MR. BOGLE WAS CROSS-EXAMINED BY MR. DIGNAM:

4 121 Q. MR. DIGNAM: Mr. Bogle, my name is Conor Dignam. I  
5 appear on behalf of An Garda Síochána. I just have one 10:44  
6 question for you. Mr. Murrinan read the statement of  
7 Garda Fowley out to you and she reports that you  
8 suggested that the Gardaí wouldn't do anything or  
9 wouldn't do much, and the implication being because  
10 Garda Harrison was a member of An Garda Síochána. You 10:44  
11 weren't aware at that stage, were you, that in fact  
12 three gardaí were engaged on dealing with this  
13 situation and a squad car had been dispatched to the  
14 house in Churchill, you didn't know that?

15 A. I hadn't got a clue, no. 10:44

16 MR. DIGNAM: Thank you, Mr. Bogle.

17 MR. MARRINAN: Nothing further, sir. Thank you  
18 Mr. Bogle.

19

20 THE WITNESS THEN WITHDREW 10:44

21

22 MR. MARRINAN: Kerry Bogle, please, same volume, page  
23 1102, sir.

24

25 MS. KERRY BOGLE, HAVING BEEN SWORN, WAS EXAMINED BY 10:44

26 MR. MARRINAN AS FOLLOWS:

27 122 Q. MR. MARRINAN: Now, I think that you are the daughter  
28 of the last witness, is that right?

29 A. Yeah, I am, yeah.

1 123 Q. And Rita McDermott is your auntie?  
2 A. Yeah.

3 124 Q. And Marisa Simms is your cousin, is that so?  
4 A. Yeah.

5 125 Q. I think that you categorise your relationship with her 10:45  
6 as not being particularly close, is that right?  
7 A. We don't really see each other, just maybe see her in  
8 my granny's.

9 126 Q. But if you met at family get-togethers you would talk  
10 to her, is that right? 10:45  
11 A. Yeah, we would say hello and things, yeah.

12 127 Q. And I think that you were aware of the fact that she  
13 was in a relationship with Keith Harrison, is that  
14 right?  
15 A. Yes. 10:46

16 128 Q. And similarly with him, I think that you didn't know  
17 him, is that right?  
18 A. No, no.

19 129 Q. And I think that Rita McDermott was on winning Streak  
20 and that was the first time that you came across him, 10:46  
21 is that right?  
22 A. Yeah.

23 130 Q. Again, it was in circumstances where you all went up to  
24 Dublin for the television show, is that right?  
25 A. Yeah, yeah. 10:46

26 131 Q. There was some class of a dinner or other?  
27 A. There was a dinner the week before we went.

28 132 Q. The week before?  
29 A. Yeah.

1 133 Q. All right. But anyway, you didn't know much about  
2 their relationship, isn't that right?

3 A. No, no.

4 134 Q. And you weren't that concerned about it. Now, if I  
5 could just bring you to the evening and into the early 10:46  
6 hours -- evening of 30th of March of 2013, into the  
7 early hours of the morning of the 1st of April of 2013,  
8 do you recall getting a telephone call?

9 A. I think the phone call was -- I can't remember a  
10 hundred percent, it was either to my phone or my dad's 10:47  
11 phone, but I was talking to Marisa's mum.

12 135 Q. Would you mind just moving a little bit closer to the  
13 microphone and pulling it towards you there. Sorry,  
14 would you mind repeating that?

15 A. The phone call I think, I am not sure if it came to my 10:47  
16 phone or my dad's phone but I do recall speaking to  
17 Marisa's mum.

18 136 Q. Yeah. And do you recall what she said to you?

19 A. She just says 'Can we go and see is Marisa okay?' I am  
20 not sure if she got a phone call off Marisa to say 10:47  
21 there was an argument and we were told that Marisa was  
22 walking the streets and could we go and -- could we go  
23 and see if she was okay.

24 137 Q. That she was walking the streets. Was there references  
25 to how she was dressed at the time? 10:48

26 A. I think they said she was in night clothes or pajamas,  
27 I am not a hundred percent.

28 138 Q. And is that the extent of what was said to you by your  
29 auntie?

1 A. She just says there was an argument and she was  
2 concerned about Marisa and could you go and see was she  
3 okay.

4 139 Q. Right. And did you communicate that to your father?  
5 A. Yeah. Well, we are all in the kitchen at the time. 10:48

6 140 Q. And did your father then phone the Gardaí?  
7 A. Yeah.

8 141 Q. He did?  
9 A. Yeah.

10 142 Q. And we have heard the conversation -- 10:48  
11 A. Yeah.

12 143 Q. -- and your input, is that your voice?  
13 A. Yeah, yeah.

14 144 Q. And you are speaking to Garda Oates as well, and I  
15 don't intend to bring you through the conversation 10:48  
16 because we have it and it's the best evidence --  
17 A. Yeah.

18 145 Q. -- so we know exactly what was said. But it's clear  
19 that from that, that you were, and your father, were  
20 concerned for Marisa Simms, is that right? 10:49  
21 A. Yeah, yeah.

22 146 Q. And this was a real concern that you had?  
23 A. Well, it was just because her mum had phoned us because  
24 she was in Mayo, so -- And we tried to ring Marisa and  
25 we never got no answer and I tried to text her and 10:49  
26 there was no answer, so when we got no answer we didn't  
27 know what was going on.

28 147 Q. But it's really quite a considerable step up to involve  
29 the Gardaí, isn't it?

1 A. Well, when you hear of somebody walking the streets at  
2 one o'clock in the morning, especially a girl, you do  
3 be concerned.

4 148 Q. But anyway, you took that step. I think that you took  
5 that step after making a number of phone calls to 10:49  
6 Marisa Simms' --

7 A. Yeah.

8 149 Q. -- number, is that right?

9 A. Yes.

10 150 Q. And also you texted her to see if she would respond? 10:50  
11 A. Just to see if she was okay, yeah.

12 151 Q. And you got no response?

13 A. No.

14 152 Q. So having spoken to Garda Oates, did you then leave the  
15 house? You were in Raphoe, is that right? 10:50  
16 A. We were in Raphoe, and I didn't know exactly where  
17 Marisa and Keith were living. I just knew it was out  
18 that road somewhere. But it's a country road, so --

19 153 Q. So did you get in the car along with your father --

20 A. Yeah. 10:50

21 154 Q. -- and your brother?

22 A. And my brother, yeah.

23 155 Q. And you drove out to where you believed that Marisa  
24 Simms might live?

25 A. Yeah. Even if we seen her walking around Letterkenny 10:50  
26 we were just looking to see if we could see her,  
27 because we couldn't get no phone -- couldn't get her on  
28 the phone.

29 156 Q. So you were driving along the roads looking to see if

1           you could find her?

2           A.    Yeah.

3 157    Q.    And there was no sign of her?

4           A.    No.

5 158    Q.    And did you become even more worried then? 10:50

6           A.    Yeah, yeah.

7 159    Q.    And then did you go to the Garda station?

8           A.    Yeah, because we couldn't find her, yeah.

9 160    Q.    And do you recall going in there and having a  
10           conversation or your father having a conversation with 10:51  
11           a guard or a female garda?

12          A.    Yeah, it was a female.

13 161    Q.    We now know it was Garda Tina Fowley.

14          A.    Yeah. I don't remember what was said. I was stood  
15           back and they were doing the talking. 10:51

16 162    Q.    You have been in the tribunal chamber, you heard me  
17           read out what she says about what happened --

18          A.    Yeah.

19 163    Q.    -- during the course of that. Do you quarrel with  
20           anything that she says at all? 10:51

21          A.    No, I don't think so, no.

22 164    Q.    And then I think that you then left the Garda station,  
23           is that right?

24          A.    Yeah, yeah.

25 165    Q.    And when you left the Garda station, were you able to 10:51  
26           contact Marisa or did you have any contact with her?

27          A.    I seen her the next day at my granny's because my uncle  
28           had died and all the family was at my granny's house.

29 166    Q.    And did you bring up the subject of what had happened

1 the night before?

2 A. No, because it wasn't the time or the place. I think I  
3 looked at her, I just says 'Are you okay?' and she says  
4 'Yes' and I never said anything else.

5 167 Q. When you say it wasn't the time or the place, I think 10:52  
6 that there was a get-together with the family because  
7 of the death of your father's brother, is that right?

8 A. My uncle's death, yeah, yeah.

9 168 Q. And the family were more concerned about other matters  
10 at that stage, is that so? 10:52

11 A. Yeah, yeah.

12 169 Q. Just in terms of why she was out walking, what Rita  
13 McDermott said to you in relation to that; I mean, you  
14 think you might have been told that Marisa Simms was  
15 out walking the night that she was in perhaps her night 10:52  
16 clothes, is that what you said?

17 A. We just heard that -- I am not a hundred percent if  
18 there was an argument, I don't know what happened that  
19 night, but that Marisa was just out on the streets.

20 170 Q. Just out on the streets? 10:53

21 A. Yeah, yeah.

22 171 Q. Was anything said to you about how -- that she ended up  
23 on the street?

24 A. No, no, I don't know why they were arguing or if there  
25 was -- I don't know. 10:53

26 172 Q. Thank you very much. Would you answer any questions?  
27

28 MR. HARTY: I have no questions, sir.

29 MR. O'HIGGINS: Just one question, Chairman.



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MS. BOGLE WAS CROSS-EXAMINED BY MR. O'HIGGINS:

- 173 Q. MR. O'HIGGINS: Ms. Bogle, I appear for An Garda Síochána, Mícheál O'Higgins. You heard the tape played, did you, in the room? It relayed things that William Bogle said and you also said to the guard and you had an exchange, do you recall, with the guard concerning you taking the view that he was taking sides, perhaps, do you recall that? That the guard was taking sides? 10:53
- A. We just, we were explaining over the phone and we just felt that he wasn't listening. 10:54
- 174 Q. I understand. What I am wondering this: Did you hear -- you heard the tape and you heard what you said?
- A. Yeah. 10:54
- 175 Q. You made reference to "it doesn't matter if they are a couple", and I think you said "he's slapping her about" --
- A. Right.
- 176 Q. -- or words to that effect. Do you recall saying that? 10:54
- A. Did I say that?
- 177 Q. On the tape.
- A. Right. All I know, there was an argument. I don't know if he was hitting her, I don't know. We just got the phone call to say would you go and see if Marisa is okay, so we went out because her mum was too far away. 10:54
- 178 Q. And you were concerned to do your best to convey to the guard that you were concerned and there was reason to be concerned?

1 A. Yeah. well, if we got the phone call, yeah.

2 179 Q. Yes. Thanks very much.

3 A. Okay.

4

5 MR. MARRINAN: Nothing. Thank you very much.

10:55

6

7 THE WITNESS THEN WITHDREW

8

9 MR. MARRINAN: Mr. James Quinn, please. Same volume,  
10 sir, page 1125.

10:55

11

12 MR. JAMES QUINN, HAVING BEEN SWORN, WAS EXAMINED BY

13 MR. MARRINAN AS FOLLOWS:

14 180 Q. MR. MARRINAN: Now, Mr. Quinn, I think that you reside  
15 in Buncrana, is that right?

10:56

16 A. Yes, that's correct.

17 181 Q. And in 2013 you were working as a counsellor in suicide  
18 prevention, is that so?

19 A. That's correct.

20 182 Q. And I think that you also worked as a health healer, a  
21 faith healer, is that right?

10:56

22 A. Yeah, through Padre Pio.

23 183 Q. And I think that you knew at that time Garda Harrison  
24 through Marisa Simms, is that so?

25 A. That is true.

10:57

26 184 Q. I think that initially your contact with him -- with  
27 the family was through Rita McDermott, is that right?

28 A. Rita and Marisa and the granny.

29 185 Q. I think that you knew Rita McDermott for about ten

1 years and that you then got to know her daughter,  
2 Marisa?

3 A. That's correct.

4 186 Q. And you knew her for about seven years?

5 A. That's correct. 10:57

6 187 Q. And the point of contact with Rita McDermott to a large  
7 extent, or to some extent, revolved around her son,  
8 Martin McDermott?

9 A. That's correct.

10 188 Q. I think that she had asked you to get involved in 10:57  
11 counselling Martin McDermott, but he didn't respond to  
12 counselling?

13 A. That's correct.

14 189 Q. I think that you then were introduced to Keith Harrison  
15 at one point, isn't that right? 10:58

16 A. I was introduced with Marisa first, Keith's partner.

17 190 Q. And I think that you became friendly with him and you  
18 were already friendly with Marisa, is that so?

19 A. Yes, that's correct.

20 191 Q. I think you would also have come into contact with 10:58  
21 Keith Harrison through your work with suicide awareness  
22 and the contact that you would have had with the  
23 gardaí, is that right?

24 A. That's correct.

25 192 Q. Now, I think on the 31st of March of 2013, you know 10:58  
26 they were concerned about what occurred on that  
27 evening, is that right?

28 A. Yes.

29 193 Q. Do you recall where you were on the evening of the 31st

1 of March of 2013?

2 A. I was called to a call at the Golden Grill Disco  
3 Nightclub in Letterkenny where a young lad, 16 years of  
4 age, who had consumed alcohol and, in my opinion,  
5 drugs. I was attending that scene while Keith Harrison 10:59  
6 phoned me. I answered the phone and I says 'what's  
7 wrong, Keith?' and he said 'There's a wee bit of tiff'.  
8 I said, 'well, I am on a call here now in the Golden  
9 Grill, I can't leave that until I sort this young fella  
10 out.' And when I sorted the young fella out I then 10:59  
11 proceeded then to Churchill then.

12 194 Q. Well, if you just -- you were dealing with a young man  
13 who was obviously causing some sort of trouble and you  
14 were called to the scene. Were you called there by the  
15 Gardaí? 10:59

16 A. No, I was called by one of the bouncers, Stuart.

17 195 Q. And were you trying to calm the situation down?

18 A. I moved the young fella from the front of the disco  
19 away from the crowd, up to the side where the cars  
20 were. I calmed him down and then his mum and dad came 11:00  
21 and picked him up.

22 196 Q. And whilst you were doing that, you get a call from  
23 Keith Harrison and you say that he said to you 'Jim, me  
24 and Marisa had a bit of a tiff', is that right?

25 A. Yes, that's correct, a tiff. 11:00

26 197 Q. Well, were you surprised at this, that he was calling  
27 you?

28 A. Well, I was surprised. Yes, I was surprised.

29 198 Q. Did you say to him, perhaps, look, this has got nothing

1 to do with me, what are you ringing me for?

2 A. I kind was of baffled, because they never had any major  
3 tiffs or rows, you know, they seemed to be a good  
4 couple.

5 199 Q. This was something that was quite exceptional as far as 11:00  
6 you were concerned. Had he ever phoned you before  
7 saying that he had a domestic problem?

8 A. No, never, never.

9 200 Q. And you are saying that he said to you it was a bit of  
10 a tiff. I mean, were you not bemused as to why he 11:01  
11 might be phoning you?

12 A. Well, I work at every case in the book. I was kind of  
13 baffled. I was baffled because some people -- if I  
14 went to every tiff in the country I wouldn't be able to  
15 go to suicide calls, you know what I mean. It was a 11:01  
16 wee bit of a surprise.

17 201 Q. But in any event, you told him you were dealing with an  
18 incident?

19 A. I told him I was dealing with a 16-year-old, I could  
20 not go out to him in Churchill until I sorted this out. 11:01

21 202 Q. You didn't tell us that. Was he asking you to go, to  
22 go out to Churchill?

23 A. He just asked me to call, would I call out. He was  
24 asking for a lift home for Marisa to Raphoe, County  
25 Donegal. 11:01

26 203 Q. Well, hang on a second. You are in Letterkenny?

27 A. Yes.

28 204 Q. You told him that on the phone?

29 A. I told him I was on a call, I couldn't go near him.

1 205 Q. You knew where he lived in Churchill?  
2 A. Yes.

3 206 Q. And how far, approximately, would it be from  
4 Letterkenny to Churchill?  
5 A. It could take 30 minutes, 25, 30, 35 minutes, depending 11:02  
6 on traffic.

7 207 Q. And then you are being asked to bring Marisa to Raphoe,  
8 is that right?  
9 A. That's correct.

10 208 Q. How far would that be, approximately? 11:02  
11 A. That would be, give or take, half an hour, you know,  
12 30 -- it depends on traffic.

13 209 Q. So you could be talking about being asked at that --  
14 what time is this?  
15 A. Well, I am not completely sure but I think the call 11:02  
16 came into the Golden Grill from the young fella 1:00,  
17 1:30, so we are chatting maybe about half an hour to  
18 get -- give or take, do you know what I mean. Like,  
19 half an hour here or there, you know what I mean, to  
20 get there, between finishing that call and going out. 11:02

21 210 Q. So you are being asked to operate some form of a taxi  
22 service, is that right?  
23 A. Well, no, I am not a taxi service, but that's the way  
24 it sometimes comes across, do you know what I mean,  
25 like? 11:03

26 211 Q. Well, I don't know what you mean, because you have got  
27 a call at that hour in the morning from Keith Harrison,  
28 who you say told you that there was just a wee bit of a  
29 tiff, all right?

1 A. Well, I was asked by him to come out, would I give  
2 Marisa, his partner, a lift home to her mother's house  
3 in Raphoe and I responded to it.

4 212 Q. Well, why didn't you tell him -- if what you say is  
5 correct in relation to this, why didn't you tell him to 11:03  
6 ring a taxi?

7 A. Well, out in Churchill, I don't know, but out in  
8 Churchill you won't get too much reception for taxis,  
9 phones isn't -- out there.

10 213 Q. All right, Mr. Quinn. In any event, you finished 11:03  
11 dealing with the young man that you had been dealing  
12 with outside the Golden Grill, is that right?

13 A. That's correct.

14 214 Q. And you went out and you drove out to Churchill?

15 A. Yes, that's correct. 11:04

16 215 Q. And did he give you any more information on the phone  
17 before you --

18 A. No, I had no more conversation until I landed in  
19 Churchill.

20 216 Q. And I think it took you about 20 minutes to get there, 11:04  
21 is that right?

22 A. Give or take, 20, 25, I wouldn't be bang on, do you  
23 know what I mean. Near enough.

24 217 Q. And when you got there, what did you do?

25 A. I pulled to the front of the street, Keith Harrison met 11:04  
26 me at the front door and shook me hand and he said  
27 'Thanks for coming out to take Marisa back to Raphoe'.  
28 And that was the end of that conversation until I went  
29 inside.

1 218 Q. And when you went inside, how was Marisa dressed?  
2 A. Well, Marisa was dressed in pajamas.  
3 219 Q. And how did she appear to you to be, was she  
4 distressed?  
5 A. Well, she wasn't distressed. She had alcohol consumed. 11:05  
6 She had a glass, I am nearly a hundred percent sure, of  
7 red wine in her hand and Keith had a drink in his hand  
8 whenever he sat down, and she didn't look any way out  
9 of the normal.  
10 220 Q. She looked normal? 11:05  
11 A. Looked like an ordinary couple, just.  
12 221 Q. And did you make any inquiries then as to what you were  
13 doing there?  
14 A. Well, the first thing when I get a call, when I go into  
15 a house or going to the -- I assess the area, I check 11:05  
16 the area, I look around to see is there any furniture  
17 tumbled, is there any cuts on the two of them, is there  
18 any bruises or anything. That's my job. That's what I  
19 am trained to do. And I looked around and there was no  
20 bruising, there was no furniture tumbled and they just 11:05  
21 started chatting about what happened. Words came up  
22 here and there and it flared up into that, and that's  
23 about it.  
24 222 Q. Sorry, how did this get elevated to a situation where  
25 you were going to check to see whether Marisa had any 11:06  
26 bruising on her?  
27 A. Well --  
28 223 Q. I thought that the phone call that you had got from  
29 Keith Harrison was that they'd had a bit of a tiff?



1 A. Yes.

2 224 Q. And now you are telling the Chairman that when you  
3 arrived that you were conscious to check in the  
4 circumstances to see if Marisa Simms had any bruising  
5 or cuts on her, is that right? 11:06

6 A. Well, when we are doing our training we assess an area,  
7 when we get into an area, no matter what the situation  
8 is we have to check out everything. You know, a tiff,  
9 when I walked in that's what it was, it was a tiff.

10 225 Q. What conversation then did you have with Marisa? 11:06

11 A. Well, I stepped inside the door, I spoke to them as  
12 usual and I asked 'Any chance of a cup of tea?' and  
13 Keith said 'Marisa will make a cup'. Marisa got up to  
14 make a cup and she kind of sat back down the seat, as  
15 if she had a couple of drinks too much. And I said to 11:07  
16 Keith 'Maybe you should go and make the tea' and he  
17 said 'No, Marisa is all right' and she got up and she  
18 did make a cup of tea, and I had a cup of tea.

19 226 Q. Yeah, go on, what happened then?

20 A. And that was that. I drunk the tea. Chatted. They 11:07  
21 said they had a wee tiff, words were exchanged. And  
22 Keith said he had drink on him, he couldn't drive. She  
23 couldn't definitely drive. So then I proceeded to take  
24 her home to Raphoe, to her mother's house. Now, she  
25 was up and down the stairs, she did go up and down the 11:07  
26 stairs a few times with the phone, she was talking to  
27 somebody up at the top of the stairs, and when she got  
28 into the car to go home to Raphoe I said 'Marisa, who  
29 were you on the phone to?' and she says 'Mum'. And I

1 says 'why are you leaving the house? Do you think I am  
2 a taxi service?' And she sort of, she kind of laughed,  
3 but she said 'No, mum more or less told me to leave the  
4 house'. So more or less it was the mother's  
5 instructions that she left the house. You know? 11:08

6 227 Q. So, are we to take it that you in fact didn't engage in  
7 any realistic way with Marisa or Keith to try and  
8 resolve the tiff that they had?

9 A. They were chatting, there was no major -- if I went  
10 into a domestic, there was no domestic and they were 11:08  
11 just chatting. They were arguing, I don't know what  
12 they were arguing about. It was just a tiff. And I  
13 asked Marisa she did want to stay on. Marisa was quite  
14 willing to stay on that night, but she was under  
15 instructions, that she told me on the way up the road, 11:08  
16 that she wanted to go home, the mother told her to go  
17 home to the house.

18 228 Q. Is the Tribunal to take it from your evidence that you  
19 got a call to go out and you responded to this call  
20 from Keith Harrison, that you went to Churchill, that 11:09  
21 both Marisa and Keith appeared to be drinking at the  
22 time?

23 A. Yes.

24 229 Q. And that everything was all right between the two of  
25 them but they'd had a bit of a tiff, that Marisa didn't 11:09  
26 want to leave at all but she was leaving because she  
27 had been told to leave by her mother?

28 A. That is what she told me on the way out the road.

29 230 Q. Is this what you are saying transpired in the house?

1 A. Yes. That's exactly what I am saying.

2 231 Q. And why in heaven's name didn't you say, rather than  
3 drive her to Raphoe, why didn't you say, look, this  
4 appears to be resolved, Marisa, you don't want to  
5 leave, Keith, you are calm, you are not drunk, so the 11:09  
6 two of you just shake hands and kiss and make up?

7 A. Well, she had her pajamas on her, she was set to go  
8 home by the instructions of her mother and she got into  
9 the car with me, we proceeded, we headed out to Raphoe,  
10 she chatted like normal. I said Marisa, what -- I just 11:10  
11 said more or less about the taxi, as you said earlier  
12 on. She says, it was me mum told me to go home to her  
13 place.

14 232 Q. And are you saying that she actually said to you, my  
15 mother has told me to leave? 11:10

16 A. In words to that effect. They mightn't be the exact  
17 words, but that was near enough it.

18 233 Q. And did you perhaps tell her to go -- because she was  
19 in her pajamas, isn't that right?

20 A. Yes. 11:10

21 234 Q. Did you perhaps tell her that she might go and get  
22 dressed before you took her?

23 A. No, I took her home. I never instructed her to get  
24 dressed or nothing. And Keith was standing in the  
25 doorway when we went out the door and I said to him 'Do 11:11  
26 you want to come with her and I will take you back in?'  
27 and he says 'No, no, sure it's better quietening down,  
28 we will talk tomorrow' or words to that effect, do you  
29 know what I mean, like? I didn't see any major

1 handling to be quite honest with you. That's my honest  
2 opinion of 35 years of experience.

3 235 Q. So what you told our investigators, if I could just  
4 have it up at page 1129, the bottom of the page there,  
5 you will see the screen coming up here, you then say: 11:11  
6  
7 "She then went with me the way she was dressed, as in  
8 her pajamas. I said to Keith, I will take this woman  
9 home. He said, that's fine, she will cool down. I  
10 recall she had a temper that night." 11:12

11 A. Well, crabbed. You know, crabbed.

12 236 Q. Well, will you tell us about that? Because you haven't  
13 told us about that.

14 A. Well, I just did it, I just did it. You know the way,  
15 I don't take drink myself, I am a pioneer, you could 11:12  
16 tell by the way her reaction was that she was  
17 irritated, do you know what I mean? Her voice was  
18 hiring and lowering, hiring and lowering.

19 237 Q. You then go on to say: "I said to Keith do you want to  
20 come with us?" 11:12

21 A. Well, I didn't see any reason, but as you say there,  
22 why did I not tell him to say, shake hands and make up?  
23 It was probably easier for me to take her home than  
24 start counselling them and chatting to them, like, do  
25 you know what I mean? Like, that was the way I looked 11:12  
26 at it. That is the way I looked at it.

27 238 Q. Mr. Quinn, it might seem a little bit odd to somebody  
28 looking at this, that you say that you arrived out  
29 there because of what you described as a tiff, there is

1 no discernible evidence when you arrive of anything  
2 significant happening between Garda Harrison and Marisa  
3 Simms, and that she then wants to go to her mother's  
4 home and that you are bringing her there --

5 A. Yes. 11:13

6 239 Q. -- and that you then ask Keith Harrison to accompany  
7 you in the car?

8 A. I didn't see any major reason for them not. I just  
9 said 'Do you want to come? and he says 'Oh, no, no', he  
10 says 'She's better going down until it calms down'. 11:13  
11 Until her temper calms down. That's their  
12 conversation, do you know what I mean?

13 240 Q. In any event, it takes about 45 minutes to get there  
14 and you then left the house with Marisa, is that right?

15 A. That's correct. 11:13

16 241 Q. And when you were leaving, did Keith Harrison say  
17 anything to Marisa?

18 A. 'I'll see you tomorrow', he said something like 'See  
19 you tomorrow'. And she got into the car and we headed  
20 out the road and that's -- that was that ended. 11:14

21 242 Q. And then when you were driving along was Marisa on the  
22 phone, do you recall?

23 A. Well, I know, I know I told your investigators, I told  
24 the truth, I says I wasn't a hundred percent sure  
25 whether Garda Oates phoned me. I didn't even know it 11:14  
26 was a guard, it was a male guard from Letterkenny, I am  
27 nearly sure I phoned the guards to say to cancel the  
28 cop car, they're only wasting their time, to not come  
29 out near Churchill.

1 243 Q. So she told you that she had phoned the guards, did  
2 she?  
3 A. She said that her mother had phoned the guards.  
4 244 Q. Her mother phoned the guards. And you in fact spoke to  
5 Garda Oates on the phone, is that right, you don't know 11:14  
6 his name?  
7 A. I didn't know Garda Oates. I don't know what guard I  
8 spoke to. It was a male guard.  
9 245 Q. And do you recall the conversation that you had with  
10 her in the car? 11:15  
11 A. Just chatted. I just said 'I thought you and Keith  
12 were getting on great', she says 'we were', more or  
13 less. Like, if being honest, it was drink caused the  
14 wee row and that was mainly -- a few words. I chatted  
15 the whole way out the road and I sat outside her house 11:15  
16 for five minutes, I says 'Go and open the door, make  
17 sure there's nobody in the house, close the door'.  
18 CHAIRMAN: Sorry, I beg your pardon, I am just not  
19 understanding. Did she say drink caused the row or  
20 were you saying -- 11:15  
21 A. She said to -- they both -- drink caused the row, both  
22 of them.  
23 CHAIRMAN: Did she say that to you?  
24 A. Yes. She just said 'we had too much to drink' and  
25 that's the truth. And it was drink caused the tiff, as 11:15  
26 we call it.  
27 246 Q. MR. MARRINAN: So your evidence is that you then  
28 dropped her to the house, is that right?  
29 A. I dropped her outside Raphoe estate, sat for five

1 minutes to make sure she was in the house. I said 'Put  
2 the lights on when you are in, make sure I know you are  
3 safe', you know, in case somebody was in the house.  
4 She flashed the light and away I went. Well, she waved  
5 out actually. Away I went then. That was the end of 11:16  
6 that. I never heard tell of it since that.

7 247 Q. Did you perhaps the next day phone Keith Harrison about  
8 this?

9 A. I didn't phone anybody about it the next day.

10 248 Q. Sorry? 11:16

11 A. I didn't phone anybody about it.

12 249 Q. Did you not perhaps -- were you angry that you had been  
13 dragged out at that hour in the morning?

14 A. I had voiced my opinion that night that I wasn't a taxi  
15 service, I was a suicide counsellor, that every minute 11:16  
16 of my night and day is valuable. But it didn't cause  
17 any torture to me because it was sorted, I was back on  
18 call till 6:00 that morning, so I didn't lose -- I  
19 didn't lose any or nothing happened over me going up  
20 there, you know? 11:17

21 250 Q. You see, the reason I am asking you these questions is  
22 because there is a different account that was given by  
23 Marisa Simms to the Gardaí in a lengthy statement that  
24 she made, and I am just going to put that to you now  
25 for your comment in relation to it. This is at page 11:17  
26 1140, please. This is a statement made by Marisa Simms  
27 which she is now contesting, but it's a statement she  
28 made on 6th of October of 2013 in Letterkenny Garda  
29 Station. And I am just going to read out a portion of

1 this and the build-up to it and her account of the  
2 incident, because it appears, Mr. Quinn, that it is at  
3 total variance with what you have to say.  
4

5 "After an argument, which I won't go into at this 11:17  
6 juncture, I got out of the car and into the passenger  
7 side beside Keith and he drove home, which is less than  
8 a minute's drive. He was roaring and shouting at me in  
9 the car and when we pulled up outside the house I  
10 remember he banged the dashboard in front of him with 11:18  
11 his fist. I thought he had actually cracked the  
12 dashboard, he had banged it so hard. I was frightened  
13 of him at this point and he was in a complete out of  
14 control rage. We both went into the house. At some  
15 point Jim Quinn, who we both know, arrived at the 11:18  
16 house. I went to bed. I don't know if it was before  
17 or after Jim arrived. I think it may have been before.  
18 I was really upset and I do not recall that when Jim  
19 came in -- came I went out to his car and spoke with  
20 him. I asked him if he knew anything about --" 11:18  
21

22 And this is a reference to a young woman.  
23

24 "-- or the other women. After I spoke with Jim I went  
25 to bed. I don't recall the exact time." 11:19  
26

27 Now, do you recall that happening?

28 A. I am baffled by that story you are telling me. I know  
29 it's here in front of me. No, I don't recall any of



1           that.

2 251 Q.    I mean, is it possible that this happened?

3           A.    No. In my opinion, no.

4 252 Q.    I mean, this puts the argument in a context because  
5           there is a reference to a young lay who we are now 11:19  
6           dragging into this, her name, and other women, that  
7           apparently Keith Harrison was in contact with in or  
8           around this time.

9           A.    No, no, no is the answer. No, I don't recall any of  
10          this stuff here. 11:19

11 253 Q.    Well, were you aware of any issue in around that  
12          time --

13          A.    No.

14 254 Q.    -- about Keith Harrison being with other women?

15          A.    No. 11:19

16 255 Q.    Did Marisa Simms say anything even whilst driving, you  
17          were driving her home to her mother's?

18          A.    No. No. The only thing that she indicated is that she  
19          wouldn't be leaving --

20 256 Q.    I will go on then: "The next thing I do remember is 11:20  
21          being woken out of my sleep by Keith. He was roaring  
22          and shouting at me about getting into the car earlier  
23          with the fellas and why did I leave the pub. He pulled  
24          the quilt off me and grabbed my arm and pulled me out  
25          of the bed and told me to get out of the house. I 11:20  
26          tried to reason with him and told him that I wouldn't  
27          be able to get a taxi and asked if I could stay until  
28          the morning. He kept telling me to get out and caught  
29          me by the arm. I kept pleading with him to get a coat

1 as I only had pajamas on and he allowed me to get my  
2 coat. At one point he had a hold of my arm and was  
3 shouting and roaring at me. I was terrified of him and  
4 the only other time that I had seen him like this was  
5 the night of his brother's 21st in Galway. I got my 11:21  
6 phone, which was beside the locker, and I rang my  
7 mother and asked her to come and collect me. She was  
8 actually in Mayo. And I then rang Jim Quinn, who had  
9 been in the house earlier."  
10  
11 So she is saying or telling the Gardaí that she rang  
12 you.  
13 A. No. Keith Harrison was the only man who rung me.  
14 257 Q. Are you sure about that?  
15 A. Hundred percent. Not even 99. 100 percent sure. 11:21  
16 258 Q. She says: "Before I left the house I managed to grab  
17 my purse. Keith put me out of the house and pushed me  
18 out the front door, all the time shouting and roaring  
19 at me. When Jim arrived I was standing outside and I  
20 got into the car and he drove me to my mother's. Keith 11:22  
21 was very drunk when this happened, as when we had come  
22 back to the house he had continued on drinking while I  
23 had gone to bed."  
24 A. I can't recall any of that. I swore on the oath and I  
25 cannot recall any of that story. 11:22  
26 259 Q. Well, is it possible that what she is saying is right  
27 and that you just simply got your version wrong?  
28 A. No. Well, in my honest opinion, I honestly say I gave  
29 100 percent of the version that I saw that night.

1 260 Q. You see, the picture that she is painting there is one  
2 of very heated argument, violence, being put out of the  
3 house, do you understand?  
4 A. Yes.

5 261 Q. That her saying that she couldn't get a taxi, she is in 11:22  
6 her pajamas and she is being put out, all right? And  
7 that then she rings you in that emergency situation and  
8 you come and respond to it, do you understand?  
9 A. I understand what you are telling me but I don't  
10 understand, nothing of that happened, you know. I 11:23  
11 understand what you are telling me.

12 262 Q. Yes. Well, it's her account?  
13 A. But nothing like that happened. You see, I can only  
14 tell what happened that night.

15 263 Q. She then goes on to say: "While I was in the car with 11:23  
16 Jim, a guard rang and I spoke with him. My mother had  
17 contacted them as she was concerned about me and  
18 because coverage for the mobile phones is poor at the  
19 house she was not able to reach me. I spoke to the  
20 guard and he asked me if I wanted to speak with him and 11:23  
21 I told him that I may at a later date."  
22  
23 Do you recall that?  
24 A. That the guard asked me that he may speak to me at a  
25 later date? 11:24

26 264 Q. Mmm?  
27 A. Are you saying the guard --

28 265 Q. No, what she says is: "I spoke to the guard and he  
29 asked me if I wanted to speak with him --" that is the

1 guard "-- and I told him that I may at a later date."  
2 Do you recall her speaking to the guards and saying  
3 that?  
4 A. I remember speaking to a guard, I didn't know it was  
5 Garda Oates, you said it was, and I just said 'Look, 11:24  
6 cancel that cop car, there's no disturbance out here'  
7 and the guard asked me where was Keith Harrison, and I  
8 am nearly a hundred percent sure I said 'He's lying on  
9 the sofa, if you're looking for him, that's where he  
10 is', words to that effect. He is lying on the sofa. 11:24  
11 And that was the only conversation, I wasn't on that  
12 phone a minute with the guard.  
13 266 Q. And after this, after you had left Marisa Simms's home  
14 did you have any contact then afterwards with them or  
15 discuss this matter with them? 11:25  
16 A. No, no, no discussion. You know, you know how I met  
17 Marisa Simms, you know. Marisa was getting healed for  
18 to get pregnant, you know.  
19 267 Q. There is no need to --  
20 A. Don't go down that. 11:25  
21 268 Q. We don't need to go into those particular circumstances  
22 of their relationship. Thank you very much, would you  
23 answer any questions.  
24  
25 MR. QUINN WAS CROSS-EXAMINED BY MR. HARTY: 11:25  
26 269 Q. MR. HARTY: Mr. Quinn, sorry, my name is Mark Harty and  
27 I am the barrister for Keith Harrison. Firstly, just  
28 so the Tribunal can be more aware, how long have you  
29 worked in suicide counselling?

1 A. How do I work in it?

2 270 Q. How long?

3 A. Thirty-five years.

4 271 Q. Thirty-five years.

5 A. It could be longer but that's give or take. 11:25

6 272 Q. Who are you employed by?

7 A. I am self-employed.

8 273 Q. Self-employed. I think you are a pioneer, is that  
9 correct?

10 A. Pioneer, yes. Completely a non-drinker. 11:26

11 274 Q. And you found yourself, it would not be unusual for you  
12 to be up late at night dealing with situations in the  
13 town around Letterkenny?

14 A. I cover Letterkenny and Inishowen, it's not unusual to  
15 be called out at least six times a night. 11:26

16 275 Q. Your first dealings with Marisa Simms and her family  
17 were with Rita McDermott, isn't that right?

18 A. Yes, correct, correct.

19 276 Q. And in fact, you had or have had a very good  
20 relationship with Rita McDermott over the years, isn't  
21 that right? 11:26

22 A. Yes, and her granny and Marisa.

23 277 Q. Would it be fair to say that Keith Harrison would not  
24 be the closer of your acquaintances? Marisa Simms  
25 would be your closer acquaintance, friend, rather than  
26 Keith Harrison, isn't that correct? 11:27

27 A. No. Well, I would never have said Keith was a friend,  
28 like.

29 278 Q. Right. But Marisa --

1 A. Marisa would be a very good friend.

2 279 Q. So, on the night in question when you are getting a  
3 call from Keith Harrison he is ringing a very good  
4 friend of Marisa Simms, as far as you are concerned.  
5 Now, just, Mr. Marrinan put your assessment of the 11:27  
6 situation, I take it when you go to a house and you  
7 think there may have been a disturbance you don't just  
8 check to see if the woman has marks or bruises on her,  
9 you would look at both parties?

10 A. I checked, as I said, both people I check and the area 11:27  
11 of the house, in where they are.

12 280 Q. It's just, Mr. Marrinan suggested there that it would  
13 only have been Ms. Simms that you would have looked at  
14 to see --

15 A. Oh, no, no, I looked at both. I assessed the area for 11:27  
16 danger and there was no danger.

17 281 Q. And you were satisfied after 35 years of experience --

18 A. I was satisfied it was just a tiff, that I would have  
19 had with a woman or you could have had, it was just a  
20 tiff. 11:28

21 282 Q. Now, you have given your evidence about what happened  
22 on the night. Were you ever contacted by any member of  
23 An Garda Síochána in relation to what happened on that  
24 night?

25 A. I told the garda that night that if he wanted to talk 11:28  
26 to me he had my mobile phone, which he had anyway, it  
27 was me phoned him. I have never seen a guard after  
28 that.

29 283 Q. Now, this statement, which is -- not your statement,

1 the statement made by Marisa Simms in October 2013,  
2 which sets out what was taken down as to what she said  
3 on the night, occurred on that night, did anyone come  
4 and talk to you about that?

5 A. Nobody. Do you mean the Gardaí? 11:28

6 284 Q. The Gardaí?

7 A. Nobody. Nobody come to me.

8 285 Q. Did anybody from Tusla come and talk to about that  
9 night?

10 A. Nobody. Other than the two investigators in 11:29  
11 Letterkenny that took the statement.

12 286 Q. That was the first time you were asked by anybody?

13 A. That was the first time, and I cooperated fully with  
14 them.

15 287 Q. Yes. And it's clear. So even though a statement 11:29  
16 alleging a criminal assault had taken place --

17 A. Yes.

18 288 Q. -- was given, was taken down from Marisa Simms in  
19 October of 2013, nobody came and asked you was that  
20 version of events correct? 11:29

21 A. Nobody ever contacted me. That incident was forgot  
22 about.

23 289 Q. I think you did have further dealings with Marisa Simms  
24 in relation to the healing matters?

25 A. Yes, I did. 11:29

26 290 Q. And I think the Tribunal asked you, "I have been asked  
27 if I have any knowledge of any unwarranted or  
28 unjustified intervention by Tusla as referenced by  
29 Garda Harrison, and if so do I have any details." And

1 your answer to that was: "No. When Marisa was coming  
2 to me for confidential counselling she mentioned that  
3 she said that they were being harassed by the Guards  
4 and Keith felt very depressed and suicidal about this."  
5 A. Yes, that's hundred percent truthful. 11:30  
6 291 Q. What was her demeanour in relation to that? Did she  
7 seem concerned about it?  
8 A. She seemed concerned about Keith, and naturally enough,  
9 that was her partner, and she was worried about him.  
10 Because I don't know what he talked to her about but 11:30  
11 she said he seemed to be suicidal and depressed. That  
12 is the only conversation I had on that story.  
13 MR. HARTY: Thank you very much. Thank you.  
14 A. Thank you very much. Thank you.  
15 CHAIRMAN: No, no, if you wouldn't mind holding on a 11:30  
16 bit, Mr. Quinn, please, there may be other questions.  
17 I know it's not a pleasant experience, but would you  
18 just please wait a minute.  
19 A. Thank you, your Honour.  
20 CHAIRMAN: Did you have any questions? 11:31  
21 MR. DIGNAM: I have some questions.  
22  
23 MR. QUINN WAS CROSS-EXAMINED BY MR. DIGNAM:  
24 292 Q. MR. DIGNAM: Mr. Quinn, my name is Conor Dignam and I  
25 appear on behalf of An Garda Síochána and I just have a 11:31  
26 few questions, I hope not to delay you too long.  
27 Mr. Quinn, the focus of my questions is: I am  
28 concerned with the appropriateness of the response of  
29 An Garda Síochána on the night in question. You



1 learned quite late that night that there had been a  
2 call put through to the Guards, isn't that right?

3 A. About the call, that Garda Oates phoned?

4 293 Q. Yes.

5 A. Ah, it was when me and Marisa Simms was going home. 11:31

6 294 Q. So you knew or you learned late that night that  
7 somebody had called the Guards?

8 A. Could you repeat that again?

9 295 Q. Yes. You learned later on that night that somebody had  
10 called the Guards about an incident involving Garda 11:32  
11 Harrison and Ms. Simms?

12 A. Yes. Well, Ms. Simms had already told me her mother  
13 phoned them.

14 296 Q. Yes. And I am not sure whether you were here earlier  
15 this morning when the recording of the 999 call to 11:32  
16 Letterkenny Garda Station was played, did you hear  
17 that?

18 A. I heard a bit of it. I was in the toilet now, but I  
19 did hear a bit of that.

20 297 Q. Certain information was given to An Garda Síochána 11:32  
21 during the course of that call, some of the things that  
22 were said were that Mr. Harrison was giving Ms. Simms  
23 awful abuse tonight, he had put her out of the house  
24 and he is racing after her, there were kids in the  
25 house and the caller was very, very concerned about 11:32  
26 her, he was being very aggressive and he was slapping  
27 her about. Now, we don't need to get into whether or  
28 not they were true or whether they were correct, but  
29 that was the information that was given in a 999 call

1 to An Garda Síochána on the night of the 1st of April,  
2 do you understand that?

3 A. Right.

4 298 Q. Now, do you accept, Mr. Quinn, that having been given  
5 that information, that An Garda Síochána were 11:33  
6 duty-bound to respond to the call that they received?

7 A. If that was the call the Guards got, there would have  
8 been due reason to call. But when I was there, there  
9 was no children in that house.

10 299 Q. No, I appreciate that, and I think that may be -- 11:33

11 A. No. So I had to get that clear, because there was no  
12 children in that house.

13 300 Q. Yes. But that was the information that the Guards were  
14 given.

15 A. Oh no, I am not saying -- that's grand, I didn't hear 11:33  
16 that conversation earlier on so --

17 301 Q. And that when An Garda Síochána receive 999 calls they  
18 frequently won't know how accurate the information is,  
19 whether it's true, whether it's untrue, they simply  
20 won't know but they have to reply or respond to the 11:33  
21 call --

22 A. Yes.

23 302 Q. -- particularly where there is allegations of violence.

24 A. Yes.

25 303 Q. Yes. And the fact is, Mr. Quinn, when you arrived, you 11:34  
26 arrived after what you have described as the tiff,  
27 isn't that right?

28 A. The tiff.

29 304 Q. Yes. You arrived after that, you weren't a witness to

1 the tiff?

2 A. When I arrived, as I told you, I assessed the area,  
3 there were no -- it was just Marisa was a bit annoyed.  
4 But no, I would've called it a tiff. I would still say  
5 it's a tiff. 11:34

6 305 Q. Oh no, that is fine. You didn't see what happened, you  
7 came on after --

8 A. No, I couldn't see what happened, I only seen when I  
9 went in that door.

10 306 Q. Yes. And in those circumstances, the only knowledge 11:34  
11 that you have of what actually happened is what you  
12 were told by Garda Harrison and by Ms. Simms on the  
13 night in question?

14 A. And what I saw and my experience too.

15 307 Q. Now, Garda Harrison I think was the person who 11:34  
16 described it as a tiff, isn't that right?

17 A. Well, Marisa said it was drink motivated. If there had  
18 been no drink there would be no tiff.

19 308 Q. Yes. So you record or in your statement to the  
20 Tribunal investigators you say that Garda Harrison said 11:35  
21 that they'd had a bit of a tiff.

22 A. A tiff, yes.

23 309 Q. And in fact you say that Ms. Simms described it as a  
24 barney?

25 A. Well, she described it as too much drink taken and that 11:35  
26 she shouldn't be leaving that house that night, it was  
27 under the mother's instructions. So if she thought  
28 there was any danger to her she would not have said  
29 that statement.

1 310 Q. So you received a call from Garda Harrison, you think  
2 probably about midnight or 1:00 in the morning?  
3 A. Yeah.

4 311 Q. And when you answered it, Garda Harrison said, this is  
5 the evidence or the information that you have given to 11:35  
6 the Tribunal investigator "Jim, me and Marisa had a bit  
7 of a tiff"?  
8 A. Yes.

9 312 Q. And you, in your evidence today, you said that you were  
10 asked to come out to bring her back to her mother's 11:35  
11 house in Raphoe?  
12 A. Yes, yes.

13 313 Q. You also told the Tribunal investigators that he had  
14 asked you to come to calm the situation down?  
15 A. Well, I don't remember -- I know he said there's a bit 11:36  
16 of a tiff, I don't really ever -- he said calm the  
17 situation down. It was just, more or less go in, that  
18 was my job; I go in and talk to people. There was  
19 no -- out of all the calls I ever made, I honestly  
20 think it was an unnecessary call for me to go to, a 11:36  
21 waste of time. That is my honest opinion. If there  
22 was any other reason I would be law due to tell that  
23 there was any danger there, there was no danger there  
24 that night.

25 314 Q. I am not suggesting there was any failure on your part, 11:36  
26 Mr. Quinn.  
27 A. Sorry, I am only just saying, you know.

28 315 Q. On page 1128 of the documents, and that can be brought  
29 up in front of you, Mr. Quinn, this is page 4 of the

1 statement, the interview that you had with the Tribunal  
2 investigators.

3 A. Yes.

4 316 Q. And you say that you answered the phone, halfway down  
5 the page: "I answered the phone. He said, it's Keith 11:36  
6 Harrison. He said, Jim, me and Marisa had a bit of a  
7 tiff. I said, is everything all right? why are you  
8 calling me? He said, we are after having a few drinks,  
9 as in both of them. He said, Jim, you know Marisa  
10 well, will you come to the house in Churchill to calm 11:37  
11 the situation down and run Marisa over to her mother's  
12 house in Raphoe?"

13  
14 So, that's the information that you gave to the  
15 Tribunal investigators? 11:37

16 A. Right.

17 317 Q. And that is the first time that you record or that you  
18 say that Garda Harrison described it as a bit of a  
19 tiff. And you also, on page 1130, you say that as you  
20 were leaving the house "Keith thanked me for taking her 11:37  
21 home. He said again that they had a wee bit of a  
22 tiff."

23 A. Yes. That's a tiff, what I would call it.

24 318 Q. Yes. And you have accepted, Mr. Quinn, that you  
25 obviously don't know what happened, so you are basing 11:37  
26 it on the information that you were given, much as the  
27 Gardaí have to base their actions on the information  
28 that they are given?

29 A. Yes.

1 319 Q. But what I am slightly confused about, Mr. Quinn, is  
2 that having described it as a bit of a tiff, and you  
3 have accepted that you were a bit bemused, a bit  
4 baffled by being called to bring Marisa to another  
5 house -- 11:38

6 A. Yes.

7 320 Q. -- at 1:00 or 2:00 in the morning and that was unusual.

8 A. Yes, I was baffled.

9 321 Q. It's been described as a tiff but elsewhere you record  
10 Garda Harrison saying, this is on page 1128, "Garda 11:38  
11 Harrison said that Marisa is a wee bit out of control  
12 with the drink"?

13 A. She was just agitated, agitated with alcohol.

14 322 Q. And on page 1129, you record Ms. Simms saying that:  
15 "We have had a bit of a barney. I said, what type of a 11:38  
16 barney? She said words were exchanged, things were  
17 getting a bit out of control."  
18

19 And again, on page 1130, there is reference to the fact  
20 that Ms. Simms will cool down and that you recall that 11:39  
21 she had a temper that night.

22 A. Well, do you know what I mean, agitated or too much  
23 alcohol. Well, I wouldn't say drunk-drunk, but drink  
24 in her, do you know what I mean. Like, I am not to  
25 judge how much drink she had on her. She cooled down 11:39  
26 in the end, she was calm going out the road. I asked  
27 her going out, I don't know if it's in the statement or  
28 not, was there anything physical and she said no, there  
29 wasn't.

1 323 Q. And Garda Harrison then, when you asked Ms. Simms to  
2 make the cup of tea and Ms. Simms stood up and sat back  
3 down again and you suggested that Garda Harrison make  
4 the tea --

5 A. Yes. 11:39

6 324 Q. -- and his response was that, he was chatting away and  
7 he was quite clear in his speech and he said that, on  
8 page 1129, he said that "She's not that bad".

9 A. Yes.

10 325 Q. Now, did that strike you as strange? 11:39

11 A. You know, a spur of the moment conversation, I couldn't  
12 mind what I told you -- she got up like that there,  
13 look, and got back down like that there. And I says,  
14 you know, more or less 'why don't you make a cup of  
15 tea, Keith?' and he says 'No, Marisa is all right, she 11:40  
16 will make a cup' and Marisa did go and make the tea.

17 326 Q. Yes. But does it strike you as strange, Mr. Quinn,  
18 that you had been told that she is out of the control  
19 with the drink and she herself has said things are out  
20 of control, you contrast Garda Harrison's speech as 11:40  
21 being clear and Garda Harrison having said that  
22 Ms. Simms is out of control with drink, she attempts to  
23 stand up and doesn't succeed and then he says, no, no,  
24 she is okay, she will make the tea, she is not that  
25 bad? 11:40

26 A. Well, she had more drink consumed, but I am only  
27 judging my experience on that. I couldn't say that --  
28 maybe -- she just got up and went back down and I said  
29 to Keith, I says 'Maybe you should make the tea'

1 because I didn't want her to burn herself in case she  
2 had too much drink in her. And he says 'No, she is all  
3 right, she will handle it', words to that effect. She  
4 went out and made the tea and came in and we drank the  
5 tea.

11:41

6 327 Q. So you judged the situation according to the  
7 information that you saw, isn't that right?

8 A. Yes.

9 328 Q. And one can never know what happened between two people  
10 in a room where only those two people are present,  
11 isn't that right?

11:41

12 A. Well, I didn't know -- before I come there I couldn't  
13 say what happened, I don't know. But all I know, in my  
14 own honest opinion, sworn on the oath, there was no  
15 bruises, marks or nobody -- like, a big fight.

11:41

16 CHAIRMAN: Well, you know, Mr. Quinn, I am not sure  
17 anyone is saying that Marisa was beaten and, secondly,  
18 you don't see bruises straight away.

19 A. I seen nothing --

20 CHAIRMAN: No, you don't see bruises straight away.

11:41

21 Two or three days, the day after. You don't see  
22 bruises there and then. I don't think anyone is making  
23 the allegation, apart from being pulled out of the bed,  
24 that there was any violence. You keep saying that, but  
25 it's of no use.

11:42

26 A. No, but do you know the way -- No, I was just  
27 explaining, there was no -- it didn't look like a  
28 physical --

29 CHAIRMAN: You didn't see bottles chucked all over the



1 place or vases chucked into mirrors or whatever?

2 A. No, I didn't. You are right, your Honour. That's  
3 grand, thanks.

4 CHAIRMAN: well, you are entitled to tell me that.

5 329 Q. MR. DIGNAM: Yes. The only point I am getting to is 11:42  
6 that you judged and assessed the situation according to  
7 the information that you had, isn't that right?

8 A. Yes.

9 330 Q. You didn't witness any of the central events that led  
10 up to you being phoned? 11:42

11 A. No, I didn't. I did not.

12 331 Q. Yes. And in the same way the Gardaí had received a 999  
13 call providing them with information --

14 A. Yes.

15 332 Q. -- that they had to assess and respond to having 11:42  
16 received that information?

17 A. Do what they are told.

18 333 Q. Yes. And you accept that they weren't at the house  
19 when you were there, so they didn't observe these  
20 things? 11:42

21 A. No, there were no guards there, no.

22 334 Q. And they acted appropriately and responsibly in the  
23 manner in which they responded to the 999 call, do you  
24 accept that, Mr. Quinn?

25 A. I accept they had to respond, if that's the information 11:43  
26 they were given. I know nothing about that  
27 information. If they were given that, that is their  
28 job to come.

29 CHAIRMAN: Is Marisa Simms represented?

1 MR. MARRINAN: Yes.

2 MR. HARTNETT: I appear with Mr. Barnes.

3 CHAIRMAN: Yes. All right. Well, it is the same  
4 situation with you now, Mr. Hartnett. Now, we have a  
5 number of allegations made to the Gardaí, I am just 11:43  
6 wondering what is the situation from the point of view  
7 of Marisa Simms as to what happened that night?

8 MR. HARTNETT: I have taken the view that this was  
9 somewhat outside the terms of reference, in that it  
10 does not involve children and does not involve a 11:43  
11 reference to Tusla and that was the view I had adopted.

12 CHAIRMAN: Well, I am not adopting that view,  
13 Mr. Hartnett.

14 MR. HARTNETT: I am sorry?

15 CHAIRMAN: I am not adopting that view, Mr. Hartnett. 11:43

16 MR. HARTNETT: Very good.

17 CHAIRMAN: I am obliged to investigate contacts between  
18 members of An Garda Síochána and Tusla in relation to  
19 Garda Harrison. So, I mean, it's the same question:  
20 Was there a row? How bad was the row? Does she accept 11:44  
21 what she says in the garda statement or is she giving a  
22 different narrative and if so what is that narrative?

23 MR. HARTNETT: Very good. I would just ask for some  
24 moments just to clarify certain issues that have arisen  
25 in cross-examination. 11:44

26 CHAIRMAN: Yes. That is fine, Mr. Hartnett. We can do  
27 it, if you prefer, after lunch.

28 MR. HARTNETT: After lunch.

29 CHAIRMAN: Yes. Mr. Quinn, would you mind staying

1           until after lunch?

2       A.     Will I be finished today?

3           CHAIRMAN: You will be finished today, yes. Nobody is

4           going to be calling you back.

5       A.     Yeah, I'll get something to eat now. 11:44

6           CHAIRMAN: Would you need to ask Mr. Quinn questions,

7           Mr. Hartnett?

8           MR. HARTNETT: Possibly.

9           CHAIRMAN: Yes, all right. That is why I am going to

10          ask you to stay, if you don't mind, until half past 11:44

11          one. Just hang on a minute now.

12       A.     Do you want me to hang on now?

13          CHAIRMAN: Yes. No, the matters that I need

14          clarification on are the following, and it's exactly

15          the same whether it's Garda Harrison or Marisa Simms or 11:45

16          anybody else. I need to know the position of people

17          now, which is: Was there a row? What was the nature

18          of the row? How bad was the row? Does she say it was

19          her fault? Because it is being said by a number of

20          people now that she had far too much alcohol to drink. 11:45

21          Was it the case that Keith Harrison was out of control

22          and practically smashed the dashboard with his fist?

23          Did she go to bed and was she physically pulled out of

24          bed? Was she physically pushed out of the house in her

25          pajamas? And I suppose it's also important as to what 11:45

26          she said to Mr. Quinn, because Mr. Quinn is a well

27          meaning individual who simply comes on the scene and is

28          well-known for helping people around the Inishowen

29          area. So, that is it.

1

2

MR. QUINN WAS QUESTIONED BY THE CHAIRMAN.

3

335 Q. CHAIRMAN: Just one thing that, Mr. Quinn, I am  
4 wondering about, and that is this -- there's two  
5 things, actually. Firstly, I can't understand; this is 11:46  
6 a married woman, she is a professional person, she has  
7 children of her own, and you seem to be telling me that  
8 because her mother told her to leave the house she left  
9 the house?

10

A. I know where you are coming from, but the mother had a 11:46  
11 big input with her. I have been working with her for a  
12 long time. Yes, a big input, aye.

13

336 Q. CHAIRMAN: The other thing I am slightly disturbed  
14 about here is that, people seem to be blaming the  
15 woman? 11:46

16

A. The woman?

17

337 Q. CHAIRMAN: Yes.

18

A. Ah no, I wouldn't blame a --

19

338 Q. CHAIRMAN: I mean, it's been said she had too much to  
20 drink and apparently the idea is she is acting 11:46  
21 irrationally by leaving the house and asking to go to  
22 her mother's, and I can't understand that is -- I mean,  
23 is that a male kind of mindset or --

24

A. Well, no, I couldn't be sexist like that. Now, I  
25 couldn't say nothing about women, blame women for 11:46  
26 anything, you know what I mean. I only had assessed if  
27 both of them had plenty of drink in them that she  
28 seemed to have more drink than him.

29

339 Q. CHAIRMAN: Yes. Thank you very much.

1  
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And, the last matter, Mr. Hartnett, that is on my mind, it's two matters: Is Marisa Simms saying that what she said to the Gardaí in October 2013 is incorrect? I suppose in what respect will become clear, if she is saying that. And, how does she explain withdrawing her statement, which is -- well, it can happen in domestic violence situations, and it can be because nothing ever happened and the statement was made untruthfully, or it can be because it is simply being withdrawn because the relationship is back on an even keel. What are the circumstances under which she withdrew the statement but apparently told the Gardaí that it was true? So those are the things I need to know. So I know that is a lot of questions, so you will have to take your time on that.

MR. HARTNETT: Very good.

CHAIRMAN: Mr. Quinn, thank you very much and we wouldn't mind seeing you at half past one.

THE WITNESS THEN WITHDREW

MR. MCGUINNESS: The next witness, sir, is Garda Ian Oates. His statement is to be found at volume 6, page 1888.

CHAIRMAN: I think it may help everybody if I say I actually don't think Garda Oates did anything wrong. So, I know it's to fill in the details, but for fear that the Gardaí are going to say there was the

1 following number of patrol cars, I think he handled the  
2 situation perfectly. You are still required.  
3 MR. HARTY: If it's of any assistance to the Tribunal,  
4 there isn't any evidence -- sorry, I don't propose to  
5 go into any detail with any of the garda witnesses in 11:48  
6 relation to the matter.  
7 CHAIRMAN: Look, we know what happened, he will  
8 probably tell us what he did in consequence of the  
9 call.  
10  
11 GARDA IAN OATES, HAVING BEEN SWORN, WAS EXAMINED BY  
12 MR. MCGUINNESS AS FOLLOWS:  
13 340 Q. MR. MCGUINNESS: Garda Oates, I think from 2006 to 2014  
14 you were stationed in Letterkenny Garda Station?  
15 A. That's correct, yes. 11:49  
16 341 Q. And I think until your transfer to Muff in 2014 you had  
17 been on duty for approximately two years permanently in  
18 the communications centre in Letterkenny Garda Station?  
19 A. That's correct.  
20 342 Q. And I think you have made a statement at the request of 11:49  
21 the Tribunal to deal with the events of the night of  
22 the 31st of March into the 1st of April 2013?  
23 A. That's correct.  
24 343 Q. And I think you have been able to make the statement in  
25 some detail because of a contemporaneous record you 11:49  
26 made on the night --  
27 A. Yes.  
28 344 Q. -- relating to your dealings while in the  
29 communications centre?

1 A. Yeah, that's correct, yes.

2 345 Q. And I think at approximately 2:30am you received a call  
3 from a man who identified himself as William Bogle?

4 A. That's correct, yes.

5 346 Q. And I think were you present here this morning when 11:50  
6 that call was played?

7 A. No.

8 347 Q. You weren't. All right.

9 A. No.

10 CHAIRMAN: Well, you have heard it, haven't you? 11:50

11 A. I have heard it this morning for the first time, yeah.  
12 I have heard the call.

13 348 Q. MR. MCGUINNESS: You have heard the call?

14 A. This morning, yes, but I didn't hear it --

15 CHAIRMAN: Somebody played it to you outside? 11:50

16 A. Yes.

17 349 Q. MR. MCGUINNESS: In any event, if we turn to page 1890  
18 of the documents, in your statement you say, he seemed  
19 difficult to understand to you, sounded intoxicated.  
20 And I think you recorded the details at the top of page 11:50  
21 1890 in the following terms, correct me if I am  
22 misreading it:

23

24 "The caller was making allegations that Keith Harrison  
25 had kicked his sister, Rita, from out of the house and 11:51  
26 was following her in a car and flashing lights, later  
27 claimed she was assaulted also."

28

29 And you have put a time on that at 2:30am, is that

1 right?

2 A. Yeah, yeah.

3 350 Q. And did you make that entry contemporaneously?

4 A. Yes.

5 351 Q. And you have got an action then by Sergeant Doherty, 11:51  
6 did you alert Sergeant Doherty immediately?

7 A. That was the first call I made after hanging up the  
8 phone.

9 352 Q. Okay. And you say in your statement that you furnished  
10 contact details for Mr. Bogle. Now, you haven't 11:51  
11 recorded them there, but did you get them from the 999  
12 call?

13 A. I would have -- I can't remember off the top of my head  
14 but if his number came up on the screen, if somebody  
15 rings 999 -- 11:52

16 353 Q. Pardon?

17 A. His phone number would have came up on the screen, on  
18 the phone, when he rang.

19 354 Q. Okay.

20 A. That would have been the number I recorded beside his 11:52  
21 name there under the black --

22 355 Q. Your entry then continues then further down the page,  
23 as at "3:05 injured", "IPs" is that meant to be injured  
24 party?

25 A. Yes, it's IPs, injured party. 11:52

26 356 Q. "Correct name is Marisa Simms and is safe with a friend  
27 called Jim Quinn. They are in a car at an unknown  
28 location. BZI27 to call to 19 Castle Grove, Raphoe to  
29 check", is that "with injured party at 3:30pm"?



1 A. Exactly, yes.

2 357 Q. You say in your statement in relation to this:

3

4 "It was later clarified that Mr. Bogle was actually

5 talking about a Marisa Simms --" 11:52

6 A. Yes.

7 358 Q. "-- and at 3:05, I noted the injured party's real name

8 as Marisa Simms." You hadn't picked up that name from

9 the original phone call, had you?

10 A. No. Can you just scroll it down for a second? 11:53

11 359 Q. Yes.

12 A. From the phone call I thought that the injured party's

13 name was -- if you can scroll down there, I can't see

14 it.

15 360 Q. Yes. 11:53

16 A. Because there's a different name given up at the top --

17 361 Q. Yes.

18 A. -- as the initial name that I thought.

19 362 Q. Yes. Can you see the middle of the page there?

20 A. Yes. You see, from the information or from what 11:53

21 Mr. Bogle was telling me, I gathered that Keith

22 Harrison was after kicking William Bogle's sister out

23 of the house, who was Keith Harrison's partner. And I

24 thought at the time from the information I was given

25 that that woman's name was Rita Finn and later on it 11:53

26 was clarified that the injured party's name is not Rita

27 Finn, it's Marisa Simms.

28 363 Q. Yes. Well, did you do that, did you clarify that

29 yourself by listening back to the call that had come in

1 to you?

2 A. No. Aidan Doherty rang me back at some stage, and that  
3 information came from him.

4 364 Q. That information came from him?

5 A. Sergeant Doherty, yes. 11:54

6 365 Q. Okay. Now, you have a note then or you have a  
7 description in your statement saying that "At 3:20am I  
8 noted that Rita McDermott informed Gardaí that Marisa  
9 Simms was at 19 Castle Grove, Raphoe, County Donegal",  
10 is that right? 11:54

11 A. If somebody -- if whoever is controlling, can control  
12 my screen, put it on to the next page.

13 366 Q. The next page, top of 1891.

14 A. There you go, yes.

15 367 Q. Did you receive a call from Rita McDermott? 11:54

16 A. I can't remember, but from reading me notes it looks  
17 like at 3:20 I spoke to Rita McDermott and she stated  
18 that Marisa is in 19 Castle Grove, and I have a phone  
19 number recorded there which would be consistent with --

20 368 Q. I am sorry, just speak to the microphone a little bit 11:55  
21 closer.

22 A. From looking at the notes there, I believe that Rita  
23 McDermott rang me and told me that Marisa is at 19  
24 Castle Grove. And that is the phone number that Rita  
25 McDermott rang from. 11:55

26 369 Q. Okay. You have then got a note, and you say in your  
27 statement "At 3:23 I spoke to John Quinn" and you have  
28 a quote from him there on that page.

29 A. Yes.

1 370 Q. And could you just read that out?  
2 A. "I took her home. Neither of them want to make a  
3 complaint. It's a wild waste of your time."  
4 371 Q. Okay.  
5 CHAIRMAN: Say that again. It's a wild? 11:56  
6 372 Q. MR. MCGUINNESS: "A wild waste of your time," is that  
7 right?  
8 A. Yeah, a wild waste of your time.  
9 373 Q. You have got that in quotes. Now, did you phone him or  
10 did he phone you? 11:56  
11 A. I don't know.  
12 CHAIRMAN: Anyway, one or the other. I don't know if  
13 you had his number.  
14 A. I don't know. I have his number recorded at the bottom  
15 of that sheet, but at 3:23 I don't know if I rang him 11:56  
16 or if he rang me.  
17 374 Q. MR. MCGUINNESS: But did you know Mr. Quinn?  
18 A. No.  
19 375 Q. Okay. And you sent the patrol car out to Castle Grove?  
20 A. That's correct, yeah. 11:56  
21 376 Q. Was that Garda Waters?  
22 A. That was Garda Waters, yes, correct.  
23 377 Q. And you got a report back then from Castle Grove at  
24 3:45?  
25 A. Yeah, that's correct, yeah. He said there's no one 11:57  
26 home, the lights are off, the place is in darkness,  
27 nobody is answering the door.  
28 378 Q. At 3:45 you rang Jim Quinn, is that right?  
29 A. Yes.

1 379 Q. And you spoke to Marisa, is that right?  
2 A. Yes, that's correct.  
3 380 Q. And you have recorded there: "No complaint. Doesn't  
4 want to speak or meet with gardaí tonight. Said she  
5 would chat over the phone tomorrow and gave her name to 11:57  
6 you." Is that right?  
7 A. That's correct, yes.  
8 381 Q. And you have recorded the number there?  
9 A. Yeah.  
10 CHAIRMAN: Sorry, was that Jim Quinn or was that Marisa 11:57  
11 with Jim Quinn or what was --  
12 MR. MCGUINNESS: Well, this is at 3:45, 20 minutes  
13 after Mr. Quinn has said he took her home.  
14 A. Mm-hmm.  
15 382 Q. You phoned Mr. Quinn and he says he is there at 3:45? 11:57  
16 A. Yeah.  
17 383 Q. And you speak to her then on that occasion?  
18 A. At 3:45 I rang Jim Quinn and spoke to him and he says  
19 she is sitting here right beside me and I asked to  
20 speak with her. So he put her on the phone to me. 11:58  
21 384 Q. I am sorry, you have dropped your voice?  
22 A. At 3:45 I rang Jim Quinn, I had a very brief  
23 conversation with him and he said that Marisa is  
24 sitting here beside me, because I was asking him do you  
25 know where she is, he goes 'Yeah, she is here beside 11:58  
26 me, do you want to speak to her? Yes, please.' I  
27 asked could I speak with her and he handed the phone to  
28 her and I spoke with her briefly, and she didn't seem  
29 distressed or anything, she seemed calm enough. She

1 said -- she explained that she didn't want to talk to  
2 the guards tonight, she didn't want to talk to anybody  
3 over the phone and she didn't want the guards calling  
4 out to the house and she said that she would be willing  
5 to speak to somebody tomorrow and I asked her for her 11:58  
6 phone number and that is the number she gave me.  
7 CHAIRMAN: So you gave her a phone number, your phone  
8 number was it?  
9 A. No, no, she gave me her phone number, that is her phone  
10 number. 11:59  
11 CHAIRMAN: I see, I beg your pardon.  
12 385 Q. MR. MCGUINNESS: And certainly she didn't want to speak  
13 to anybody about night, and you made no inquiries of  
14 her as to what had occurred?  
15 A. Sorry? 11:59  
16 386 Q. You made no inquiries from her as to what had occurred,  
17 she didn't want to speak or make a complaint?  
18 A. I didn't go into details about what had been alleged, I  
19 just asked her a number of times was she okay and if  
20 she was sure and did she want to speak to gardaí and 11:59  
21 she made it clear to me, no, she didn't.  
22 387 Q. Okay. And she left it at that, saying she would chat  
23 tomorrow and left her phone number with you?  
24 A. Yeah, exactly, yes.  
25 388 Q. All right. Thank you. Would you answer any questions 11:59  
26 anybody else might have.  
27  
28 GARDA OATES WAS CROSS-EXAMINED BY MR. HARTY:  
29

1 389 Q. MR. HARTY: Just one thing: You didn't call her back  
2 the following day?

3 A. Me, no.

4 CHAIRMAN: There's no questions?

5

11:59

6 GARDA OATES WAS CROSS-EXAMINED BY MR. O'HIGGINS:

7 390 Q. MR. O'HIGGINS: Garda, there's just two matters of  
8 context. You were manning the communications room on  
9 this particular occasion, isn't that so?

10 A. That's correct, yes.

12:00

11 391 Q. Can you just assist the Tribunal, just by way of  
12 background really, in the communications room, what  
13 tasks do you have to deal with and what sort of phone  
14 channels and computer channels do you have to operate?

15 A. There's two -- I have to answer all the 999 calls for  
16 the Donegal division, which is the whole county. I  
17 have to answer all the calls that come into Letterkenny  
18 Garda Station. At that time of the night all the  
19 substations in the Letterkenny district would have  
20 their phones diverted into Letterkenny, so I am  
21 answering a lot of calls. There's two 999 phones, and  
22 two Pulse computers, I am doing all the registration  
23 checks and personal checks for all the men on the  
24 ground, and there's two, what used to be called green  
25 men, now called blue men.

12:00

12:00

12:01

26 CHAIRMAN: Green men?

27 A. Green, yeah.

28 CHAIRMAN: This is where you press a button on a Garda  
29 station that is not occupied at night.

1 A. Yeah, a kind of intercom system, yes.

2 392 Q. MR. O'HIGGINS: It's for an outlying station that is  
3 unmanned or after hours, is it?

4 A. Exactly, yes.

5 393 Q. You mentioned -- 12:01

6 CHAIRMAN: Raphoe is one of those, I think, is it?

7 394 Q. MR. O'HIGGINS: Is it? Can you assist with that? Does  
8 Raphoe have now a blue man channel?

9 CHAIRMAN: It's now a blue man instead of a green man?

10 MR. O'HIGGINS: I understand from Garda Oates -- 12:01

11 CHAIRMAN: Is it a man or woman? Anyway it doesn't  
12 matter.

13 A. There's a blue man in Raphoe, yes.

14 CHAIRMAN: It's Raphoe, is it? Where do they have the  
15 blue men? 12:01

16 A. No, no, I answer all the blue men in the whole --

17 CHAIRMAN: Where are the blue men in Donegal?

18 A. They are at all the substations, Garda stations in the  
19 county, all of them.

20 CHAIRMAN: Yeah, yeah. Is there one in Raphoe, no? 12:01

21 A. I believe so, yes.

22 395 Q. MR. O'HIGGINS: The particular conversation that you  
23 took the notes about came over the dedicated 999  
24 channel, did it?

25 A. Yes, that's correct, yeah. 12:02

26 396 Q. Well, it was recorded, it's 999 calls that are  
27 recorded, is that right?

28 A. Yeah, exactly.

29 397 Q. You had the benefit this morning I think for the first

1 time of listening to that call?

2 A. That's correct, yes.

3 398 Q. Can you assist the Tribunal, was the reception and the  
4 audio quality on what you heard this morning the same  
5 or different to what you experienced live at the scene 12:02  
6 when you were receiving the call?

7 A. What I was experiencing live at the scene, the quality  
8 was a lot -- or the quality of the copy of the tape  
9 that I heard this morning was far better than what I  
10 was listening to live. 12:02

11 CHAIRMAN: Yeah, no, I inferred that you were having  
12 difficulty hearing so --

13 MR. O'HIGGINS: Yes.

14 399 Q. You rang down the matter, after you had received the  
15 call, you rang down the matter to the sergeant below, 12:02  
16 is that right?

17 A. Immediately, yes, yes.

18 400 Q. So you are physically located above him in the  
19 building, in the Garda station?

20 A. That's correct. I am upstairs and he is downstairs in 12:03  
21 the sergeant's office.

22 401 Q. And you rang it down to the sergeant?

23 A. Exactly, yeah.

24 402 Q. And I think in addition to that, in liaising with your  
25 sergeant, you organised for the patrol car to go out to 12:03  
26 an address?

27 A. Yes.

28 403 Q. I see. The notes that have been, Mr. McGuinness has  
29 brought you through in part, that is an RC1 form. RC



1 is radio control, is it?

2 A. Yes, that's correct, yes.

3 404 Q. Could I just ask you, do you have that in front of you  
4 there, it's page 1890 --

5 A. Yes. 12:03

6 405 Q. -- of the materials? I think you have handwritten in  
7 the details in the message box at the top of the front  
8 page of the document, isn't that right?

9 A. That's correct.

10 406 Q. And you might just read that out, down as far as the 12:03  
11 end of that paragraph.

12 A. The first paragraph?

13 CHAIRMAN: Mr. O'Higgins, you are entitled to pursue  
14 this but honestly, I think this was -- I mean, I  
15 couldn't imagine it being done better and if everything 12:03  
16 in the garda was done as well as this, we would be in  
17 great shape altogether, I am sure.

18 MR. O'HIGGINS: May it please you Chairman, I will  
19 leave it at that, thank you.

20 12:04

21 GARDA OATES WAS RE-EXAMINED BY MR. MCGUINNESS:

22 407 Q. MR. MCGUINNESS: Garda, just one matte. I just note  
23 that in the notes you don't refer to Keith Harrison as  
24 a garda or you don't have any address or any location  
25 details. Did you know he was a policeman when you were 12:04  
26 taking the call?

27 A. I knew by the end of the phone call. I think Mr. Bogle  
28 said his name a couple of times but I never twigged who  
29 he was talking about the first time.

1 408 Q. Pardon?  
2 A. I think Mr. Bogle mentioned Garda Harrison a couple of  
3 times during the call, but initially I didn't -- I  
4 didn't twig who he was talking about. It was only  
5 towards the end of the conversation that I knew who he 12:04  
6 was talking about.  
7 409 Q. Okay. Well, was your response affected in any way by  
8 the fact that you knew he was a garda or that you knew  
9 his name?  
10 A. Just, the first, the phone call that I made was to 12:04  
11 Sergeant Doherty.  
12 410 Q. Pardon?  
13 A. The first phone call I made was to Sergeant Doherty to  
14 inform him that there was a call about a member.  
15 411 Q. Okay. Well, were you told or did you learn that they 12:05  
16 subsequently came into the station physically and spoke  
17 with Garda Tina Fowley? Did you know that on the  
18 night?  
19 A. On the night?  
20 412 Q. Yes. 12:05  
21 A. No.  
22 413 Q. Okay. Thank you.  
23  
24 GARDA OATES WAS QUESTIONED BY THE CHAIRMAN  
25 414 Q. CHAIRMAN: Look, this may be relevant, I don't know, 12:05  
26 but you called the sergeant, as you just said to  
27 Mr. McGuinness, because it was an officer in the Garda.  
28 A. Yes.  
29 415 Q. CHAIRMAN: You felt the sergeant should know, I take



1 MR. MCGUINNESS: Thank you, guard.

2

3 THE WITNESS THEN WITHDREW

4

5 MR. MCGUINNESS: The next witness is Sergeant Aidan  
6 Doherty.

12:06

7

8 SERGEANT AIDAN DOHERTY, HAVING BEEN SWORN, WAS EXAMINED  
9 BY MR. MCGUINNESS AS FOLLOWS:

10 423 Q. MR. MCGUINNESS: Sergeant Doherty, I think on the night  
11 of the 31st of March, which was a Sunday, you were the  
12 supervisory sergeant on duty in Letterkenny Garda  
13 Station? 12:07

14 A. That's correct, yes.

15 424 Q. And I think Garda Oates was also on unit D in the  
16 communications centre? 12:07

17 A. That's correct, yes.

18 425 Q. And I think you received a call from Garda Oates at  
19 2:30 in the morning?

20 A. Yeah, approximately 2:30. 12:07

21 426 Q. And I think he told you that he had received a call  
22 from a Mr. Bogle and that he said that Mr. Bogle had  
23 alleged that his niece had been forcibly removed from  
24 her home by her partner, Keith Harrison, a garda  
25 stationed in Donegal town? 12:08

26 A. Yes, that is correct. It's a summary of what Garda  
27 Oates had told me, not his direct words. What happened  
28 was, Garda Oates had told me that the phone call that  
29 he got was quite difficult, very difficult to

1 understand. He told me that William Bogle appeared to  
2 him to be drunk and that he was saying that Garda Keith  
3 Harrison had thrown his partner out of the house.  
4 Garda Oates thought the partner was a sister of the  
5 caller and he named her to me as Rita Finn or Rita 12:08  
6 Simms. Now, at that time I had known or heard, or  
7 believed, that Keith Harrison's partner's name was  
8 Marisa Simms. I asked Garda Oates was the partner's  
9 name -- was Marisa Simms mentioned? I said, I believed  
10 that that was the partner's name. He said that is 12:08  
11 probably what it is. So therefore, after finishing the  
12 conversation with Garda Oates I actually believed that  
13 the context of the call was that Garda Oates -- or  
14 sorry, that Garda Harrison had thrown his partner,  
15 Marisa Simms, from the house and that he was pursuing 12:09  
16 her in a car towards Letterkenny. That is what I  
17 believed after finishing my conversation with Garda  
18 Oates.

19 427 Q. Okay. So you sought to clarify that when he referred  
20 to the sister, Rita? 12:09

21 A. Yes, with Garda Oates, yeah.

22 428 Q. Okay. So, that is how you come to say in your  
23 statement that Garda Oates had identified Marisa Simms  
24 when he spoke to you on the phone?

25 A. That's correct. 12:09

26 429 Q. Okay. And I think he also alleged that Mr. Bogle had  
27 said that Garda Harrison was following her in a car?

28 A. That's correct. At the end of the conversation with  
29 Garda Oates I believed that is what was happening, that

1 is what the call related to; that he was pursuing her  
2 from wherever they were towards Letterkenny in cars.  
3 430 Q. well, did you understand she was out on the road then  
4 on her own, as it were, out away from the outside or  
5 what? 12:10  
6 A. No, what I actually thought at the time was that she  
7 was in one car being pursued in another car by Garda  
8 Harrison, that is what I thought was happening, towards  
9 Letterkenny.  
10 431 Q. I think you phoned, you made a number of phone calls 12:10  
11 and inquiries yourself, is that right?  
12 A. I did, yeah. Garda Oates hadn't got any information in  
13 relation to the cars involved, the car either being  
14 driven by Garda Harrison or which I thought was being  
15 driven by Marisa Simms. He had no idea where the house 12:10  
16 was as well, other than that it was in the vicinity of  
17 Letterkenny as they were driving towards Letterkenny.  
18 So, I rang the number back that I got from Garda Oates  
19 and I spoke with Kerry Bogle. She reaffirmed a similar  
20 story as to what I had heard from Garda Oates in 12:10  
21 relation to the pursuit towards Letterkenny. She  
22 didn't know where they lived, she didn't know whether  
23 they had any vehicles or the types of cars involved. I  
24 asked was there anybody with her that would know where  
25 they lived or what cars they owned. She told me that 12:11  
26 she had tried to make contact with Marisa but that she  
27 couldn't but that her mother, Rita, would know the cars  
28 or know the address. So I got both Marisa's number and  
29 Rita's number from Kerry. I rang Marisa first, there

1 was no reply from the phone. I then rang and spoke  
2 with Rita. I had a brief conversation with Rita  
3 because I was concerned in relation to the initial  
4 call, which was, I thought there was some incident  
5 involving a pursuit towards Letterkenny. A brief 12:11  
6 conversation with Kerry -- or sorry, a brief  
7 conversation with Rita. During that conversation, Rita  
8 was able to tell me where they lived. She was able to  
9 tell me yes, there was an incident took place, that she  
10 was thrown from the house. She described Keith as 12:11  
11 having a problem with alcohol and that this may be  
12 contributing to his behaviour. In relation to the  
13 cars, she was unsure of what type of car Garda Harrison  
14 was driving but she could recall what car Marisa Simms  
15 owned. She also told me in that call that at that 12:12  
16 stage she had just spoken to Marisa earlier and that  
17 she was in the company of Jim Quinn from Buncrana and  
18 that they were going to her own house in Raphoe. She  
19 herself wasn't in the county, she just described  
20 herself as being down the country and she didn't close 12:12  
21 to me where.

22 432 Q. Can I ask you a number of questions arising out of  
23 that? Did you phone Rita McDermott from your own phone  
24 or from --

25 A. I phoned her from the station phone. 12:12

26 433 Q. From the station phone.

27 A. Yeah.

28 434 Q. And there's no recording of that available, is there?

29 A. I don't know is the answer to that. I don't think

1           there is. I don't think the internal lines are called,  
2           it was just the telephone in the sergeant's office.

3 435 Q.    And can I ask you this question: When you phoned Rita  
4           McDermott, did you only speak to her once that evening?

5           A.    Did I only speak to her once? I think I only spoke           12:13  
6           with her once, yeah. I think I instructed Garda Oates  
7           or asked Garda Oates maybe to contact her at another  
8           stage. After that call, we would have left -- I left  
9           the station to go to look for them.

10 436 Q.   Can you help us with the time, because you are           12:13  
11           reporting in your evidence that Rita was able to tell  
12           you what she said had happened but also that Jim Quinn  
13           had arrived and was taking, or had taken, her home, is  
14           that right?

15           A.    Was, was in the process of taking her to Raphoe.           12:13

16 437 Q.    Did she say who had phoned Jim Quinn?

17           A.    No. In relation to Jim Quinn, I asked what was the  
18           relationship there and she described Jim Quinn as being  
19           a friend of Garda Harrison's.

20 438 Q.    Okay. In any event, did you --           12:13  
21           CHAIRMAN: A friend of Garda Harrison?

22           A.    That is what she described to me, not her friend, that  
23           he was a friend of Garda Harrison's.

24 439 Q.    MR. MCGUINNESS: You were unable to speak to Marisa but  
25           you spoke to Rita, as you have described, and did you           12:14  
26           decide then to go out to the address in Churchill?

27           A.    Yeah - well, what we actually decided to do was to  
28           actually go and have a look in case there was any  
29           pursuit of any vehicles that went in towards the road,



1 going towards the general direction where Rita had  
2 described that Garda Keith Harrison and Marisa Simms  
3 lived, so, yeah, we made our way out to the house.  
4 440 Q. And I think while you were there did you get a call  
5 from Garda Oates? 12:14  
6 A. Yeah, while I was there I got a call from Garda Oates.  
7 I mean, my primary concern at the time was the safety  
8 of Ms. Simms, so I was trying to get to a situation  
9 where some member could speak to Marisa Simms to ensure  
10 that she was safe. So I remember when we went out to 12:14  
11 the house, the house was all lit up. There was two  
12 cars out the front, which we believed to be Garda  
13 Harrison's and Ms. Simms'. The curtains was open  
14 downstairs in most of the rooms, to the best of my  
15 recollection. There didn't seem to be any movement in 12:15  
16 the house, so there was either nobody there, we  
17 thought, or they were actually in bed. So we waited  
18 across the road from the house for a considerable time,  
19 I would say possibly ten minutes or so. I got back on  
20 to Garda Oates to see was there any update. I asked 12:15  
21 him to ring Ms. McDermott, Rita McDermott, to find out  
22 had she heard any update because at this stage we still  
23 didn't know where Marisa was. Ian did get in contact  
24 with Rita McDermott then and she said, yeah, they are  
25 at the house in Raphoe, the home house in Raphoe. So I 12:15  
26 asked Ian then to get on to the car in Raphoe and ask  
27 them to call to the house to see was she okay. Now, we  
28 were waiting, I think that is what probably delayed us  
29 there, we were waiting on a response back from the

1 Raphoe car at that stage, and eventually we didn't get  
2 a response so I remember actually picking up my own  
3 mobile phone and ringing Eoin Waters, Garda Eoin  
4 Waters, who I knew was on duty in the Raphoe car at  
5 that time, and I asked him to call to the house to see 12:16  
6 was she there. And he said, 'yes, we have patrolled  
7 the area and we've been at the house, the house is in  
8 darkness and there doesn't seem to be anybody home'.  
9 So we sat a wee bit longer, and I got another call  
10 then, heard from Garda Oates that he had spoken with 12:16  
11 Jim Quinn and Marisa and that he was satisfied that she  
12 was safe and well. So, at that, we left, we went back  
13 to Letterkenny, and that was basically my dealings with  
14 it.

15 441 Q. One question that puzzles me: why didn't you go and 12:16  
16 knock on the door to see whether Marisa Simms was in  
17 the house or Garda Harrison was in the house or whether  
18 there was anyone in the house?

19 A. Why we didn't was because with my conversation with  
20 Rita McDermott, she says that she was in the company of 12:17  
21 Jim Quinn and that they were going towards -- or going  
22 to their home, the family home in Raphoe, so at that  
23 stage when I was there, I actually -- I didn't believe  
24 that Marisa was in the house. If it was a case where  
25 we actually thought she was in the house at that stage, 12:17  
26 we would have called.

27 442 Q. You thought she was away?

28 A. We thought she was away, en route --

29 443 Q. You knew she was in somebody else's company?

1 A. Yeah, in the company of Jim Quinn, yeah, en route to  
2 Raphoe, that is what we thought at the time.

3 444 Q. And were you informed by Garda Oates then that he had  
4 made contact with Mr. Quinn and had actually then  
5 spoken with Marisa Simms? 12:17

6 A. Yes, that's correct, and that she was safe and well.  
7 She didn't wish to have any Garda involvement and  
8 didn't want to speak with guards, so therefore we left  
9 it that night.

10 445 Q. Well, did he tell you that she may speak -- she might 12:17  
11 speak with him tomorrow or that he took his number?

12 A. I don't remember that, I don't remember the exact  
13 details, whether there was any specifics. Where the  
14 incident occurred in Churchill was not in the  
15 Letterkenny district, it was outside our district, so 12:18  
16 the matter would have been referred to Milford district  
17 to make any follow-up inquiries.

18 CHAIRMAN: I am sorry to interrupt, but how far from  
19 Letterkenny is it?

20 A. I would say it's probably from the, from the -- where 12:18  
21 it is, it's probably somewhere between a mile and two  
22 mile from the Letterkenny sub-district.

23 CHAIRMAN: But is it in the countryside, is it, or --

24 A. Yeah, it's in the countryside, yeah.

25 CHAIRMAN: Is it beyond the graveyard or that 12:18  
26 direction, or where?

27 A. Out that way past Conal's cemetery.

28 CHAIRMAN: So it's about two miles out that direction?

29 A. Oh, it would be longer than two. It's about two mile

1 from the end of the Letterkenny district borderline.  
2 CHAIRMAN: Oh, I see. So from the cathedral in  
3 Letterkenny out to there?  
4 A. It's probably about a 20-minute drive.  
5 CHAIRMAN: Okay. So, 10/15 miles, something like that? 12:18  
6 A. Something like that, something like that, sir.  
7 446 Q. MR. MCGUINNESS: And this isn't a criticism of you, but  
8 you neither spoke to Garda Harrison, whose house you  
9 went out to?  
10 A. No. 12:19  
11 447 Q. Nor did you speak to Marisa Simms directly herself?  
12 A. No, I didn't. And the reason, as I say, I didn't is  
13 because the incident didn't emanate from the  
14 Letterkenny district. It was in Milford district. I  
15 did do a follow-up report on it based on the call being 12:19  
16 made and sent it out to Milford for their attention and  
17 investigation.  
18 448 Q. You certainly, you wrote a report dated 2nd of April,  
19 which is at page 1032, which you sent to your own  
20 superintendent for onward transmission, is that right? 12:19  
21 A. That's correct. That is the appropriate channels.  
22 449 Q. Was that the only dealing you had in relation to --  
23 A. That was the only dealing I had with this incident.  
24 MR. MCGUINNESS: Thank you.  
25 12:19  
26 THE WITNESS WAS CROSS-EXAMINED BY MR. HARTY:  
27  
28 450 Q. MR. HARTY: Sergeant Doherty, just a couple of brief  
29 questions. Firstly, after you filed that report in

1 which you were -- it was -- you reported to the  
2 superintendent in Letterkenny, to be forwarded onward  
3 to Milford, would that be correct?

4 A. That's correct, yes.

5 451 Q. And you heard nothing more in relation to it? 12:20

6 A. I heard nothing more.

7 452 Q. Just one brief question. You say that you corrected  
8 Garda Oates as to Marisa Simms' name?

9 A. I didn't correct him; I said to him that I was of the  
10 opinion and that I believed that Keith Harrison's 12:20  
11 partner's name was Marisa Simms and not Rita Simm or  
12 Rita Finn, as he had suggested.

13 453 Q. How did you know that?

14 A. I knew that -- I suppose I knew that because when Keith  
15 was transferred to Donegal Town, I had heard the 12:20  
16 reasons that he was transferred. I heard that he was  
17 transferred because that he was going out with a  
18 brother -- or a sister of Marty McDermott's. And I  
19 heard in the station, I suppose being inquisitive in  
20 nature, maybe asked what her name was, but I did hear 12:20  
21 in the station that her name was Marisa Simms.

22 454 Q. So just in relation to that, that story of the transfer  
23 from -- to Donegal Town, was common currency in  
24 Letterkenny Garda Station anyway?

25 A. Not common currency. It was spoken about, yes, it was 12:21  
26 spoken about in the station, yes.

27 MR. HARTY: Thank you very much, Sergeant Doherty.

28 CHAIRMAN: Thanks, sergeant.

29

1 THE WITNESS WAS CROSS-EXAMINED BY MR. DOCKERY:

2

3 455 Q. MR. DOCKERY: Sergeant Doherty, if I could just ask you  
4 a question. I represent a number of your colleagues  
5 here, including Inspector Goretta Sheridan and Sergeant 12:21  
6 Brigid McGowan, who took a statement from Marisa Simms  
7 on the 6th of October 2013 at Letterkenny station, all  
8 right? And in the course of that statement of the 6th  
9 of October, Ms. Simms appears to have given a version  
10 of what occurred on this evening, which contradicts in 12:21  
11 some important respects the account which the Tribunal  
12 has heard this morning from Mr. Quinn, do you follow  
13 me? And in that context, I just want to ask you about  
14 this: that in a statement that you prepared for the  
15 Tribunal on the 27th of April last, on the first page 12:22  
16 of it at page 1029, I think you observed that, acting  
17 on the information you had received from Garda Oates -  
18 this is towards the bottom of that page, 1029 - that  
19 acting on the information you received from Garda  
20 Oates, that you telephoned the number initially 12:22  
21 provided by William Bogle and spoke to a female who  
22 identified herself as Kerry Bogle, isn't that right?

23 A. That's correct.

24 456 Q. So as well as phoning Rita McDermott at some stage, you  
25 also spoke with Kerry Bogle. 12:22

26

27 "Ms. Bogle told me that she was a cousin of Marisa  
28 Simms and that she had received a phone call from her.  
29 During the course of the call Marisa told her that she

1 had been forcibly removed from her home by her partner  
2 Keith Harrison and that he was pursuing her in a  
3 vehicle in and around Letterkenny."  
4

5 So I take that to be you recounting the fact that you 12:23  
6 had been told by Kerry Bogle that Marisa had just told  
7 her that earlier?

8 A. Yes, that was my understanding at the time, that she  
9 had received a call from her cousin, Marisa Simms.  
10 Since -- I suppose I can accept that it was possibly my 12:23  
11 mistake on that behalf and it may have come from Rita  
12 McDermott and not her cousin.

13 457 Q. You are saying you have possibly made a mistake in your  
14 statement, that it was Rita who told you that and not  
15 Kerry Bogle? 12:23

16 A. There is that possibility. At the time, the way the  
17 call came in, based on my first conversation with Garda  
18 Oates, he was referring to Keith's partner as being  
19 Rita. I made the assumption then, possibly in my own  
20 head, that when he was talking about Rita, what he 12:24  
21 actually meant to be saying was Marisa and it was  
22 Marisa made the call, and that probably followed on  
23 through then when I was talking with Kerry.

24 CHAIRMAN: No, I can understand. What you were  
25 interested in was the information, I presume. 12:24

26 MR. DOCKERY: Yes.

27 458 Q. Do I understand you to be saying that, whether or  
28 which, whether it was Rita or Kerry Bogle to whom  
29 Marisa was speaking, Marisa had conveyed the

1 information to them that she had been forcibly removed  
2 from the house?

3 A. That's correct, yes.

4 459 Q. And I think Rita McDermott told you that Marisa had  
5 spoken with her moments before you were talking with  
6 Rita McDermott and that Marisa was in a distressed  
7 state, isn't that so?

12:24

8 A. That's correct, yes.

9 460 Q. And that Jim Quinn was a friend of Garda Harrison?

10 A. That's correct, yes.

12:24

11 MR. DOCKERY: Thank you.

12 MR. DIGNAM: I have no questions, Chairman.

13

14 THE WITNESS WAS RE-EXAMINED BY MR. MCGUINNESS:

15

12:24

16 461 Q. MR. MCGUINNESS: Just one question to clarify that.  
17 Garda Oates said that when he contacted you, he gave  
18 you details of Mr. Bogle's number?

19 A. That's correct, yes.

20 462 Q. So the first person whom you could have phoned that  
21 night was Mr. Bogle, who was with Kerry Bogle?

12:25

22 A. Yes, that is the only number I rang, was the number  
23 that the call came in on. That was the number that I  
24 rang back, that I got from Garda Oates. It just  
25 happened that it was Kerry answered the phone, but that  
26 is the number --

12:25

27 463 Q. So you spoke to Kerry before you spoke to Rita because  
28 you got Rita's phone number and Marisa's phone number  
29 from Kerry Bogle?



1 A. That's correct.

2 464 Q. So the account of being, as it were, kicked out of the  
3 house first came to you in a phone call from Kerry  
4 Bogle?

5 A. It first came to me from Garda Oates, and then when I 12:25  
6 spoke with Kerry Bogle it was the same, yes.

7 MR. MCGUINNESS: Thank you.

8

9 THE WITNESS WAS QUESTIONED BY THE CHAIRMAN:

10 12:25

11 465 Q. CHAIRMAN: Sergeant, how long have you served in the  
12 gardaí?

13 A. 21 years.

14 466 Q. CHAIRMAN: Yes. And have you been mostly in Donegal?  
15 A. No, mostly in Dublin. 12:26

16 467 Q. CHAIRMAN: And are you a Donegal man?  
17 A. I am from Donegal, yes. I am from Buncrana.

18 468 Q. CHAIRMAN: Look, I suppose the gardaí would have as  
19 much chance of having domestic rows or marital  
20 difficulties, or anything like that, as anybody else, 12:26  
21 so it would be fair to say that. I am not sure you are  
22 disagreeing with me?

23 A. I have never attended one before, I have never been  
24 called to one before.

25 469 Q. CHAIRMAN: Yes. But vis-a-vis relatives of a domestic 12:26  
26 partner of a garda ringing in on a 999 call, had you  
27 come across that before, to say, look, the garda is  
28 misbehaving? whether that is true or not, I have no  
29 idea.

1 A. I haven't personally, no.

2 CHAIRMAN: You haven't. All right. Thank you.

3

4 THE WITNESS THEN WITHDREW

5

6 CHAIRMAN: Will we take a break? That is unless there  
7 is somebody who is very short?

8 MR. MCGUINNESS: It's very short. It's the final  
9 witness, Garda Eoin Waters.

10 CHAIRMAN: Is this the final witness today?

11 MR. MCGUINNESS: Yes. Well, apart from Mr. Quinn.

12

13

14 GARDA EOIN WATERS, HAVING BEEN SWORN, WAS DIRECTLY

15 EXAMINED BY MR. MCGUINNESS:

16

17 CHAIRMAN: Unless there is something contentious,  
18 Mr. McGuinness, I suppose you could rattle through the  
19 main points of this.

20 MR. MCGUINNESS: Yes, we will get to the point,  
21 Chairman. Thank you.

22 470 Q. I think you were on duty on the 1st of April 2013 at  
23 Raphoe Garda Station when you were contacted by  
24 Sergeant Doherty, the previous witness?

25 A. That's correct.

26 471 Q. And did he provide you with an address and direct you  
27 to go to the vicinity of Rita McDermott's house in  
28 Raphoe?

29 A. That's correct. I was made aware of an alleged

1 domestic incident that had occurred, and Sergeant  
2 Doherty requested that I attend to Castlegrove, which I  
3 did so. I called to Castlegrove. There was no answer  
4 at the house, the house was in darkness, and, Judge, I  
5 relayed my findings back to Communications and Sergeant 12:28  
6 Doherty on his mobile.

7 472 Q. Okay. And have you any record of what time that was  
8 at?

9 A. No, as relayed back to Communications, I didn't take  
10 any note of my findings. 12:28

11 473 Q. Okay. I think the only other dealing you had was in  
12 relation to Marisa Simms' phone in October of 2013?

13 A. That's correct.

14 474 Q. And can you tell the Tribunal about that?

15 A. Just, I am a trained XRY mobile phone downloader, 12:28  
16 Judge; basically, that I download phones for incidents,  
17 criminal incidents for the Garda Síochána. I have  
18 trained for the last nine years. On the date in  
19 October, I think it was the 9th of October, I was  
20 downloading phones in the station in Letterkenny and 12:29  
21 Inspector Sheridan requested that I downloaded a phone  
22 she had in her possession belonging to Marisa Simms.  
23 The request was made that the voicemail be downloaded.  
24 My colleague, Garda Maguire, also a trained XRY  
25 operator, had the main download carried out. I 12:29  
26 retrieved a dictaphone and I carried out the download  
27 of the voicemail onto a dictaphone. I handed the copy  
28 of the tape as a result to Inspector Sheridan and  
29 returned the phone back to Marisa Simms.

1 475 Q. Was Marisa Simms in Letterkenny Garda Station?  
2 A. Yes, in the station, yeah, in the foyer of the station.  
3 476 Q. On that day?  
4 A. On that day.  
5 477 Q. Waiting for her phone to be returned to her? 12:29  
6 A. I don't know if she was waiting for the phone but she  
7 was in the station that day.  
8 478 Q. Okay. And you did return the phone to her?  
9 A. Yeah, I handed it to Marisa in the foyer of the  
10 station. 12:29  
11 479 Q. But Garda Maguire was also in the station with you?  
12 A. No, not at that time.  
13 480 Q. Not at that time. But were you given by the phone by  
14 Inspector Sheridan?  
15 A. Correct. 12:29  
16 481 Q. And did you understand it to be Marisa Simms' phone?  
17 A. Marisa Simms' phone, correct.  
18 482 Q. And did you -- were you told by Inspector Sheridan that  
19 the texts had been downloaded already by Garda Maguire?  
20 A. That's correct, I was made aware that Garda Maguire had 12:30  
21 the original download carried out and my purpose was to  
22 carry out the voicemail, just the transcript.  
23 483 Q. Your task was limited then to recording the rest of the  
24 voicemails?  
25 A. The voicemail off the phone, onto a dictaphone, 12:30  
26 correct, onto a tape.  
27 484 Q. You did that onto a simple dictaphone?  
28 A. A dictaphone, onto a tape, yeah.  
29 485 Q. By audio means rather than by any connection?

1 A. That's correct. There was no XRY machine used in the  
2 end, actually. I didn't use the XRY machine in the end  
3 at all. I just accessed the voicemail, played the  
4 voicemail beside the dictaphone, and that was my  
5 duties. 12:30

6 486 Q. Okay. And did you listen to the voicemail or take any  
7 note of it or prepare a transcript of it yourself?

8 A. No.

9 487 Q. At the time?

10 A. No. 12:30

11 488 Q. And did you hand the tape to Inspector Sheridan?

12 A. That's correct.

13 489 Q. And did you return -- you returned the phone then to --

14 A. Ms. Simms.

15 490 Q. -- Ms. Simms. As directed by? 12:30

16 A. By Inspector Sheridan.

17 491 Q. By Inspector Sheridan.

18 CHAIRMAN: Again, it is my fault, but do we have a  
19 transcript of that in the materials?

20 MR. MCGUINNESS: Of the voicemails? 12:31

21 CHAIRMAN: Yes, the voicemails.

22 MR. MCGUINNESS: Yes, we do.

23 CHAIRMAN: We do. Maybe you would tell me at some  
24 stage.

25 MR. MCGUINNESS: Yes. This witness, I think, had no 12:31  
26 hand, act or part in preparing that, is that right?

27 CHAIRMAN: No, but the result of it was that it was  
28 transcribed. Did we transcribe it or the -- I don't  
29 know. Anyway, we have listened to it.

1 MR. MCGUINNESS: We have done a transcript ourselves,  
2 but it was otherwise transcribed.

3 CHAIRMAN: And then the text messages, they are also in  
4 the materials?

5 MR. MCGUINNESS: Yes, they have been given to us on 12:31  
6 disks and the relevant ones furnished in the books of  
7 documents.  
8 would you answer any questions anyone may have.  
9

10 THE WITNESS WAS CROSS-EXAMINED BY MR. HARTY: 12:31  
11

12 492 Q. MR. HARTY: I have one or two brief questions, Garda  
13 waters. Just in relation to that, you were -- and it's  
14 just the recording; I am correct in saying that you  
15 were to access the mailbox of the phone and record 12:32  
16 voicemails from Keith Harrison, is that correct?

17 A. No, in relation to the phone, the phone itself, not in  
18 relation to Keith Harrison. Whatever voicemails are on  
19 the phone and to put them onto a tape.

20 493 Q. It's just that you say in your statement: "I recall at 12:32  
21 Letterkenny Garda Station I accessed the mailbox of  
22 this phone and recorded voicemails from Keith Harrison,  
23 which was sought by Inspector Sheridan."

24 A. From what I recall, the only voicemail that was there  
25 was voicemails from Keith Harrison. 12:32

26 494 Q. That is what you recall?

27 A. That is from my recall, yes.

28 495 Q. Were you told the identity of who you were to record  
29 voicemails?

1 A. I don't recall, I don't recall. But I was aware what  
2 was investigated, so I assumed it was in relation to  
3 Garda Harrison.

4 496 Q. You were aware what was being investigated?

5 A. Investigated, yes. 12:32

6 497 Q. And in relation to, why did you make no notes?

7 CHAIRMAN: Sorry, just hang on. Just in relation to  
8 that question, Mr. Harty. So you weren't actually --  
9 there was no messages from, say, her mother or her  
10 sister? 12:33

11 A. No.

12 CHAIRMAN: There was only Keith Harrison on --

13 A. As far as I recall, it was just messages from Keith  
14 Harrison. In relation to the notes, as I said, my  
15 colleague, Garda Maguire, had carried out the main XRY 12:33  
16 on the mobile phone. I happened to be doing phones on  
17 that day that Inspector Sheridan happened to squad me  
18 doing the phones. I assume that is why she asked me to  
19 do the -- and I have no note --

20 498 Q. MR. HARTY: But if there had been a situation whereby 12:33  
21 there had been a criminal investigation, surely you  
22 ought to have taken notes?

23 A. Ordinarily, yes. Ordinarily, yes.

24 499 Q. Because you were the person who --

25 A. Carried out the main XRY download, yes. 12:33

26 500 Q. And I am not suggesting that anything wrong was done,  
27 but it is possible that somebody could record only  
28 portions of a phone, for example. So therefore, your  
29 evidence is important in terms of any criminal

1 investigation, that it would be properly done, and you  
2 ought to have taken notes, isn't that correct?  
3 A. Ordinarily, I would have taken notes, yes.  
4 501 Q. So why didn't you take notes?  
5 A. I don't recall. I don't recall why I took no notes on 12:33  
6 the day.  
7 MR. HARTY: That's fine. Thank you, Garda.  
8 CHAIRMAN: Is there any questions? No?  
9 MR. O'HIGGINS: No questions.  
10 12:34  
11 THE WITNESS WAS QUESTIONED BY THE CHAIRMAN:  
12  
13 502 Q. CHAIRMAN: And I presume you were using a digital  
14 system; that the device you had wasn't one of the old  
15 ones with a little tape inside it? 12:34  
16 A. Old-style dictaphone. That's it, yeah.  
17 503 Q. CHAIRMAN: well, I think probably you used the tape  
18 because then it's verifiable?  
19 A. That is it, and you would know and it was my  
20 physical -- 12:34  
21 504 Q. CHAIRMAN: There is a physical copy?  
22 A. Yeah, a physical copy of it carried out, yes.  
23 505 Q. CHAIRMAN: with digital -- well, you can have  
24 allegations certainly of interference --  
25 A. You can adapt it or alter it. But this you can't. 12:34  
26 It's a physical copy that I carried out myself.  
27 506 Q. CHAIRMAN: Yes. And then you would keep that in an  
28 envelope?  
29 A. well, I handed it back to Inspector Sheridan.



1 507 Q. CHAIRMAN: Yes, as an exhibit?

2 A. An exhibit, correct.

3 508 Q. CHAIRMAN: If necessary as an exhibit?

4 A. An exhibit.

5

6 MR. HARTY: Sorry, Chairman, I do want to make it  
7 clear, I was not making any suggestion that there was  
8 any improper --

9 CHAIRMAN: No, no, no, and I am not taking you as  
10 saying that, Mr. Harty. I was just wondering how it  
11 was done. Everyone was on to digital at that stage,  
12 but presumably the reason for using tape was for  
13 verifiability. Okay. So it's twenty to two, please.  
14 Thank you.

15 THE HEARING ADJOURNED FOR LUNCH

16

17 THE HEARING RESUMED, AS FOLLOWS, AFTER LUNCH:

18 CHAIRMAN: So, Mr. Hartnett, do you think you need to  
19 ask Mr. Quinn any questions?

20 MR. HARTNETT: Yes, I will ask him some few questions.

21 CHAIRMAN: Thank you.

22

23 MR. JAMES QUINN, HAVING BEEN PREVIOUSLY SWORN, WAS

24 RECALLED AND CROSS-EXAMINED BY MR. HARTNETT:

25

26 509 Q. MR. HARTNETT: Mr. Quinn, I appear on behalf of Marisa  
27 Simms. You can see me back here? Very good. Do you  
28 think your memory of that evening is quite accurate?

29 A. Could you repeat that question, please?

1 510 Q. Do you think your memory of that evening is fully  
2 accurate?  
3 A. Yes.

4 511 Q. And do you say that it was Keith Harrison who phoned  
5 you? 13:42  
6 A. Yes.

7 512 Q. Can I suggest to you that, in fact, it was Marisa  
8 Simms?  
9 A. Not to my knowledge now. I 100 percent believe it was  
10 Keith Harrison phoned now. 13:42  
11 513 Q. Were you friendly with Marisa Simms?  
12 A. Very friendly.

13 514 Q. And were you friendly with Keith Harrison?  
14 A. I wouldn't say -- no, friendly, no. In a professional  
15 capacity, you know, working, bit of counselling, bit of 13:42  
16 advice, nothing personal.

17 515 Q. You see, I am going to suggest to you that it was, in  
18 fact, Marisa Simms who phoned you?  
19 A. No, I wouldn't -- well, no, I'm only saying now what I  
20 said. I said it was Keith Harrison phoned me. 13:43  
21 516 Q. I see. well, I am suggesting to you that, in fact, she  
22 phoned you, and you went to the house and she had a  
23 conversation with you outside in your car?  
24 A. Not to my recall, no.

25 517 Q. In which you discussed certain personal things, which 13:43  
26 we don't need to go into, about Keith Harrison?  
27 A. No, I wouldn't agree with that, no.

28 518 Q. You wouldn't. And that subsequently she phoned you,  
29 that is later in the evening, she phoned you and asked

1 for you to bring her to her mother's house?

2 A. No, not to my -- not to my memory anyway. The story  
3 was, Keith Harrison phoned me.

4 CHAIRMAN: I'm sorry, Mr. Hartnett, I may be getting  
5 this wrong, but just for fear I'm going to get a detail 13:43  
6 badly wrong, are you saying there was two trips by  
7 Mr. Quinn to the house?

8 MR. HARTNETT: Yes.

9 CHAIRMAN: Okay. So do you get that?

10 A. Yes, your Honour, I do get it. But there was only trip 13:43  
11 by me now. I've no reason to tell any other story.

12 519 Q. MR. HARTNETT: I'm just wondering, might you be  
13 mistaken?

14 A. No, not to my experience, no, I'm not mistaken.

15 520 Q. Because of the length of time between the event and 13:44  
16 today?

17 A. No, I went the one drive out to Churchill and no other  
18 drive.

19 521 Q. You see, you make a comment about Marisa having drink  
20 taken? 13:44

21 A. Well, both of them had drink taken. I just didn't pick  
22 on Marisa. Both had drink taken.

23 522 Q. Well, both had had a couple of drinks, and that was  
24 known to you, isn't that right?

25 A. Pardon? 13:44

26 523 Q. That was known to you?

27 A. Oh, I'll explain something to you; aye, it was known  
28 that they both had drink taken.

29 524 Q. You see, you seem to be suggesting that Marisa had more

1 drink taken by -- than Keith?

2 A. I know you said this earlier on. I wouldn't say that I  
3 suggested that Marisa had more drink taken; it's when  
4 she got up to make the tea, she came back down. Now,  
5 that may not be the -- that's what I thought, assumed. 13:45  
6 That I had no -- I'd nothing to check which one had  
7 more drink taken.

8 525 Q. Well, she was sitting in a low chair, is that correct?

9 A. Yes, she was sitting on a chair on the left-hand side  
10 as you go in the door. 13:45

11 526 Q. And she went to get up and --

12 A. Just like that there and kind of went back down  
13 [INDICATING]. Like, it could happen to me sitting  
14 here.

15 527 Q. Well, exactly. So that really doesn't suggest that she 13:45  
16 had more drink taken than anybody else, does it?

17 A. Both them --

18 528 Q. In fairness, in fairness, Mr. Quinn, in fairness to  
19 her, it does not suggest that she had more drink taken  
20 than, for instance, Mr. Harrison? 13:45

21 A. The only reason that I could confirm the suggestion  
22 that I made was that she told me in the car that they  
23 had both indulged alcohol.

24 529 Q. Yes.

25 A. Now, that's coming from her word. 13:46

26 530 Q. Yes.

27 A. And I can't make that up. That came from her word,  
28 Marisa Simms' word: we both had too much drinking.  
29 You know, that's not me.

1 CHAIRMAN: No, it was clearly said this morning,  
2 Mr. Quinn, that is why I asked you the question, that  
3 she was the one who had most drink taken.

4 A. Yes.

5 CHAIRMAN: That was why I asked you this thing about 13:46  
6 the domestic row.

7 A. Yes.

8 CHAIRMAN: Is this a case of a woman being blamed, so  
9 that's why Mr. Hartnett is asking you that question.

10 A. Sorry about that. No, I'm not suggesting that. I'm 13:46  
11 just saying both of them had drink. Marisa went to get  
12 up and came back down.

13 531 Q. MR. HARTNETT: There was no doubt about it, both of them  
14 had had a few drinks, isn't that right?

15 A. Yes, both of them had drink, that's correct. 13:46

16 532 Q. You don't approve of drink, however?

17 A. Pardon?

18 533 Q. You don't approve of drink?

19 A. No, I wouldn't agree with you there. No, I'm a pioneer  
20 from when I was born. It's not that I don't agree with 13:46  
21 drink. Drink causes a lot of problems and I counsel  
22 most people with drink problems, so that's why -- no, I  
23 can't say I don't agree with drink. A drink in  
24 moderation is grand, a couple of pints.

25 534 Q. A couple of pints. Well, do you disapprove of women 13:47  
26 drinking?

27 A. No.

28 535 Q. Are you sure of that?

29 A. No, I wouldn't, because my sisters drink.

1 536 Q. I'm sorry?

2 A. My sisters drink.

3 537 Q. Well, that doesn't stop you disapproving?

4 A. And a lot of my friends drink. But no, I don't  
5 disagree with drink.

13:47

6 538 Q. I see. That's all I wish to put to this witness.

7 A. Thanks.

8

9 THE WITNESS WAS QUESTIONED BY THE CHAIRMAN:

10

13:47

11 539 Q. CHAIRMAN: Mr. Quinn, is there any prospect of you  
12 being wrong about any of this? I mean, I am hearing a  
13 lot of things and, frankly, a lot of it is not making a  
14 great deal of sense.

15 A. Frankly, your Honour, when I swore in this morning, I  
16 told --

13:47

17 540 Q. CHAIRMAN: I know that.

18 A. I told what I seen and what I hear.

19 541 Q. CHAIRMAN: Mr. Quinn, it's clear that you are a person  
20 who I respect. I mean, you have done great work and  
21 you have probably saved a lot of people from killing  
22 themselves, but that's neither here nor there.

13:47

23 A. And I also work with the guards, too.

24 542 Q. CHAIRMAN: No, I know you do, I know you do, Mr. Quinn,  
25 and I think you're a great man, but that is neither  
26 here nor there. I mean, I am now being told there was  
27 two trips out to the house.

13:48

28 A. No.

29 CHAIRMAN: I have a different account from Marisa Simms

1 in her statement as to what was said.

2 A. I only made one trip, your Honour.

3 CHAIRMAN: I have kind of a statement that it was an  
4 anodyne row, which is, in other words, an everyday kind  
5 of row, which is what you said, a domestic, which is 13:48  
6 coming from Garda Harrison; and then I have a situation  
7 where a woman apparently this morning was blamed for  
8 having too much to drink, and I have a situation where  
9 a grown woman, who is a professional woman with two  
10 kids, on her mother's direction apparently, according 13:48  
11 to you, goes off to her house in Raphoe, which is a  
12 good half an hour's drive away, even though there  
13 doesn't seem to be a single reason for it. If you were  
14 listening to all that I'd say, you would be confused.

15 A. Well -- 13:49

16 543 Q. CHAIRMAN: So I'm wondering how accurate you are, and  
17 I'm not accusing you of lying, Mr. Quinn. I am just  
18 wondering.

19 A. No, your Honour. I know, with respect, you have to ask  
20 the question. In my honest opinion now, and I heal 13:49  
21 through Padre Pio, and I put my hand up to God, I told  
22 this folk, and they can interrogate me if they want, I  
23 told the truth what happened. I don't gain nothing  
24 this day, your Honour. I swear on Padre Pio's oath  
25 that I did not lie. 13:49

26 544 Q. CHAIRMAN: I mean, all of that is fine. The truth is  
27 the truth.

28 A. I can't go back on that truth.

29 545 Q. CHAIRMAN: No. And there's no need, indeed, even to

1 swear.

2 A. If I was to change my story now, it would make me a  
3 liar, which I'm not.

4 546 Q. CHAIRMAN: No, I'm not asking you to change your story.  
5 I mean, the other thing that is said, as well, is that 13:49  
6 you're a close friend of Keith Harrison and not of  
7 Marisa Simms.

8 A. No, no, no, I was a close friend of Marisa Simms and  
9 not Keith Harrison.

10 CHAIRMAN: Are you a close friend of Mr. Harrison now, 13:49  
11 Garda Harrison?

12 A. No, I would not say -- although if I had a problem, say  
13 I had a problem, some young boy taking drugs, or  
14 something, I would ring him maybe to see what he would  
15 recommend, but I haven't done that in ages. 13:50

16 547 Q. CHAIRMAN: Well, if you just step back from this for a  
17 minute and look at it like as if you are on the top of  
18 a mountain looking down, if you know what I mean?

19 A. Yes.

20 548 Q. CHAIRMAN: I mean, what I have been told today is, 13:50  
21 Marisa Simms is the one who had too much to drink. She  
22 went to get up to make the tea, and she dropped back  
23 down. She felt -- it's implied to me that she couldn't  
24 make the tea. You suggested to Keith Harrison he make  
25 the tea, then she did get up and make tea. Now, you 13:50  
26 knew nothing about what happened in the house prior to  
27 that time, I think we are agreed on that.

28 A. No, I did not.

29 549 Q. CHAIRMAN: Yes. And then this grown intelligent



1 professional woman, mother of two, decides, because her  
2 mother tells her, to go off to Raphoe. And a question  
3 would go off in anybody's mind, what's going on? So  
4 I'm just wondering. And then it's said that there are  
5 two trips to the house by you? 13:51

6 A. No.

7 CHAIRMAN: Which I say you would remember, by the way.

8 A. Your Honour, I only had one trip to that house, and  
9 that's my honest truth. One trip to that house.

10 550 Q. CHAIRMAN: All right. well, there it is, Mr. Quinn, 13:51  
11 and thank you very much for your help.

12 A. No, I thank you for your time.

13 CHAIRMAN: Keep up the good work.

14 A. Thank you very much, sir.

15 13:51

16 THE WITNESS THEN WITHDREW

17

18 MR. MARRINAN: Sir, that is the end of the scheduled  
19 witnesses for today.

20 CHAIRMAN: well, it is, but Mr. Hartnett wants to say 13:51  
21 something.

22 MR. HARTNETT: well, it's not so much that I wish to  
23 say something, but I have been directed to various  
24 questions in relation to my instructions.

25 CHAIRMAN: Yes. 13:51

26 MR. HARTNETT: And just to say insofar as at this  
27 stage, because I think it's probably much better that  
28 the Tribunal hears the evidence of the various  
29 witnesses --

1 CHAIRMAN: No, Mr. Hartnett, I totally appreciate that.  
2 But, look, even doing cases in the Commercial Court  
3 which involve banks, I always insisted, okay, I want to  
4 know what the defence is.  
5 MR. HARTNETT: Yes. 13:52  
6 CHAIRMAN: Or what does the bank say about this, or  
7 whatever. It's the same in every case.  
8 MR. HARTNETT: Yes.  
9 CHAIRMAN: But it's not like a criminal case where the  
10 accused remains silent -- 13:52  
11 MR. HARTNETT: I understand.  
12 CHAIRMAN: -- and says, I hope that as an Englishman I  
13 don't have to say anything, the quote comes from Lord  
14 Devlin, and therefore the accused says nothing and  
15 merely asks a few strange and peculiar questions. No, 13:52  
16 I need to know what the instructions are.  
17 MR. HARTNETT: No, I understand that. And if I can put  
18 it this way: you asked the question was there a row.  
19 There was certainly a row in the sense that there was  
20 an argument between these two people. There were -- 13:52  
21 you asked the question, was Keith Harrison out of  
22 control, that is a very general term, but certainly  
23 voices were raised by both parties, and there is no  
24 doubt about that. You asked the question, sir, was she  
25 pulled out of bed, and my client will say that the 13:53  
26 duvet was pulled from the bed but that she wasn't  
27 pulled out of bed. And as to whether she was pushed  
28 out in her pyjamas, she went out onto the street in her  
29 pyjamas, and a coat over them, as she awaited the

1 arrival of Mr. Quinn, the previous witness. And then  
2 in relation to the question of the withdrawal of her  
3 statement, sir, you will notice that some couple of  
4 days after making that statement she was contacted by  
5 GSOC and that was her immediate reaction, to withdraw 13:53  
6 the statement, and soon after that she indicated that  
7 she wished to withdraw her statement.

8 CHAIRMAN: Yes, but, Mr. Hartnett, in domestic  
9 situations where there's -- and I'm not saying there  
10 was domestic violence. 13:53

11 MR. HARTNETT: Yes.

12 CHAIRMAN: But, I mean, a duvet was pulled off  
13 somebody. She wasn't pulled by the arm or pulled out  
14 of bed. Pulling the duvet off someone means you are  
15 encouraging them to get out of bed and it doesn't sound 13:54  
16 like a very pleasant situation, but we will all be  
17 aware that, in domestic violence situations, that  
18 people withdraw their statements. But what I want to  
19 know is, is the statement that she gave to the Gardaí  
20 the truth or not? And if it is not the truth, in what 13:54  
21 respect is it not the truth?

22 MR. HARTNETT: Well, it was a very lengthy statement  
23 involving the particulars of their personal and  
24 emotional life over a number of years --

25 CHAIRMAN: Yes. 13:54

26 MR. HARTNETT: -- in detail, which we say was intrusive  
27 and unnecessary, and we will say -- we will be saying  
28 that there are inaccuracies in that statement.

29 CHAIRMAN: You may well be, yes, but they are what?

1 MR. HARTNETT: well, I mean --

2 CHAIRMAN: It was in consequence of that and other  
3 things, it is said, but I don't know whether this is  
4 true or not, that Tusla Child and Family Agency were  
5 involved. 13:54

6 MR. HARTNETT: In relation to this?

7 CHAIRMAN: well, it's a bit of a build-up,  
8 Mr. Hartnett. If one side of the story is correct, and  
9 I don't know just yet.

10 MR. HARTNETT: well, I think it was in relation to a 13:55  
11 latter matter.

12 CHAIRMAN: A which?

13 MR. HARTNETT: It was in relation to a later matter --

14 CHAIRMAN: Yes.

15 MR. HARTNETT: -- that Tusla were involved, and that 13:55  
16 was the point which I had made earlier.

17 CHAIRMAN: well, what are the -- sorry, I beg your  
18 pardon.

19 MR. HARTNETT: So in relation to this particular  
20 module, if I can put it that way -- 13:55

21 CHAIRMAN: Yes.

22 MR. HARTNETT: -- and the issues, the evidence that was  
23 given today, where the statement says that there was a  
24 pulling out of the bed, we say that that is incorrect.

25 CHAIRMAN: And -- but Garda Harrison smashed the 13:55  
26 dashboard with his fist and nearly broke?

27 MR. HARTNETT: There was a throwing of keys against the  
28 dashboard.

29 CHAIRMAN: So that's --

1 MR. HARTNETT: That will be the evidence.

2 CHAIRMAN: So that is new.

3 MR. HARTNETT: Yes. That will be the evidence.

4 CHAIRMAN: The Tribunal invited people who knew about  
5 anything to do with this to write to the Tribunal. Is 13:56  
6 there anything else, Mr. Hartnett, that I should know  
7 about vis-à-vis departure from the statement that was  
8 made to the Gardaí?

9 MR. HARTNETT: Well, that will come with the giving of  
10 evidence, in my submission. 13:56

11 CHAIRMAN: There's nothing to stop Mrs. Simms writing  
12 to the Tribunal and saying it is inaccurate in the  
13 following respects. There's a generalised complaint in  
14 a later statement --

15 MR. HARTNETT: Yes. 13:56

16 CHAIRMAN: -- saying that the Gardaí kept her there for  
17 a long time, and that in consequence of being there for  
18 a long time, she said things, but in withdrawing her  
19 statement following the GSOC intervention, because it  
20 was a member of Garda Síochána who was being accused of 13:56  
21 something --

22 MR. HARTNETT: Yes.

23 CHAIRMAN: -- she affirmed that the statement that she  
24 had made to the Gardaí was truthful but that she did  
25 not want it acted upon. 13:56

26 MR. HARTNETT: Yes. She signed that statement. But  
27 issues will arise in relation to that which, in my  
28 submission, are best dealt with by cross-examination  
29 during the hearing of viva voce evidence.

1 CHAIRMAN: I can understand where you are coming from,  
2 Mr. Hartnett.

3 MR. HARTNETT: Yes.

4 CHAIRMAN: I think that nonetheless the Tribunal would  
5 actually, would like a statement from Marisa Simms as 13:57  
6 to what she is saying about the various rows. I mean,  
7 there is a great deal about - not in her statement, but  
8 - the involvement, allegedly, of Garda Headquarters in  
9 relation to this matter. There's a great deal about  
10 how Tusla, the Child and Family Agency, were wrong or 13:57  
11 somehow directed by Garda Headquarters. But if there  
12 really was a very unhappy domestic situation, which  
13 perhaps now has calmed down, that is absolutely central  
14 to what this section is all about. In other words, if  
15 one looks at the term of reference I'm investigating; 13:57  
16 contacts between members of An Garda Síochána and Tusla  
17 in relation to Garda Harrison.

18 MR. HARTNETT: Yes. Contacts with Tusla, and I don't  
19 think contact with Tusla has been addressed in this  
20 particular module today in this evidence today. And as 13:58  
21 I understood it from looking at the papers, the main  
22 concentration is in relation to a subsequent event  
23 which led to a report to Tusla.

24 CHAIRMAN: Yes.

25 MR. HARTNETT: Not this one. 13:58

26 CHAIRMAN: But it is said that there was very little  
27 disharmony, any disharmony there was, was of a minor  
28 kind and so there was no reason to get Tusla involved.  
29 And if they were involved, which indeed they were on a

1 later occasion, it was at the behest of Garda  
2 Headquarters. I am actually quoting. So I mean, if  
3 that is not true, I would actually like to know it.  
4 MR. HARTNETT: well, I wonder did my client make that  
5 particular allegation? 13:58  
6 CHAIRMAN: No. But your client had actually read Keith  
7 Harrison's statement.  
8 MR. HARTNETT: My client is here as a witness and will  
9 give evidence as a witness and I will cross-examine on  
10 her behalf other witnesses -- 13:59  
11 CHAIRMAN: We will get to that, Mr. Hartnett.  
12 MR. HARTNETT: -- based on my instructions.  
13 CHAIRMAN: No, I can see you taking that point of view.  
14 But I mean there is a plain reality to this, which is:  
15 Senior management in the Gardaí are being blamed for 13:59  
16 involving Tusla, the Child and Family Agency, in a  
17 domestic situation which resulted in a visit of two  
18 social workers I think for about 15 or 20 minutes.  
19 MR. HARTNETT: Yes.  
20 CHAIRMAN: And that is said to have led to enormous 13:59  
21 pain --  
22 MR. HARTNETT: Yes.  
23 CHAIRMAN: -- anguish, on the part of Garda Keith  
24 Harrison and his partner, Marisa Simms. But there was  
25 a reason for it -- 13:59  
26 MR. HARTNETT: Yes.  
27 CHAIRMAN: -- and if it perhaps, and I don't know this,  
28 would have been a dereliction in duty not to make those  
29 inquiries, not to make those visits, well that puts an

1 entirely different complexion on it than headquarters  
2 deciding to target Keith Harrison and use Tusla as  
3 their instrument, which is what is alleged.

4 MR. HARTNETT: It did not arise from the matters we  
5 have been discussing today, specifically did not arise 14:00  
6 from the matters which are being discussed today. And  
7 no reference to Tusla was made, as indeed it couldn't  
8 be, because there were no children present or involved.  
9 So, that is the point that I made earlier, that this  
10 seems to be somewhat, and I use the word somewhat 14:00  
11 advisedly, somewhat collateral to the term of reference  
12 which brings us here.

13 CHAIRMAN: Well, Mr. Hartnett, I'm not sure you're  
14 correct about that --

15 MR. HARTNETT: I see. 14:00

16 CHAIRMAN: -- but I do hear what you say.

17 MR. HARTNETT: Yes.

18 CHAIRMAN: But, if it be the case that this was a  
19 relationship that was settling down but was stormy --

20 MR. HARTNETT: Yes. 14:00

21 CHAIRMAN: -- and if it be the case that children were  
22 involved in some of those storms, and I don't know  
23 that --

24 MR. HARTNETT: Yes.

25 CHAIRMAN: -- the background would seem to be important 14:01  
26 in informing whatever happened subsequent to the  
27 statement of the 9th October 2013, one detail of which,  
28 but only one detail of which, has now been changed.

29 MR. HARTNETT: Yes.



1 CHAIRMAN: Which is that the dashboard wasn't smashed,  
2 but that keys were thrown at the windscreen by Garda  
3 Keith Harrison.

4 MR. HARTNETT: No, on the dashboard.

5 CHAIRMAN: Yes. There it is. I am grateful for your 14:01  
6 help, Mr. Hartnett.

7 MR. HARTNETT: Insofar as I can be of help I hope I  
8 have been.

9 CHAIRMAN: Yes.

10 MR. MARRINAN: Sorry, sir, could I say something in 14:01  
11 relation to the matter because it is a matter of  
12 concern? The evidence of Mr. Quinn was obviously given  
13 by Mr. Quinn in accordance with the statement that he  
14 had provided to the Tribunal. We are under an  
15 obligation to put all cases that emerge from the papers 14:01  
16 that we have. Arising out of an examination of the  
17 statement made to Inspector Goretta Sheridan a  
18 different version of events emerges. That was put to  
19 Mr. Quinn by Tribunal counsel, as is our duty.

20 Mr. Harty then put Mr. Harrison's case to Mr. Quinn, 14:02  
21 quite properly. If Mr. Hartnett's client wishes to  
22 depart from anything that's contained in that  
23 statement, insofar as it has been put to the witness as  
24 being an alternative version, well then I think it  
25 should be stated very clearly that he is departing from 14:02  
26 that and a cross-examination should commence in  
27 relation to those aspects of it. Now I say it, I don't  
28 think any harm has been done in relation to Mr. Quinn,  
29 but there are other witnesses to give evidence to the

1 Tribunal where this could become important. If there  
2 is a different case to be made, in my respectful  
3 submission, the Tribunal should hear it during the  
4 course of cross-examination of the various witnesses.  
5 CHAIRMAN: I have been trying to say that and 14:03  
6 apparently it has come as such a shock to people that  
7 they find it extremely surprising. There's a plain  
8 reality: This is not a criminal case, this is not a  
9 case where the accused can remain silent. You can take  
10 a philosophical view as to whether that is a good 14:03  
11 aspect of the law or not, but in any civil case, it is  
12 the duty of counsel to examine only on instructions,  
13 and furthermore in relation to any witness who actually  
14 gives evidence it is the duty of counsel to put any  
15 alternative version that exists at the first available 14:03  
16 opportunity to the witness. There can of course be  
17 cross-examination as to such things as whether the wind  
18 was strong, whether there was a good opportunity to see  
19 whether the person was drunk, etcetera. But the case  
20 has to be put. That is a fundamental rule. And it is 14:03  
21 recently reaffirmed by the Supreme Court in McDonagh v.  
22 Sunday Newspapers in the clearest possible terms. And  
23 that is the duty of everybody here. Now I can  
24 appreciate there may be some slippage, but I'm not  
25 going to make a complaint about it. I am simply saying 14:03  
26 what it is. Every barrister should know that. And I  
27 want from now on in relation to everything that comes  
28 up to actually hear what the case is that is being  
29 made. Now I don't think there's any necessity to call

1 back Mr. Quinn, I don't criticise anybody, but what I  
2 am stating in the clearest possible terms what the law  
3 is, just in case people don't read the Courts web side,  
4 www.courts.ie, and in particular McDonagh v. Sunday  
5 Newspapers. So, that's where we are at. There's no 14:04  
6 criticism of anybody. But I am not going to be  
7 criticised for asking people what their instructions  
8 are in relation to a matter. I am entitled to know and  
9 I intend to know, and in due course we will find out.  
10 So, there it is. 14:04  
11 MR. HARTNETT: Sir, can I just say that I think I did  
12 put our case to Mr. Quinn.  
13 CHAIRMAN: No. Well, you did, yes.  
14 MR. HARTNETT: And submitted to him that he was  
15 incorrect in his memory. 14:04  
16 CHAIRMAN: Mr. Hartnett, as I say, I'm not criticising  
17 anybody, but I would like things to move on in that  
18 way.  
19 MR. HARTY: Sorry, sir, just one matter, which is that  
20 you referenced, and just so the case is clear at all 14:05  
21 times, Garda Harrison doesn't as far as I'm aware in  
22 his statement say that the reference to Tusla was  
23 directed by Garda Headquarters. He said he suffered  
24 from a degree of mistreatment as a result of Garda  
25 Headquarters, but the particular reference to Tusla, 14:05  
26 there is no suggestion, and I don't believe there is  
27 any evidence to suggest that the reference emanated  
28 from anywhere above the Donegal division.  
29 CHAIRMAN: Would somebody point out what volume Garda

1 Harrison's statement is in, please? Is it volume 1?  
2 what page is it?

3 MR. MARRINAN: It's in volume 1, page 12.

4 MR. HARTY: Page 12.

5 CHAIRMAN: Well, he says:

14:06

6  
7 "I am aware of the treatment of other whistleblowers  
8 and the similarities are so alike it couldn't be  
9 coincidence and considering the geographical location  
10 of us, treatment had to come on orders from the highest  
11 level." 14:07

12  
13 That is one statement and there's another somewhere  
14 else. But there it is. Now that's what I am  
15 investigating. 14:07

16 MR. DOCKERY: Chairman, one point arises to my mind  
17 apropos what Mr. Marrinan submitted to you.

18 CHAIRMAN: I'm sorry I didn't hear you.

19 MR. DOCKERY: One point arises, it seems to me, on foot  
20 of what Mr. Marrinan submitted to you. Ms. Simms, as 14:07  
21 far as I can see, gave a different version of her  
22 position in affidavits which she swore in the course of  
23 judicial review proceedings in the High Court in 2015,  
24 in which she purported to resile from her statement of  
25 the 6th October 2010 in most of its fundamental 14:07  
26 respects and in which she alleged that she made it  
27 under pressure and under duress and that she had in  
28 fact been in a loving relationship with Mr. Harrison.  
29 And I am now a little unclear as to what version she is

1 going to put forward before this Tribunal. And if  
2 Mr. Hartnett is going to put forward the version or  
3 rely on the version in his client's affidavits in the  
4 High Court proceedings it seems to me that perhaps that  
5 should be considered in the course of whether he needs 14:08  
6 to cross-examine Mr. Quinn. It has been put to  
7 Mr. Quinn by Mr. Marrinan that his version is  
8 contradicted by what Ms. Simms said in the statement of  
9 the 6th October 2013. If it is the position that  
10 Ms. Simms purports to renege from that statement and 14:08  
11 has another version, well I would have thought that  
12 perhaps Mr. Hartnett should be putting the real  
13 version, the one that he has instructions on, to  
14 Mr. Quinn or certainly laying out which version is to  
15 be relied on by his client before this Tribunal, 14:09  
16 because certainly that's something that I would like to  
17 know.

18 CHAIRMAN: Yes. I think I have made the position  
19 perfectly clear. It's of, of course, advantage to  
20 everybody to have these statements in advance. The 14:09  
21 Tribunal did call for anyone who knew anything relevant  
22 to the terms of reference to make a statement. This  
23 morning the Tribunal was criticised for not approaching  
24 a particular garda through its investigators, but the  
25 general practice has not been to approach Gardaí to ask 14:09  
26 them for statements, especially ones who have made a  
27 number of statements already relevant. The matter will  
28 be sorted out and I am sure counsel will put whatever  
29 version of events actually comes from their client to

1 the witness so that we will all have a fair opportunity  
2 to judge where we are going, and I don't really think I  
3 need to say any more than that. Of course it is useful  
4 to make a statement, of course it would have been  
5 useful for people to respond to the Tribunal's request 14:10  
6 in February for such information as people had in their  
7 possession, it may be something that's relevant to  
8 another matter that will come later down the tracks.  
9 But there we are for today.

10  
11 THE HEARING THEN ADJOURNED UNTIL WEDNESDAY, 20TH  
12 SEPTEMBER 2017 AT 10:00AM  
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19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29

'any [1] - 41:12  
 'are [1] - 32:3  
 'can [1] - 28:19  
 'do [2] - 43:25, 45:9  
 'go [1] - 46:16  
 'I'll [1] - 45:18  
 'Jim [1] - 36:23  
 'look [1] - 52:5  
 'Marisa [2] - 41:13, 41:28  
 'maybe [2] - 41:16, 63:29  
 'no [5] - 41:17, 42:3, 43:27, 63:15, 64:2  
 'oh [1] - 45:9  
 'put [1] - 47:1  
 'See [1] - 45:18  
 'thanks [1] - 39:27  
 'we [2] - 46:12, 46:24  
 'Well [1] - 36:8  
 'why [2] - 42:1, 63:14  
 'yeah [1] - 76:25  
 'yes [1] - 90:6  
 'yes' [1] - 32:4

---

**1**

1 [2] - 124:1, 124:3  
 10/15 [1] - 92:5  
 100 [3] - 50:15, 50:29, 106:9  
 102 [1] - 4:3  
 1029 [2] - 94:16, 94:18  
 1032 [1] - 92:19  
 104 [1] - 4:4  
 105 [2] - 4:6, 4:7  
 10:00AM [1] - 126:12  
 110 [1] - 4:8  
 1102 [1] - 26:23  
 1114 [1] - 5:6  
 1125 [1] - 34:10  
 1128 [2] - 60:28, 62:10  
 1129 [3] - 44:4, 62:14, 63:8  
 1130 [2] - 61:19, 62:19  
 1140 [1] - 47:26  
 12 [2] - 124:3, 124:4  
 12:00 [1] - 14:16  
 15 [1] - 119:18  
 16 [3] - 1:6, 5:26, 36:3  
 16-year-old [1] - 37:19

17 [1] - 1:10  
 1888 [1] - 69:25  
 1890 [3] - 71:17, 71:21, 81:4  
 1891 [1] - 74:13  
 19 [4] - 72:28, 74:9, 74:18, 74:23  
 1921 [1] - 1:10  
 19TH [2] - 1:18, 5:1  
 1:00 [5] - 14:16, 24:14, 38:16, 60:2, 62:7  
 1:30 [1] - 38:17  
 1st [7] - 5:13, 7:28, 15:3, 28:7, 58:1, 70:22, 98:22

---

**2**

2 [3] - 2:17, 2:25, 2:32  
 20 [6] - 1:18, 3:6, 39:20, 39:22, 76:12, 119:18  
 20-minute [1] - 92:4  
 2006 [1] - 70:13  
 2010 [1] - 124:25  
 2013 [20] - 5:13, 5:23, 6:14, 8:1, 15:3, 28:6, 28:7, 34:17, 35:25, 36:1, 47:28, 55:1, 55:19, 69:4, 70:22, 94:7, 98:22, 99:12, 120:27, 125:9  
 2014 [3] - 1:4, 70:13, 70:16  
 2015 [1] - 124:23  
 2017 [5] - 1:6, 1:10, 1:18, 5:2, 126:12  
 20TH [1] - 126:11  
 21 [3] - 2:25, 9:19, 97:13  
 21st [1] - 50:5  
 2226 [1] - 15:1  
 25 [2] - 38:5, 39:22  
 26 [3] - 3:7, 3:9, 3:10  
 27th [1] - 94:15  
 2:00 [1] - 62:7  
 2:30 [2] - 84:19, 84:20  
 2:30am [2] - 71:2, 71:29  
 2nd [1] - 92:18

---

**3**

30 [3] - 38:5, 38:12  
 30th [3] - 5:12, 6:14,

28:6  
 31st [4] - 35:25, 35:29, 70:22, 84:11  
 33 [1] - 3:12  
 34 [2] - 3:14, 3:15  
 35 [3] - 38:5, 44:2, 54:17  
 3:05 [2] - 72:23, 73:7  
 3:20 [1] - 74:17  
 3:20am [1] - 74:7  
 3:23 [2] - 74:27, 75:15  
 3:30pm [1] - 72:29  
 3:45 [6] - 75:24, 75:28, 76:12, 76:15, 76:18, 76:22

---

**4**

4 [2] - 5:6, 60:29  
 45 [1] - 45:13

---

**5**

5 [2] - 3:4, 3:5  
 50 [1] - 2:31  
 52 [1] - 3:16  
 56 [1] - 3:17

---

**6**

6 [1] - 69:24  
 68 [1] - 3:18  
 6:00 [1] - 47:18  
 6th [5] - 47:28, 94:7, 94:8, 124:25, 125:9

---

**7**

70 [2] - 3:20, 3:21  
 77 [1] - 3:22  
 78 [1] - 3:23

---

**8**

8 [1] - 2:13  
 81 [1] - 3:24  
 82 [1] - 3:25  
 84 [2] - 3:27, 3:28

---

**9**

92 [1] - 3:29  
 94 [1] - 3:30  
 96 [1] - 3:31  
 97 [1] - 3:32

98 [2] - 4:1, 4:2  
 99 [1] - 50:15  
 999 [12] - 57:15, 57:29, 58:17, 65:12, 65:23, 72:11, 72:15, 78:15, 78:21, 79:23, 79:26, 97:26  
 9th [2] - 99:19, 120:27

---

**A**

able [10] - 11:23, 11:24, 31:25, 37:14, 49:27, 51:19, 70:24, 87:8, 88:11  
 above-named [1] - 1:27  
 absolutely [3] - 6:18, 7:25, 118:13  
 abuse [2] - 12:18, 57:23  
 accept [6] - 58:4, 65:18, 65:24, 65:25, 66:20, 95:10  
 accepted [3] - 22:2, 61:24, 62:3  
 access [1] - 102:15  
 accessed [2] - 101:3, 102:21  
 accompanied [1] - 16:21  
 accompany [1] - 45:6  
 accordance [1] - 121:13  
 according [4] - 15:21, 64:6, 65:6, 111:10  
 account [7] - 15:7, 47:22, 48:1, 51:12, 94:11, 97:2, 110:29  
 accurate [4] - 58:18, 105:28, 106:2, 111:16  
 accused [6] - 22:16, 23:1, 114:10, 114:14, 117:20, 122:9  
 accusing [1] - 111:17  
 acquaintance [1] - 53:25  
 acquaintances [1] - 53:24  
 ACT [2] - 1:4, 1:9  
 act [2] - 22:1, 101:26  
 acted [2] - 65:22, 117:25  
 acting [3] - 68:20, 94:16, 94:19

action [3] - 1:28, 9:10, 72:5  
 actions [1] - 61:27  
 actual [1] - 20:28  
 adapt [1] - 104:25  
 addition [1] - 80:24  
 address [8] - 13:12, 16:8, 16:10, 80:26, 81:24, 86:28, 88:26, 98:26  
 addressed [1] - 118:19  
 ADJOURNED [3] - 24:10, 105:15, 126:11  
 adopted [1] - 66:11  
 adopting [2] - 66:12, 66:15  
 advance [1] - 125:20  
 advantage [1] - 125:19  
 advice [1] - 106:16  
 advised [3] - 12:6, 18:15, 18:23  
 advisedly [1] - 120:11  
 advising [1] - 18:28  
 affected [1] - 82:7  
 affidavits [2] - 124:22, 125:3  
 affirmed [1] - 117:23  
 AFTER [1] - 105:17  
 afterwards [2] - 20:21, 52:14  
 age [1] - 36:4  
 Agency [3] - 116:4, 118:10, 119:16  
 ages [1] - 112:15  
 aggressive [1] - 57:26  
 agitated [3] - 62:13, 62:22  
 agree [4] - 106:27, 109:19, 109:20, 109:23  
 agreed [1] - 112:27  
 Aidan [2] - 74:2, 84:5  
 AIDAN [2] - 3:27, 84:8  
 alcohol [7] - 36:4, 40:5, 62:13, 62:23, 67:20, 87:11, 108:23  
 alert [1] - 72:6  
 alike [1] - 124:8  
 allegation [2] - 64:23, 119:5  
 allegations [4] - 58:23, 66:5, 71:24, 104:24  
 alleged [6] - 77:18, 84:23, 85:26, 98:29,

120:3, 124:26  
**allegedly** [1] - 118:8  
**alleging** [1] - 55:16  
**allowed** [1] - 50:1  
**alter** [1] - 104:25  
**alternative** [2] -  
121:24, 122:15  
**altogether** [2] -  
81:17, 83:11  
**amount** [1] - 20:27  
**analysis** [1] - 9:7  
**AND** [5] - 1:4, 1:5,  
1:9, 24:10, 105:24  
**angry** [1] - 47:12  
**anguish** [1] - 119:23  
**annoyed** [1] - 59:3  
**anodyne** [1] - 111:4  
**answer** [20] - 7:25,  
20:9, 23:9, 23:22,  
23:27, 23:29, 29:25,  
29:26, 32:26, 49:9,  
52:23, 56:1, 77:25,  
78:15, 78:17, 79:16,  
87:29, 99:3, 102:8  
**answered** [5] - 36:6,  
60:4, 61:4, 61:5,  
96:25  
**answering** [2] -  
75:27, 78:21  
**ANTHONY** [1] - 2:15  
**anyway** [9] - 20:7,  
28:1, 30:4, 54:26,  
75:12, 79:11, 93:24,  
101:29, 107:2  
**apart** [2] - 64:23,  
98:11  
**appear** [8] - 15:25,  
19:18, 26:5, 33:3,  
40:3, 56:25, 66:2,  
105:26  
**APPEARANCES** [1] -  
2:1  
**appeared** [3] - 9:8,  
42:21, 85:1  
**appreciate** [6] -  
22:13, 22:18, 58:10,  
114:1, 122:24  
**approach** [1] -  
125:25  
**approaching** [1] -  
125:23  
**appropriate** [2] -  
8:25, 92:21  
**appropriately** [1] -  
65:22  
**appropriateness** [1]  
- 56:28  
**approve** [2] - 109:16,  
109:18  
**April** [9] - 5:13, 8:1,

15:3, 28:7, 58:1,  
70:22, 92:18, 94:15,  
98:22  
**apropos** [1] - 124:17  
**area** [10] - 16:15,  
40:15, 40:16, 41:6,  
41:7, 54:10, 54:15,  
59:2, 67:29, 90:7  
**arguing** [3] - 32:24,  
42:11, 42:12  
**argument** [8] -  
28:21, 29:1, 32:18,  
33:23, 48:5, 49:4,  
51:2, 114:20  
**arise** [3] - 117:27,  
120:4, 120:5  
**arisen** [1] - 66:24  
**arises** [2] - 124:16,  
124:19  
**arising** [2] - 87:22,  
121:16  
**arm** [4] - 49:24,  
49:29, 50:2, 115:13  
**arrival** [1] - 115:1  
**arrive** [1] - 45:1  
**arrived** [10] - 41:3,  
44:28, 48:15, 48:17,  
50:19, 58:25, 58:26,  
58:29, 59:2, 88:13  
**ARTHUR** [1] - 2:16  
**AS** [7] - 5:2, 24:11,  
26:26, 34:13, 70:12,  
84:9, 105:17  
**aspect** [2] - 83:1,  
122:11  
**aspects** [1] - 121:27  
**assault** [1] - 55:16  
**assaulted** [1] - 71:27  
**assess** [3] - 40:15,  
41:6, 65:15  
**assessed** [4] - 54:15,  
59:2, 65:6, 68:26  
**assessment** [1] -  
54:5  
**assist** [3] - 78:11,  
79:7, 80:3  
**assistance** [1] - 70:3  
**assume** [1] - 103:18  
**assumed** [4] - 12:10,  
21:4, 103:2, 108:5  
**assumption** [1] -  
95:19  
**assured** [1] - 17:15  
**AT** [1] - 126:12  
**attached** [1] - 17:5  
**attempting** [1] - 25:4  
**attempts** [1] - 63:22  
**attend** [1] - 99:2  
**attended** [1] - 97:23  
**attending** [1] - 36:5

**attention** [1] - 92:16  
**AUDIO** [1] - 12:1  
**audio** [2] - 80:4,  
100:29  
**auntie** [2] - 27:1,  
28:29  
**available** [2] - 87:28,  
122:15  
**awaited** [1] - 114:29  
**aware** [15] - 6:19,  
6:26, 10:6, 11:13,  
26:11, 27:12, 49:11,  
52:28, 98:29, 100:20,  
103:1, 103:4, 115:17,  
123:21, 124:7  
**awareness** [1] -  
35:21  
**awful** [1] - 57:23  
**aye** [2] - 68:12,  
107:27

## B

**background** [2] -  
78:12, 120:25  
**bad** [6] - 20:7, 20:8,  
24:27, 63:25, 66:20,  
67:18  
**bad"** [1] - 63:8  
**badly** [1] - 107:6  
**bailed** [6] - 37:2,  
37:13, 48:28, 62:4,  
62:8  
**bang** [1] - 39:22  
**banged** [2] - 48:10,  
48:12  
**bank** [1] - 114:6  
**banks** [1] - 114:3  
**BARNES** [1] - 2:28  
**Barnes** [1] - 66:2  
**barney** [3] - 59:24,  
62:15, 62:16  
**barrister** [2] - 52:27,  
122:26  
**base** [1] - 61:27  
**based** [3] - 92:15,  
95:17, 119:12  
**basing** [1] - 61:25  
**bear** [1] - 9:18  
**bears** [1] - 21:17  
**beaten** [1] - 64:17  
**became** [1] - 35:17  
**become** [3] - 31:5,  
69:5, 122:1  
**bed** [14] - 48:16,  
48:25, 49:25, 50:23,  
64:23, 67:23, 67:24,  
89:17, 114:25,  
114:26, 114:27,

115:14, 115:15,  
116:24  
**BEEN** [7] - 5:8,  
26:25, 34:12, 70:11,  
84:8, 98:14, 105:23  
**beg** [5] - 6:10, 25:22,  
46:18, 77:11, 116:17  
**behalf** [5] - 26:5,  
56:25, 95:11, 105:26,  
119:10  
**behaviour** [1] - 87:12  
**behest** [1] - 119:1  
**behind** [1] - 24:3  
**belonging** [1] - 99:22  
**below** [1] - 80:15  
**bemused** [2] - 37:10,  
62:3  
**benefit** [1] - 79:29  
**beside** [7] - 48:7,  
50:6, 72:20, 76:19,  
76:24, 76:25, 101:4  
**best** [5] - 11:19,  
29:16, 33:27, 89:14,  
117:28  
**better** [6] - 9:12,  
43:27, 45:10, 80:9,  
81:15, 113:27  
**between** [12] - 7:24,  
21:19, 23:24, 38:20,  
42:24, 45:2, 64:9,  
66:17, 91:21, 107:15,  
114:20, 118:16  
**beyond** [1] - 91:25  
**big** [3] - 64:15,  
68:11, 68:12  
**bit** [33] - 18:20,  
28:12, 36:7, 36:24,  
37:9, 37:16, 38:28,  
40:29, 42:25, 44:27,  
56:16, 57:18, 57:19,  
59:3, 59:21, 60:6,  
60:15, 61:6, 61:18,  
61:21, 62:2, 62:3,  
62:11, 62:15, 62:17,  
74:20, 83:23, 83:26,  
90:9, 106:15, 116:7  
**BL** [6] - 2:7, 2:10,  
2:15, 2:23, 2:28, 2:30  
**black** [1] - 72:21  
**blame** [3] - 25:4,  
68:18, 68:25  
**blamed** [3] - 109:8,  
111:7, 119:15  
**blaming** [1] - 68:14  
**blue** [7] - 78:25,  
79:8, 79:9, 79:13,  
79:15, 79:16, 79:17  
**Bogle** [43] - 5:5,  
5:10, 15:14, 16:9,  
16:14, 16:21, 16:25,

16:27, 17:4, 17:11,  
19:13, 20:12, 22:14,  
25:29, 26:4, 26:16,  
26:18, 26:22, 33:3,  
33:6, 71:3, 72:10,  
73:4, 73:21, 81:27,  
82:2, 84:22, 85:1,  
85:26, 86:19, 94:21,  
94:22, 94:25, 94:27,  
95:6, 95:15, 95:28,  
96:21, 96:29, 97:4,  
97:6  
**BOGLE** [7] - 3:4, 3:9,  
5:8, 20:11, 26:3,  
26:25, 33:2  
**Bogle's** [2] - 73:22,  
96:18  
**book** [1] - 37:12  
**books** [1] - 102:6  
**borderline** [1] - 92:1  
**born** [1] - 109:20  
**bottles** [1] - 64:29  
**bottom** [3] - 44:4,  
75:14, 94:18  
**bouncers** [1] - 36:16  
**bound** [2] - 9:3, 58:6  
**box** [1] - 81:7  
**boy** [1] - 112:13  
**BRAONÁIN** [1] -  
2:30  
**break** [1] - 98:6  
**BRIAN** [1] - 2:23  
**brief** [7] - 76:22,  
87:2, 87:5, 87:6,  
92:28, 93:7, 102:12  
**BRIEFLY** [1] - 24:10  
**briefly** [1] - 76:28  
**Brigid** [1] - 94:6  
**bring** [7] - 28:5,  
29:15, 31:29, 38:7,  
60:10, 62:4, 107:1  
**bringing** [1] - 45:4  
**brings** [1] - 120:12  
**broke** [1] - 116:26  
**brother** [10] - 5:29,  
7:28, 14:8, 20:3,  
20:12, 22:12, 30:21,  
30:22, 32:7, 93:18  
**brother's** [1] - 50:5  
**brought** [3] - 24:21,  
60:28, 80:29  
**bruises** [6] - 40:18,  
54:8, 64:15, 64:18,  
64:20, 64:22  
**bruising** [3] - 40:20,  
40:26, 41:4  
**build** [2] - 48:1,  
116:7  
**build-up** [2] - 48:1,  
116:7



**building** [1] - 80:19  
**Buncrana** [3] -  
 34:15, 87:17, 97:17  
**burn** [1] - 64:1  
**button** [1] - 78:28  
**BY** [56] - 1:5, 1:8,  
 2:11, 2:16, 2:19, 2:23,  
 2:31, 3:5, 3:6, 3:7,  
 3:10, 3:12, 3:15, 3:16,  
 3:17, 3:18, 3:21, 3:22,  
 3:23, 3:24, 3:25, 3:28,  
 3:29, 3:30, 3:31, 3:32,  
 4:2, 4:3, 4:4, 4:7, 4:8,  
 5:9, 20:11, 26:3,  
 26:25, 33:2, 34:12,  
 52:25, 56:23, 68:2,  
 70:11, 77:28, 78:6,  
 81:21, 82:24, 84:9,  
 92:26, 94:1, 96:14,  
 97:9, 98:15, 102:10,  
 104:11, 105:24, 110:9  
**BZI27** [1] - 72:28

## C

**C/SUPT** [1] - 2:30  
**CALL** [1] - 12:1  
**caller** [3] - 57:25,  
 71:24, 85:5  
**calm** [8] - 25:12,  
 36:17, 43:5, 60:14,  
 60:16, 61:10, 62:26,  
 76:29  
**calmed** [2] - 36:20,  
 118:13  
**calms** [2] - 45:10,  
 45:11  
**cancel** [2] - 45:27,  
 52:6  
**cannot** [2] - 23:22,  
 50:25  
**capacity** [1] - 106:15  
**car** [34] - 13:15,  
 15:29, 19:10, 26:13,  
 30:19, 41:28, 43:9,  
 45:7, 45:19, 45:28,  
 46:10, 48:6, 48:9,  
 48:19, 49:22, 50:20,  
 51:15, 52:6, 71:26,  
 72:27, 75:19, 80:25,  
 85:16, 85:27, 86:7,  
 86:13, 87:13, 87:14,  
 89:26, 90:1, 90:4,  
 106:23, 108:22  
**carried** [7] - 99:25,  
 99:26, 100:21,  
 103:15, 103:25,  
 104:22, 104:26  
**carry** [1] - 100:22

**cars** [9] - 36:19,  
 70:1, 86:2, 86:13,  
 86:23, 86:25, 86:27,  
 87:13, 89:12  
**CARTHAGE** [1] -  
 2:23  
**case** [24] - 9:1,  
 22:28, 22:29, 37:12,  
 47:3, 64:1, 67:21,  
 88:28, 90:24, 109:8,  
 114:7, 114:9, 120:18,  
 120:21, 121:20,  
 122:2, 122:8, 122:9,  
 122:11, 122:19,  
 122:28, 123:3,  
 123:12, 123:20  
**cases** [2] - 114:2,  
 121:15  
**Castle** [2] - 72:28,  
 75:23  
**CASTLE** [1] - 1:17  
**castle** [4] - 74:9,  
 74:18, 74:24, 75:19  
**Castlegrove** [2] -  
 99:2, 99:3  
**categorise** [1] - 27:5  
**CATHAL** [1] - 2:30  
**cathedral** [1] - 92:2  
**Cathedral** [1] - 5:26  
**caught** [1] - 49:28  
**caused** [4] - 46:13,  
 46:19, 46:21, 46:25  
**causes** [1] - 109:21  
**causing** [1] - 36:13  
**cemetery** [1] - 91:27  
**central** [2] - 65:9,  
 118:13  
**centre** [3] - 70:18,  
 70:29, 84:16  
**certain** [3] - 57:20,  
 66:24, 106:25  
**CERTAIN** [1] - 1:4  
**certainly** [7] - 77:12,  
 92:18, 104:24,  
 114:19, 114:22,  
 125:14, 125:16  
**certify** [1] - 1:25  
**chair** [2] - 108:8,  
 108:9  
**Chair** [1] - 24:13  
**CHAIRMAN** [196] -  
 3:18, 3:25, 3:32, 4:4,  
 4:8, 8:29, 9:16, 13:7,  
 13:10, 13:14, 18:20,  
 20:1, 20:4, 20:7,  
 22:15, 22:23, 22:27,  
 23:16, 23:23, 24:3,  
 24:7, 24:12, 24:23,  
 24:25, 24:27, 25:2,  
 25:15, 25:19, 25:22,

25:27, 46:18, 46:23,  
 56:15, 56:20, 64:16,  
 64:20, 64:29, 65:4,  
 65:29, 66:3, 66:12,  
 66:15, 66:17, 66:26,  
 66:29, 67:3, 67:6,  
 67:9, 67:13, 68:2,  
 68:3, 68:13, 68:17,  
 68:19, 68:29, 69:18,  
 69:26, 70:7, 71:10,  
 71:15, 75:5, 75:12,  
 76:10, 77:7, 77:11,  
 78:4, 78:26, 78:28,  
 79:6, 79:9, 79:11,  
 79:14, 79:17, 79:20,  
 80:11, 81:13, 82:24,  
 82:25, 82:29, 83:5,  
 83:10, 83:13, 83:16,  
 83:20, 83:23, 83:25,  
 83:29, 88:21, 91:18,  
 91:23, 91:25, 91:28,  
 92:2, 92:5, 93:28,  
 95:24, 97:9, 97:11,  
 97:14, 97:16, 97:18,  
 97:25, 98:2, 98:6,  
 98:10, 98:17, 101:18,  
 101:21, 101:23,  
 101:27, 102:3, 103:7,  
 103:12, 104:8,  
 104:11, 104:13,  
 104:17, 104:21,  
 104:23, 104:27,  
 105:1, 105:3, 105:9,  
 105:18, 105:21,  
 107:4, 107:9, 109:1,  
 109:5, 109:8, 110:9,  
 110:11, 110:17,  
 110:19, 110:24,  
 110:29, 111:3,  
 111:16, 111:26,  
 111:29, 112:4,  
 112:10, 112:16,  
 112:20, 112:29,  
 113:7, 113:10,  
 113:13, 113:20,  
 113:25, 114:1, 114:6,  
 114:9, 114:12, 115:8,  
 115:12, 115:25,  
 115:29, 116:2, 116:7,  
 116:12, 116:14,  
 116:17, 116:21,  
 116:25, 116:29,  
 117:2, 117:4, 117:11,  
 117:16, 117:23,  
 118:1, 118:4, 118:24,  
 118:26, 119:6,  
 119:11, 119:13,  
 119:20, 119:23,  
 119:27, 120:13,  
 120:16, 120:18,  
 120:21, 120:25,

121:1, 121:5, 121:9,  
 122:5, 123:13,  
 123:16, 123:29,  
 124:5, 124:18, 125:18  
**Chairman** [7] -  
 32:29, 41:2, 81:18,  
 96:12, 98:21, 105:6,  
 124:16  
**chamber** [1] - 31:16  
**CHAMBERS** [1] -  
 2:24  
**chance** [2] - 41:12,  
 97:19  
**change** [2] - 112:2,  
 112:4  
**changed** [1] - 120:28  
**channel** [2] - 79:8,  
 79:24  
**channels** [3] - 78:14,  
 92:21  
**characterise** [1] -  
 7:23  
**CHARLETON** [2] -  
 1:12, 2:2  
**chat** [2] - 76:5, 77:22  
**chatted** [4] - 41:20,  
 43:10, 46:11, 46:14  
**chatting** [6] - 38:17,  
 40:21, 42:9, 42:11,  
 44:24, 63:6  
**check** [10] - 22:10,  
 22:11, 40:15, 40:25,  
 41:3, 41:8, 54:8,  
 54:10, 72:29, 108:6  
**checked** [1] - 54:10  
**checks** [2] - 78:23  
**CHIEF** [1] - 2:11  
**Child** [3] - 116:4,  
 118:10, 119:16  
**children** [10] - 12:7,  
 21:9, 21:12, 21:14,  
 58:9, 58:12, 66:10,  
 68:7, 120:8, 120:21  
**chucked** [2] - 64:29,  
 65:1  
**Churchill** [22] - 13:4,  
 13:8, 13:9, 13:13,  
 16:15, 17:24, 26:14,  
 36:11, 37:20, 37:22,  
 38:1, 38:4, 39:7, 39:8,  
 39:14, 39:19, 42:20,  
 45:29, 61:10, 88:26,  
 91:14, 107:17  
**circumstances** [7] -  
 23:29, 24:5, 27:23,  
 41:4, 52:21, 59:10,  
 69:12  
**civil** [1] - 122:11  
**claimed** [1] - 71:27  
**clarification** [2] -

25:28, 67:14  
**clarified** [2] - 73:4,  
 73:26  
**clarify** [4] - 66:24,  
 73:28, 85:19, 96:16  
**class** [1] - 27:26  
**classic** [1] - 9:7  
**clear** [12] - 25:10,  
 29:18, 55:15, 58:11,  
 63:7, 63:21, 69:5,  
 77:21, 105:7, 110:19,  
 123:20, 125:19  
**clearest** [2] - 122:22,  
 123:2  
**clearly** [3] - 24:28,  
 109:1, 121:25  
**client** [11] - 23:6,  
 23:12, 24:1, 24:5,  
 114:25, 119:4, 119:6,  
 119:8, 121:21,  
 125:15, 125:29  
**client's** [1] - 125:3  
**close** [6] - 27:6,  
 46:17, 87:20, 112:6,  
 112:8, 112:10  
**closer** [4] - 28:12,  
 53:24, 53:25, 74:21  
**clothes** [2] - 28:26,  
 32:16  
**clue** [4] - 6:29, 9:26,  
 14:17, 26:15  
**coat** [3] - 49:29,  
 50:2, 114:29  
**coincidence** [1] -  
 124:9  
**collateral** [1] -  
 120:11  
**colleague** [3] - 18:3,  
 99:24, 103:15  
**colleagues** [2] -  
 16:26, 94:4  
**collect** [1] - 50:7  
**collected** [1] - 24:21  
**coming** [7] - 39:27,  
 44:5, 56:1, 68:10,  
 108:25, 111:6, 118:1  
**commence** [1] -  
 121:26  
**comment** [2] - 47:25,  
 107:19  
**Commercial** [1] -  
 114:2  
**COMMISSIONER** [1]  
 - 2:9  
**common** [2] - 93:23,  
 93:25  
**communicate** [1] -  
 29:4  
**Communications** [2]  
 - 99:5, 99:9

**communications** [6] - 18:14, 70:18, 70:29, 78:8, 78:12, 84:16  
**COMPANY** [2] - 2:19, 2:31  
**company** [5] - 21:24, 87:17, 90:20, 90:29, 91:1  
**complaint** [7] - 17:27, 19:5, 75:3, 76:3, 77:17, 117:13, 122:25  
**complete** [1] - 48:13  
**completely** [3] - 13:10, 38:15, 53:10  
**complexion** [1] - 120:1  
**computer** [1] - 78:14  
**computers** [1] - 78:22  
**Conal's** [1] - 91:27  
**concentration** [1] - 118:22  
**concern** [6] - 8:24, 9:21, 9:22, 29:22, 89:7, 121:12  
**concerned** [23] - 10:3, 10:20, 10:22, 10:24, 19:10, 25:11, 28:4, 29:2, 29:20, 30:3, 32:9, 33:27, 33:28, 33:29, 35:26, 37:6, 51:17, 54:4, 56:7, 56:8, 56:28, 57:25, 87:3  
**concerning** [1] - 33:8  
**concerns** [1] - 15:15  
**concrete** [1] - 21:5  
**condition** [2] - 5:15, 20:21  
**confidential** [1] - 56:2  
**confirm** [1] - 108:21  
**confused** [2] - 62:1, 111:14  
**CONLON** [1] - 2:23  
**connection** [1] - 100:29  
**Conor** [2] - 26:4, 56:24  
**CONOR** [2] - 2:10, 2:30  
**conscious** [1] - 41:3  
**consequence** [4] - 9:8, 70:8, 116:2, 117:17  
**considerable** [2] - 29:28, 89:18  
**considered** [1] - 125:5  
**considering** [1] - 124:9  
**consistent** [1] - 74:19  
**consumed** [5] - 17:11, 20:27, 36:4, 40:5, 63:26  
**contact** [18] - 10:13, 14:5, 18:14, 19:24, 31:26, 34:26, 35:6, 35:20, 35:22, 49:7, 52:14, 72:10, 86:26, 88:7, 89:23, 91:4, 118:19  
**contacted** [7] - 25:18, 51:17, 54:22, 55:21, 96:17, 98:23, 115:4  
**contacts** [3] - 66:17, 118:16, 118:18  
**contained** [1] - 121:22  
**contemporaneous** [1] - 70:25  
**contemporaneousl**  
**y** [1] - 72:3  
**contentious** [1] - 98:17  
**contesting** [1] - 47:27  
**context** [4] - 49:4, 78:8, 85:13, 94:13  
**continued** [1] - 50:22  
**continues** [1] - 72:22  
**contradicted** [1] - 125:8  
**contradicts** [1] - 94:10  
**contrast** [1] - 63:20  
**contributing** [1] - 87:12  
**control** [11] - 48:14, 62:11, 62:17, 63:18, 63:20, 63:22, 67:21, 74:11, 81:1, 83:11, 114:22  
**controlling** [1] - 74:11  
**conversation** [31] - 11:25, 11:29, 12:5, 13:18, 19:19, 29:10, 29:15, 31:10, 39:18, 39:28, 41:10, 45:12, 46:9, 52:11, 56:12, 58:16, 63:11, 76:23, 79:22, 82:5, 85:12, 85:17, 85:28, 87:2, 87:6, 87:7, 90:19, 95:17, 106:23  
**convey** [1] - 33:27  
**conveyed** [1] - 95:29  
**cool** [2] - 44:9, 62:20  
**cooled** [1] - 62:25  
**cooperate** [3] - 5:18, 23:2, 23:3  
**cooperated** [1] - 55:13  
**cop** [2] - 45:28, 52:6  
**copy** [5] - 80:8, 99:27, 104:21, 104:22, 104:26  
**correct** [84] - 6:2, 6:12, 7:15, 8:2, 15:26, 16:6, 16:13, 16:23, 20:14, 20:18, 20:24, 21:2, 21:6, 34:16, 34:19, 35:3, 35:5, 35:9, 35:13, 35:19, 35:24, 36:25, 38:9, 39:5, 39:13, 39:15, 45:15, 53:9, 53:18, 53:26, 55:20, 57:28, 70:15, 70:19, 70:23, 71:1, 71:4, 71:21, 72:26, 75:20, 75:22, 75:25, 76:2, 76:7, 78:10, 79:25, 80:2, 80:20, 81:2, 81:9, 84:14, 84:17, 84:26, 85:25, 85:28, 91:6, 92:21, 93:3, 93:4, 93:9, 94:23, 96:3, 96:8, 96:10, 96:19, 97:1, 98:25, 98:29, 99:13, 100:15, 100:17, 100:20, 100:26, 101:1, 101:12, 102:14, 102:16, 104:2, 105:2, 108:8, 109:15, 116:8, 120:14  
**corrected** [1] - 93:7  
**correspondence** [1] - 23:17  
**counsel** [5] - 109:21, 121:19, 122:12, 122:14, 125:28  
**counselling** [6] - 35:11, 35:12, 44:24, 52:29, 56:2, 106:15  
**counsellor** [2] - 34:17, 47:15  
**counter** [1] - 15:12  
**country** [4] - 25:26, 30:18, 37:14, 87:20  
**countryside** [2] - 91:23, 91:24  
**county** [5] - 37:24, 74:9, 78:16, 79:19, 87:19  
**couple** [11] - 33:17, 37:4, 40:11, 41:15, 81:28, 82:2, 92:28, 107:23, 109:24, 109:25, 115:3  
**course** [14] - 11:28, 25:6, 31:19, 57:21, 94:8, 94:29, 122:4, 122:16, 123:9, 124:22, 125:5, 125:19, 126:3, 126:4  
**Court** [4] - 114:2, 122:21, 124:23, 125:4  
**COURT** [2] - 1:13, 2:3  
**court** [1] - 9:1  
**courts** [1] - 123:3  
**cousin** [4] - 27:3, 94:27, 95:9, 95:12  
**cover** [1] - 53:14  
**coverage** [1] - 51:18  
**COX** [1] - 2:16  
**crabbed** [2] - 44:11  
**cracked** [1] - 48:11  
**crews** [1] - 18:16  
**criminal** [7] - 22:15, 55:16, 99:17, 103:21, 103:29, 114:9, 122:8  
**criticise** [1] - 123:1  
**criticised** [2] - 123:7, 125:23  
**criticising** [1] - 123:16  
**criticism** [2] - 92:7, 123:6  
**cross** [8] - 9:6, 66:25, 117:28, 119:9, 121:26, 122:4, 122:17, 125:6  
**CROSS** [22] - 3:6, 3:7, 3:12, 3:16, 3:17, 3:22, 3:23, 3:29, 3:30, 4:3, 4:7, 20:11, 26:3, 33:2, 52:25, 56:23, 77:28, 78:6, 92:26, 94:1, 102:10, 105:24  
**cross-examination** [6] - 9:6, 66:25, 117:28, 121:26, 122:4, 122:17  
**cross-examine** [2] - 119:9, 125:6  
**CROSS-EXAMINED** [22] - 3:6, 3:7, 3:12, 3:16, 3:17, 3:22, 3:23, 3:29, 3:30, 4:3, 4:7, 20:11, 26:3, 33:2, 52:25, 56:23, 77:28, 78:6, 92:26, 94:1, 102:10, 105:24  
**crowd** [1] - 36:19  
**cup** [6] - 41:12, 41:14, 41:18, 63:2, 63:14  
**cup'** [2] - 41:13, 63:16  
**currency** [2] - 93:23, 93:25  
**curtains** [1] - 89:13  
**cuts** [2] - 40:17, 41:5

---

**D**

---

**dad** [1] - 36:20  
**dad's** [2] - 28:10, 28:16  
**danger** [5] - 54:16, 59:28, 60:23  
**DANIEL** [1] - 2:31  
**darkness** [3] - 75:26, 90:8, 99:4  
**dashboard** [7] - 48:10, 48:12, 67:22, 116:26, 116:28, 121:1, 121:4  
**date** [4] - 51:21, 51:25, 52:1, 99:18  
**dated** [1] - 92:18  
**daughter** [16] - 6:9, 6:10, 8:5, 8:8, 10:4, 10:15, 11:28, 12:27, 13:2, 13:5, 13:16, 16:14, 19:9, 19:14, 26:27, 35:1  
**daughter's** [1] - 13:22  
**DAY** [2] - 1:18, 5:1  
**days** [2] - 64:21, 115:4  
**deal** [5] - 70:21, 78:13, 110:14, 118:7, 118:9  
**dealing** [11] - 18:16, 26:12, 36:12, 37:17, 37:19, 39:11, 53:12, 92:22, 92:23, 99:11  
**dealings** [5] - 19:18, 53:16, 55:23, 70:28, 90:13  
**dealt** [3] - 17:15, 18:18, 117:28  
**death** [2] - 32:7, 32:8  
**decide** [1] - 88:26  
**decided** [1] - 88:27  
**decides** [2] - 25:7, 113:1  
**deciding** [1] - 120:2  
**dedicated** [1] - 79:23

**defence** [1] - 114:4  
**defendant** [1] - 22:29  
**definitely** [1] - 41:23  
**degree** [1] - 123:24  
**delay** [1] - 56:26  
**delayed** [1] - 89:28  
**demeanour** [1] - 56:6  
**depart** [1] - 121:22  
**departing** [1] - 121:25  
**departure** [1] - 117:7  
**depressed** [2] - 56:4, 56:11  
**dereliction** [1] - 119:28  
**descended** [1] - 12:5  
**described** [14] - 44:29, 58:26, 59:16, 59:23, 59:25, 61:18, 62:2, 62:9, 87:10, 87:19, 88:18, 88:22, 88:25, 89:2  
**description** [1] - 74:7  
**detail** [7] - 9:14, 70:5, 70:25, 107:5, 115:26, 120:27, 120:28  
**details** [11] - 16:7, 20:26, 55:29, 69:28, 71:20, 72:10, 77:18, 81:7, 81:25, 91:13, 96:18  
**device** [1] - 104:14  
**Devlin** [1] - 114:14  
**DIARMAID** [1] - 2:6  
**dictaphone** [7] - 99:26, 99:27, 100:25, 100:27, 100:28, 101:4, 104:16  
**died** [6] - 7:28, 8:3, 14:8, 20:3, 20:12, 31:28  
**different** [10] - 22:28, 47:22, 66:22, 73:16, 80:5, 110:29, 120:1, 121:18, 122:2, 124:21  
**difficult** [3] - 71:19, 84:29  
**difficulties** [1] - 97:20  
**difficulty** [1] - 80:12  
**digital** [3] - 104:13, 104:23, 105:11  
**DIGNAM** [11] - 2:10, 3:7, 3:17, 26:3, 26:4, 26:16, 56:21, 56:23, 56:24, 65:5, 96:12  
**Dignam** [2] - 26:4, 56:24  
**dinner** [2] - 27:26, 27:27  
**direct** [2] - 84:27, 98:26  
**directed** [4] - 101:15, 113:23, 118:11, 123:23  
**direction** [4] - 89:1, 91:26, 91:28, 111:10  
**DIRECTLY** [4] - 3:5, 4:2, 5:8, 98:14  
**directly** [1] - 92:11  
**disagree** [1] - 110:5  
**disagreeing** [1] - 97:22  
**disagreement** [2] - 24:24, 24:29  
**disapprove** [1] - 109:25  
**disapproving** [1] - 110:3  
**discernible** [1] - 45:1  
**DISCLOSURES** [2] - 1:3, 1:4  
**disco** [2] - 36:2, 36:18  
**discuss** [2] - 19:27, 52:15  
**discussed** [2] - 106:25, 120:6  
**discussing** [1] - 120:5  
**discussion** [1] - 52:16  
**disharmony** [2] - 118:27  
**disks** [1] - 102:6  
**dispatched** [1] - 26:13  
**distance** [1] - 22:19  
**distressed** [4] - 40:4, 40:5, 76:29, 96:6  
**district** [8] - 78:19, 91:15, 91:16, 91:22, 92:1, 92:14  
**disturbance** [2] - 52:6, 54:7  
**disturbed** [1] - 68:13  
**diverted** [1] - 78:20  
**division** [2] - 78:16, 123:28  
**DOCKERY** [7] - 3:30, 94:1, 94:3, 95:26, 96:11, 124:16, 124:19  
**document** [1] - 81:8  
**documents** [3] - 60:28, 71:18, 102:7  
**Doherty** [14] - 72:5, 72:6, 74:2, 74:5, 82:11, 82:13, 84:6, 84:10, 92:28, 93:27, 94:3, 98:24, 99:2, 99:6  
**DOHERTY** [2] - 3:27, 84:8  
**domestic** [16] - 37:7, 42:10, 69:7, 83:17, 83:18, 97:19, 97:25, 99:1, 109:6, 111:5, 115:8, 115:10, 115:17, 118:12, 119:17  
**DONALD** [1] - 2:11  
**done** [13] - 9:18, 17:14, 17:20, 18:6, 81:15, 81:16, 102:1, 103:26, 104:1, 105:11, 110:20, 112:15, 121:28  
**Donegal** [15] - 13:4, 17:6, 17:10, 18:5, 37:25, 74:9, 78:16, 79:17, 84:25, 93:15, 93:23, 97:14, 97:16, 97:17, 123:28  
**door** [9] - 39:26, 41:11, 43:25, 46:16, 50:18, 59:9, 75:27, 90:16, 108:10  
**door** [1] - 46:17  
**doorway** [1] - 43:25  
**dots** [1] - 21:2  
**doubt** [2] - 109:13, 114:24  
**down** [42] - 15:9, 18:5, 18:22, 21:20, 36:17, 36:20, 40:8, 41:14, 41:25, 43:27, 44:9, 45:10, 45:11, 52:20, 55:2, 55:18, 60:14, 60:17, 61:4, 61:11, 62:20, 62:25, 63:3, 63:13, 63:28, 72:22, 73:10, 73:13, 80:14, 80:15, 80:22, 81:10, 87:20, 108:4, 108:12, 109:12, 112:18, 112:23, 118:13, 120:19, 126:8  
**down** [1] - 45:10  
**download** [5] - 99:16, 99:25, 99:26, 100:21, 103:25  
**downloaded** [3] - 99:21, 99:23, 100:19  
**downloader** [1] - 99:15  
**downloading** [1] - 99:20  
**downstairs** [2] - 80:20, 89:14  
**dragged** [1] - 47:13  
**dragging** [1] - 49:6  
**drank** [1] - 64:4  
**dressed** [6] - 28:25, 40:1, 40:2, 43:22, 43:24, 44:7  
**drink** [51] - 17:11, 20:22, 20:27, 24:17, 25:13, 40:7, 41:22, 44:15, 46:13, 46:19, 46:21, 46:25, 59:17, 59:18, 59:25, 62:12, 62:23, 62:25, 63:19, 63:22, 63:26, 64:2, 67:20, 68:20, 68:27, 68:28, 107:19, 107:21, 107:22, 107:28, 108:1, 108:3, 108:7, 108:16, 108:19, 109:3, 109:11, 109:15, 109:16, 109:18, 109:21, 109:22, 109:23, 109:29, 110:2, 110:4, 110:5, 111:8, 112:21  
**drink** [1] - 46:24  
**drinker** [1] - 53:10  
**drinking** [5] - 11:3, 42:21, 50:22, 108:28, 109:26  
**drinks** [8] - 11:10, 11:11, 20:18, 24:19, 41:15, 61:8, 107:23, 109:14  
**drive** [10] - 24:18, 24:20, 41:22, 41:23, 43:3, 48:8, 92:4, 107:17, 107:18, 111:12  
**driven** [2] - 86:14, 86:15  
**driving** [12] - 13:5, 13:16, 13:27, 15:28, 19:9, 30:29, 45:21, 49:16, 49:17, 86:17, 87:14  
**dropped** [4] - 46:28, 46:29, 76:21, 112:22  
**drove** [4] - 30:23, 39:14, 48:7, 50:20  
**drugs** [2] - 36:5, 112:13  
**drunk** [7] - 41:20, 43:5, 50:21, 62:23, 85:2, 122:19  
**drunk-drunk** [1] - 62:23  
**Dublin** [4] - 7:6, 7:11, 27:24, 97:15  
**DUBLIN** [5] - 1:17, 2:13, 2:17, 2:25, 2:32  
**due** [3] - 58:8, 60:22, 123:9  
**duress** [1] - 124:27  
**during** [11] - 11:28, 15:12, 25:16, 25:17, 31:19, 57:21, 82:3, 87:7, 94:29, 117:29, 122:3  
**duties** [1] - 101:5  
**duty** [14] - 15:2, 17:27, 23:2, 23:3, 58:6, 70:17, 84:12, 90:4, 98:22, 119:28, 121:19, 122:12, 122:14, 122:23  
**duty-bound** [1] - 58:6  
**duvet** [3] - 114:26, 115:12, 115:14  
**DWYER** [1] - 2:22  
**DÁIL** [1] - 1:5

---

## E

---

**EARLSFORT** [1] - 2:16  
**early** [6] - 14:14, 15:2, 15:13, 28:5, 28:7  
**easier** [1] - 44:23  
**eat** [1] - 67:5  
**effect** [5] - 33:20, 43:16, 43:28, 52:10, 64:3  
**effort** [1] - 10:13  
**either** [6] - 8:4, 22:10, 23:17, 28:10, 86:13, 89:16  
**elevated** [1] - 40:24  
**ELIZABETH** [1] - 2:7  
**elsewhere** [1] - 62:9  
**emanate** [1] - 92:13  
**emanated** [1] - 123:27  
**emerge** [1] - 121:15  
**emergency** [1] - 51:7  
**emerges** [2] - 6:6, 121:18  
**emotional** [1] - 115:24  
**employed** [3] - 53:6, 53:7, 53:8  
**en** [2] - 90:28, 91:1  
**encouraging** [1] - 115:15

**end** <sup>[14]</sup> - 13:25, 15:9, 18:1, 39:28, 47:5, 62:26, 81:11, 81:27, 82:5, 85:28, 92:1, 101:2, 113:18  
**ended** <sup>[2]</sup> - 32:22, 45:20  
**engage** <sup>[1]</sup> - 42:6  
**engaged** <sup>[1]</sup> - 26:12  
**ENGLISH** <sup>[1]</sup> - 2:22  
**Englishman** <sup>[1]</sup> - 114:12  
**enormous** <sup>[1]</sup> - 119:20  
**ensure** <sup>[1]</sup> - 89:9  
**entirely** <sup>[3]</sup> - 21:23, 25:12, 120:1  
**entitled** <sup>[4]</sup> - 22:16, 65:4, 81:13, 123:8  
**entry** <sup>[2]</sup> - 72:3, 72:22  
**envelope** <sup>[1]</sup> - 104:28  
**EOIN** <sup>[2]</sup> - 4:1, 98:14  
**Eoin** <sup>[3]</sup> - 90:3, 98:9  
**EQUALITY** <sup>[1]</sup> - 1:9  
**especially** <sup>[2]</sup> - 30:2, 125:26  
**establish** <sup>[2]</sup> - 18:24, 19:9  
**ESTABLISHED** <sup>[1]</sup> - 1:8  
**estate** <sup>[1]</sup> - 46:29  
**etcetera** <sup>[1]</sup> - 122:19  
**evening** <sup>[5]</sup> - 6:6, 6:14, 8:3, 11:3, 20:18, 24:19, 28:5, 28:6, 35:27, 35:29, 88:4, 94:10, 105:28, 106:1, 106:29  
**event** <sup>[12]</sup> - 9:4, 9:17, 11:13, 14:5, 19:13, 37:17, 39:10, 45:13, 71:17, 88:20, 107:15, 118:22  
**events** <sup>[7]</sup> - 5:12, 5:16, 55:20, 65:9, 70:21, 121:18, 125:29  
**eventually** <sup>[1]</sup> - 90:1  
**everyday** <sup>[1]</sup> - 111:4  
**EVIDENCE** <sup>[1]</sup> - 1:9  
**evidence** <sup>[28]</sup> - 5:5, 5:11, 9:5, 9:13, 11:20, 22:5, 29:16, 42:18, 45:1, 46:27, 54:21, 60:5, 60:9, 70:4, 88:11, 103:29, 113:28, 116:22, 117:1, 117:3, 117:10, 117:29, 118:20,

119:9, 121:12, 121:29, 122:14, 123:27  
**exact** <sup>[3]</sup> - 43:16, 48:25, 91:12  
**exactly** <sup>[10]</sup> - 29:18, 30:16, 43:1, 67:14, 73:1, 77:24, 79:4, 79:28, 80:23, 108:15  
**examination** <sup>[7]</sup> - 9:6, 66:25, 117:28, 121:16, 121:26, 122:4, 122:17  
**examine** <sup>[3]</sup> - 119:9, 122:12, 125:6  
**EXAMINED** <sup>[38]</sup> - 3:5, 3:6, 3:7, 3:10, 3:12, 3:15, 3:16, 3:17, 3:21, 3:22, 3:23, 3:24, 3:28, 3:29, 3:30, 3:31, 4:2, 4:3, 4:7, 5:9, 20:11, 26:3, 26:25, 33:2, 34:12, 52:25, 56:23, 70:11, 77:28, 78:6, 81:21, 84:8, 92:26, 94:1, 96:14, 98:15, 102:10, 105:24  
**example** <sup>[1]</sup> - 103:28  
**exceptional** <sup>[1]</sup> - 37:5  
**exchange** <sup>[1]</sup> - 33:7  
**exchanged** <sup>[2]</sup> - 41:21, 62:16  
**exhibit** <sup>[4]</sup> - 105:1, 105:2, 105:3, 105:4  
**exists** <sup>[1]</sup> - 122:15  
**expected** <sup>[1]</sup> - 23:28  
**expecting** <sup>[2]</sup> - 20:13, 20:15  
**experience** <sup>[6]</sup> - 44:2, 54:17, 56:17, 59:14, 63:27, 107:14  
**experienced** <sup>[1]</sup> - 80:5  
**experiencing** <sup>[1]</sup> - 80:7  
**explain** <sup>[2]</sup> - 69:6, 107:27  
**explained** <sup>[2]</sup> - 17:4, 77:1  
**explaining** <sup>[2]</sup> - 33:11, 64:27  
**expressed** <sup>[1]</sup> - 15:15  
**extent** <sup>[3]</sup> - 28:28, 35:7  
**extremely** <sup>[1]</sup> - 122:7

## F

**fact** <sup>[25]</sup> - 6:26, 9:10, 10:7, 11:9, 11:14, 15:22, 20:13, 21:12, 21:17, 21:23, 22:7, 26:11, 27:12, 42:6, 46:4, 53:19, 58:25, 59:23, 62:19, 82:8, 95:5, 106:7, 106:18, 106:21, 124:28  
**facts** <sup>[1]</sup> - 23:2  
**failure** <sup>[1]</sup> - 60:25  
**fair** <sup>[4]</sup> - 21:20, 53:23, 97:21, 126:1  
**fairly** <sup>[2]</sup> - 20:27, 21:4  
**fairness** <sup>[3]</sup> - 108:18  
**faith** <sup>[1]</sup> - 34:21  
**Family** <sup>[3]</sup> - 116:4, 118:10, 119:16  
**family** <sup>[10]</sup> - 7:10, 23:8, 27:9, 31:28, 32:6, 32:9, 34:27, 53:16, 83:17, 90:22  
**far** <sup>[17]</sup> - 8:23, 9:18, 9:22, 10:15, 25:11, 33:26, 37:5, 38:3, 38:10, 54:4, 67:20, 80:9, 81:10, 91:18, 103:13, 123:21, 124:21  
**father** <sup>[5]</sup> - 29:4, 29:6, 29:19, 30:19, 31:10  
**father's** <sup>[1]</sup> - 32:7  
**fault** <sup>[3]</sup> - 25:3, 67:19, 101:18  
**fear** <sup>[2]</sup> - 69:28, 107:5  
**February** <sup>[1]</sup> - 126:6  
**FEBRUARY** <sup>[2]</sup> - 1:6, 1:10  
**fella** <sup>[4]</sup> - 36:9, 36:10, 36:18, 38:16  
**fellas** <sup>[1]</sup> - 49:23  
**felt** <sup>[4]</sup> - 33:12, 56:4, 82:29, 112:23  
**female** <sup>[5]</sup> - 14:27, 15:11, 31:11, 31:12, 94:21  
**ferry** <sup>[1]</sup> - 25:19  
**few** <sup>[10]</sup> - 10:15, 11:10, 11:11, 41:26, 46:14, 56:26, 61:8, 105:20, 109:14, 114:15  
**fight** <sup>[1]</sup> - 64:15  
**filed** <sup>[1]</sup> - 92:29

**fill** <sup>[1]</sup> - 69:28  
**final** <sup>[2]</sup> - 98:8, 98:10  
**findings** <sup>[2]</sup> - 99:5, 99:10  
**fine** <sup>[6]</sup> - 11:21, 44:9, 59:6, 66:26, 104:7, 111:26  
**finish** <sup>[1]</sup> - 22:25  
**finished** <sup>[3]</sup> - 39:10, 67:2, 67:3  
**finishing** <sup>[3]</sup> - 38:20, 85:11, 85:17  
**Finn** <sup>[4]</sup> - 73:25, 73:27, 85:5, 93:12  
**first** <sup>[27]</sup> - 5:4, 5:22, 14:7, 15:9, 22:19, 23:8, 27:20, 35:16, 40:14, 53:16, 55:12, 55:13, 61:17, 71:11, 72:7, 79:29, 81:12, 81:29, 82:10, 82:13, 86:29, 94:15, 95:17, 96:20, 97:3, 97:5, 122:15  
**firstly** <sup>[5]</sup> - 9:3, 23:26, 52:27, 68:5, 92:29  
**fist** <sup>[3]</sup> - 48:11, 67:22, 116:26  
**FITZWILLIAM** <sup>[1]</sup> - 2:31  
**five** <sup>[4]</sup> - 46:16, 46:29, 53:3, 53:4  
**flared** <sup>[1]</sup> - 40:22  
**flashed** <sup>[1]</sup> - 47:4  
**flashing** <sup>[1]</sup> - 71:26  
**focus** <sup>[1]</sup> - 56:27  
**folk** <sup>[1]</sup> - 111:22  
**follow** <sup>[3]</sup> - 91:17, 92:15, 94:12  
**follow-up** <sup>[2]</sup> - 91:17, 92:15  
**followed** <sup>[1]</sup> - 95:22  
**FOLLOWING** <sup>[1]</sup> - 1:5  
**following** <sup>[11]</sup> - 1:26, 18:24, 18:29, 67:14, 70:1, 71:21, 71:26, 78:2, 85:27, 117:13, 117:19  
**FOLLOWS** <sup>[7]</sup> - 5:2, 24:11, 26:26, 34:13, 70:12, 84:9, 105:17  
**foot** <sup>[1]</sup> - 124:19  
**FOR** <sup>[9]</sup> - 1:8, 2:6, 2:9, 2:15, 2:19, 2:22, 2:27, 2:30, 105:15  
**forcibly** <sup>[3]</sup> - 84:23, 95:1, 96:1  
**forgive** <sup>[1]</sup> - 25:23

**forgot** <sup>[1]</sup> - 55:21  
**form** <sup>[2]</sup> - 38:21, 80:29  
**forward** <sup>[2]</sup> - 125:1, 125:2  
**forwarded** <sup>[1]</sup> - 93:2  
**fourth** <sup>[1]</sup> - 21:1  
**Fowley** <sup>[8]</sup> - 15:2, 15:25, 19:19, 20:26, 21:4, 26:7, 31:13, 82:17  
**foyer** <sup>[2]</sup> - 100:2, 100:9  
**frankly** <sup>[2]</sup> - 110:13, 110:15  
**freely** <sup>[1]</sup> - 24:6  
**frequently** <sup>[1]</sup> - 58:18  
**friend** <sup>[14]</sup> - 21:24, 53:25, 53:27, 54:1, 54:4, 72:26, 88:19, 88:21, 88:22, 88:23, 96:9, 112:6, 112:8, 112:10  
**friendly** <sup>[6]</sup> - 35:17, 35:18, 106:11, 106:12, 106:13, 106:14  
**friends** <sup>[1]</sup> - 110:4  
**frightened** <sup>[1]</sup> - 48:12  
**front** <sup>[11]</sup> - 15:5, 36:18, 39:25, 39:26, 48:10, 48:29, 50:18, 60:29, 81:3, 81:7, 89:12  
**fully** <sup>[3]</sup> - 5:18, 55:13, 106:1  
**function** <sup>[1]</sup> - 22:27  
**fundamental** <sup>[2]</sup> - 122:20, 124:25  
**furnished** <sup>[2]</sup> - 72:9, 102:6  
**furniture** <sup>[2]</sup> - 40:16, 40:20  
**furthermore** <sup>[1]</sup> - 122:13

## G

**GAGEBY** <sup>[1]</sup> - 2:23  
**gain** <sup>[1]</sup> - 111:23  
**Galway** <sup>[1]</sup> - 50:5  
**GALWAY** <sup>[1]</sup> - 2:20  
**garbled** <sup>[1]</sup> - 21:18  
**garda** <sup>[32]</sup> - 6:27, 11:25, 12:6, 14:23, 14:29, 15:2, 16:29, 17:27, 18:8, 18:28,

19:19, 26:7, 31:11,  
31:13, 54:25, 66:21,  
69:23, 70:5, 78:7,  
81:16, 81:24, 82:8,  
82:17, 84:24, 85:2,  
97:26, 97:27, 119:23,  
121:2, 123:21,  
123:29, 125:24  
**GARDA**<sup>[9]</sup> - 2:19,  
3:20, 4:1, 70:11,  
77:28, 78:6, 81:21,  
82:24, 98:14  
**Garda**<sup>[152]</sup> - 10:24,  
10:27, 11:26, 12:13,  
12:23, 13:18, 14:9,  
14:11, 14:12, 14:18,  
14:21, 15:12, 15:25,  
16:4, 17:4, 17:6,  
17:21, 17:24, 17:25,  
20:26, 21:4, 22:2,  
24:16, 24:18, 25:18,  
26:5, 26:10, 29:14,  
30:14, 31:7, 31:22,  
31:25, 33:3, 34:23,  
45:2, 45:25, 46:5,  
46:7, 47:28, 52:5,  
54:23, 55:29, 56:25,  
56:29, 57:3, 57:10,  
57:16, 57:20, 58:1,  
58:5, 58:17, 59:12,  
59:15, 59:20, 60:1,  
60:4, 61:18, 62:10,  
63:1, 63:3, 63:20,  
63:21, 66:18, 66:19,  
67:15, 69:27, 70:13,  
70:14, 70:18, 75:21,  
75:22, 78:18, 78:28,  
79:10, 79:18, 80:19,  
81:22, 82:2, 82:27,  
83:11, 84:12, 84:15,  
84:18, 84:26, 84:28,  
85:4, 85:8, 85:12,  
85:13, 85:14, 85:17,  
85:21, 85:23, 85:27,  
85:29, 86:7, 86:12,  
86:14, 86:18, 86:20,  
87:13, 88:6, 88:7,  
88:19, 88:21, 88:23,  
89:2, 89:5, 89:6,  
89:12, 89:20, 90:3,  
90:10, 90:17, 91:3,  
91:7, 92:8, 93:8,  
93:24, 94:17, 94:19,  
95:17, 96:9, 96:17,  
96:24, 97:5, 98:9,  
98:23, 99:17, 99:24,  
100:1, 100:11,  
100:19, 100:20,  
102:12, 102:21,  
103:3, 103:15, 104:7,  
111:6, 112:11,

116:25, 117:20,  
118:8, 118:11,  
118:16, 118:17,  
119:1, 123:23, 123:24  
**garda's**<sup>[1]</sup> - 83:17  
**Gardaí**<sup>[7]</sup> - 69:29,  
115:19, 117:8,  
117:16, 117:24,  
119:15, 125:25  
**gardaí**<sup>[22]</sup> - 10:28,  
11:14, 26:8, 26:12,  
29:6, 29:29, 35:23,  
36:15, 47:23, 50:11,  
55:5, 55:6, 61:27,  
65:12, 66:5, 69:4,  
69:13, 74:8, 76:4,  
77:20, 97:12, 97:18  
**gathered**<sup>[1]</sup> - 73:21  
**general**<sup>[3]</sup> - 89:1,  
114:22, 125:25  
**generalised**<sup>[1]</sup> -  
117:13  
**geographical**<sup>[1]</sup> -  
124:9  
**get-together**<sup>[1]</sup> -  
32:6  
**get-togethers**<sup>[1]</sup> -  
27:9  
**girl**<sup>[1]</sup> - 30:2  
**given**<sup>[20]</sup> - 9:6,  
47:22, 54:21, 55:18,  
57:20, 57:29, 58:4,  
58:14, 60:5, 61:26,  
61:28, 65:26, 65:27,  
73:16, 73:24, 94:9,  
100:13, 102:5,  
116:23, 121:12  
**glass**<sup>[1]</sup> - 40:6  
**God**<sup>[1]</sup> - 111:21  
**golden**<sup>[4]</sup> - 36:2,  
36:8, 38:16, 39:12  
**Goretti**<sup>[2]</sup> - 94:5,  
121:17  
**grab**<sup>[1]</sup> - 50:16  
**grabbed**<sup>[1]</sup> - 49:24  
**grand**<sup>[3]</sup> - 58:15,  
65:3, 109:24  
**granny**<sup>[2]</sup> - 34:28,  
53:22  
**granny's**<sup>[3]</sup> - 27:8,  
31:27, 31:28  
**grateful**<sup>[1]</sup> - 121:5  
**graveyard**<sup>[1]</sup> - 91:25  
**great**<sup>[6]</sup> - 81:17,  
110:14, 110:20,  
110:25, 118:7, 118:9  
**great'**<sup>[1]</sup> - 46:12  
**green**<sup>[4]</sup> - 78:24,  
78:26, 78:27, 79:9  
**grill**<sup>[4]</sup> - 36:2, 36:9,

38:16, 39:12  
**ground**<sup>[1]</sup> - 78:24  
**Grove**<sup>[2]</sup> - 72:28,  
75:23  
**grove**<sup>[4]</sup> - 74:9,  
74:18, 74:24, 75:19  
**grown**<sup>[2]</sup> - 111:9,  
112:29  
**GSOC**<sup>[2]</sup> - 115:5,  
117:19  
**guard**<sup>[23]</sup> - 14:24,  
17:18, 18:2, 31:11,  
33:6, 33:7, 33:9,  
33:28, 45:26, 46:7,  
46:8, 51:16, 51:20,  
51:24, 51:27, 51:28,  
52:1, 52:4, 52:7,  
52:12, 54:27, 84:1  
**guards**<sup>[19]</sup> - 18:7,  
21:17, 21:20, 45:27,  
46:1, 46:3, 46:4, 52:2,  
56:3, 57:2, 57:7,  
57:10, 58:7, 58:13,  
65:21, 77:2, 77:3,  
91:8, 110:23  
**Gwen**<sup>[1]</sup> - 1:25  
**GWEN**<sup>[1]</sup> - 1:30

---

**H**

---

**half**<sup>[6]</sup> - 38:11,  
38:17, 38:19, 67:10,  
69:19, 111:12  
**halfway**<sup>[1]</sup> - 61:4  
**HALLS**<sup>[1]</sup> - 2:20  
**HANAHOE**<sup>[1]</sup> - 2:24  
**hand**<sup>[7]</sup> - 39:26,  
40:7, 101:11, 101:26,  
108:9, 111:21  
**handed**<sup>[4]</sup> - 76:27,  
99:27, 100:9, 104:29  
**handle**<sup>[1]</sup> - 64:3  
**handled**<sup>[1]</sup> - 70:1  
**handling**<sup>[1]</sup> - 44:1  
**hands**<sup>[3]</sup> - 9:15,  
43:6, 44:22  
**handwritten**<sup>[1]</sup> -  
81:6  
**hang**<sup>[4]</sup> - 37:26,  
67:11, 67:12, 103:7  
**hanging**<sup>[1]</sup> - 72:7  
**happy**<sup>[5]</sup> - 12:22,  
12:25, 19:20, 19:21,  
19:23  
**harassed**<sup>[1]</sup> - 56:3  
**hard**<sup>[1]</sup> - 48:12  
**harm**<sup>[1]</sup> - 121:28  
**Harrison**<sup>[100]</sup> - 6:16,  
7:24, 10:8, 12:13,

16:29, 17:4, 22:2,  
23:24, 24:16, 24:18,  
24:28, 25:11, 25:13,  
25:18, 26:10, 27:13,  
34:23, 35:14, 35:21,  
36:5, 36:23, 38:27,  
39:25, 40:29, 42:20,  
45:2, 45:6, 45:16,  
47:7, 49:7, 49:14,  
50:13, 52:7, 52:27,  
53:23, 53:26, 54:3,  
55:29, 57:11, 57:22,  
59:12, 59:15, 59:20,  
60:1, 60:4, 61:6,  
61:18, 62:10, 62:11,  
63:1, 63:3, 63:21,  
66:19, 67:15, 67:21,  
71:24, 73:22, 81:23,  
82:2, 84:24, 85:3,  
85:14, 85:27, 86:8,  
86:14, 87:13, 88:21,  
89:2, 90:17, 92:8,  
95:2, 96:9, 102:16,  
102:18, 102:22,  
102:25, 103:3,  
103:12, 103:14,  
106:4, 106:10,  
106:13, 106:20,  
106:26, 107:3,  
108:20, 111:6, 112:6,  
112:9, 112:10,  
112:11, 112:24,  
114:21, 116:25,  
118:17, 119:24,  
120:2, 121:3, 123:21,  
124:28  
**HARRISON**<sup>[1]</sup> - 2:19  
**Harrison's**<sup>[10]</sup> -  
63:20, 73:23, 85:7,  
88:19, 88:23, 89:13,  
93:10, 119:7, 121:20,  
124:1  
**HARTNETT**<sup>[58]</sup> -  
2:27, 4:7, 66:2, 66:8,  
66:14, 66:16, 66:23,  
66:28, 67:8, 69:17,  
105:20, 105:24,  
105:26, 107:8,  
107:12, 109:13,  
113:22, 113:26,  
114:5, 114:8, 114:11,  
114:17, 115:11,  
115:22, 115:26,  
116:1, 116:6, 116:10,  
116:13, 116:15,  
116:19, 116:22,  
116:27, 117:1, 117:3,  
117:9, 117:15,  
117:22, 117:26,  
118:3, 118:18,  
118:25, 119:4, 119:8,

119:12, 119:19,  
119:22, 119:26,  
120:4, 120:15,  
120:17, 120:20,  
120:24, 120:29,  
121:4, 121:7, 123:11,  
123:14  
**Hartnett**<sup>[21]</sup> - 66:4,  
66:13, 66:15, 66:26,  
67:7, 69:2, 105:18,  
107:4, 109:9, 113:20,  
114:1, 115:8, 116:8,  
117:6, 118:2, 119:11,  
120:13, 121:6,  
123:16, 125:2, 125:12  
**Hartnett's**<sup>[1]</sup> -  
121:21  
**Harty**<sup>[12]</sup> - 8:29,  
22:15, 23:16, 24:3,  
25:23, 52:26, 103:8,  
105:10, 121:20  
**HARTY**<sup>[42]</sup> - 2:19,  
3:6, 3:16, 3:22, 3:29,  
4:3, 8:25, 9:12, 20:11,  
20:12, 22:21, 22:26,  
23:11, 23:22, 23:26,  
24:4, 24:13, 24:24,  
24:26, 24:28, 25:4,  
25:17, 25:21, 25:24,  
25:29, 32:28, 52:25,  
52:26, 56:13, 70:3,  
77:28, 78:1, 92:26,  
92:28, 93:27, 102:10,  
102:12, 103:20,  
104:7, 105:6, 123:19,  
124:4  
**HAVING**<sup>[7]</sup> - 5:8,  
26:25, 34:12, 70:11,  
84:8, 98:14, 105:23  
**head**<sup>[2]</sup> - 72:13,  
95:20  
**headed**<sup>[2]</sup> - 43:9,  
45:19  
**Headquarters**<sup>[5]</sup> -  
118:8, 118:11, 119:2,  
123:23, 123:25  
**headquarters**<sup>[1]</sup> -  
120:1  
**heal**<sup>[1]</sup> - 111:20  
**healed**<sup>[1]</sup> - 52:17  
**healer**<sup>[2]</sup> - 34:20,  
34:21  
**healing**<sup>[1]</sup> - 55:24  
**health**<sup>[1]</sup> - 34:20  
**hear**<sup>[18]</sup> - 11:23,  
11:24, 11:27, 12:7,  
13:22, 22:5, 30:1,  
33:14, 57:16, 57:19,  
58:15, 71:14, 93:20,  
110:18, 120:16,

122:3, 122:28, 124:18  
**heard** [28] - 12:3,  
 12:8, 13:19, 16:4,  
 29:10, 31:16, 32:17,  
 33:4, 33:14, 47:6,  
 57:18, 71:10, 71:11,  
 71:12, 71:13, 80:4,  
 80:9, 85:6, 86:20,  
 89:22, 90:10, 93:5,  
 93:6, 93:15, 93:16,  
 93:19, 94:12  
**hearing** [3] - 80:12,  
 110:12, 117:29  
**HEARING** [5] - 5:1,  
 24:10, 105:15,  
 105:17, 126:11  
**hears** [1] - 113:28  
**hearsay** [3] - 9:3,  
 9:4, 20:29  
**heated** [1] - 51:2  
**heaven's** [1] - 43:2  
**HELD** [1] - 1:17  
**hello** [1] - 27:11  
**help** [5] - 69:26,  
 88:10, 113:11, 121:6,  
 121:7  
**helping** [1] - 67:28  
**here'** [1] - 52:6  
**herself** [6] - 63:19,  
 64:1, 87:19, 87:20,  
 92:11, 94:22  
**hesitation** [1] - 9:2  
**High** [2] - 124:23,  
 125:4  
**highest** [1] - 124:10  
**Hill** [1] - 5:26  
**himself** [2] - 8:27,  
 71:3  
**hiring** [2] - 44:18  
**hitting** [1] - 33:24  
**hmm** [1] - 76:14  
**hold** [1] - 50:2  
**holding** [1] - 56:15  
**home** [30] - 19:16,  
 19:26, 20:4, 24:19,  
 37:24, 39:2, 41:24,  
 41:28, 42:16, 42:17,  
 43:8, 43:12, 43:23,  
 44:9, 44:23, 45:4,  
 48:7, 49:17, 52:13,  
 57:5, 61:21, 75:2,  
 75:26, 76:13, 84:24,  
 88:13, 89:25, 90:22,  
 95:1  
**home'** [1] - 90:8  
**homes** [1] - 25:26  
**honest** [8] - 44:1,  
 46:13, 50:28, 60:21,  
 64:14, 111:20, 113:9  
**honestly** [3] - 50:28,

60:19, 81:14  
**Honour** [8] - 56:19,  
 65:2, 107:10, 110:15,  
 111:2, 111:19,  
 111:24, 113:8  
**hoof** [1] - 23:29  
**hope** [4] - 10:17,  
 56:26, 114:12, 121:7  
**hospital** [1] - 20:6  
**hour** [5] - 38:11,  
 38:17, 38:19, 38:27,  
 47:13  
**hour's** [1] - 111:12  
**hours** [5] - 15:3,  
 15:13, 28:6, 28:7,  
 79:3  
**HOUSE** [1] - 2:12  
**house** [94] - 6:13,  
 8:4, 12:7, 20:16, 21:9,  
 21:12, 21:14, 21:23,  
 22:8, 22:20, 24:22,  
 26:14, 30:15, 31:28,  
 39:2, 40:15, 41:24,  
 42:1, 42:5, 42:17,  
 42:29, 45:14, 46:15,  
 46:17, 46:28, 47:1,  
 47:3, 48:9, 48:14,  
 48:16, 49:25, 50:9,  
 50:16, 50:17, 50:22,  
 51:3, 51:19, 54:6,  
 54:11, 57:23, 57:25,  
 58:9, 58:12, 59:26,  
 60:11, 61:10, 61:12,  
 61:20, 62:5, 65:18,  
 67:24, 68:8, 68:9,  
 68:21, 71:25, 73:23,  
 77:4, 83:6, 85:3,  
 85:15, 86:15, 87:10,  
 87:18, 89:3, 89:11,  
 89:16, 89:18, 89:25,  
 89:27, 90:5, 90:7,  
 90:17, 90:18, 90:24,  
 90:25, 92:8, 96:2,  
 97:3, 98:27, 99:4,  
 106:22, 107:1, 107:7,  
 110:27, 111:11,  
 112:26, 113:5, 113:8,  
 113:9  
**house'** [1] - 42:4  
**HUGH** [1] - 2:27  
**hundred** [8] - 28:10,  
 28:27, 32:17, 40:6,  
 45:24, 50:15, 52:8,  
 56:5  
**husband** [1] - 6:22

## I

**IAN** [2] - 3:20, 70:11  
**lan** [3] - 69:23, 89:23,

89:26  
**idea** [6] - 9:27, 13:29,  
 14:1, 68:20, 86:15,  
 97:29  
**identified** [3] - 71:3,  
 85:23, 94:22  
**identify** [1] - 13:20  
**identity** [1] - 102:28  
**imagine** [2] - 20:17,  
 81:15  
**immediate** [1] -  
 115:5  
**immediately** [2] -  
 72:6, 80:17  
**imminently** [1] -  
 20:14  
**impaired** [3] - 5:14,  
 20:20, 20:21  
**implication** [1] - 26:9  
**implied** [1] - 112:23  
**important** [9] - 9:11,  
 20:24, 22:18, 23:5,  
 67:25, 94:11, 103:29,  
 120:25, 122:1  
**improper** [1] - 105:8  
**IN** [1] - 1:17  
**inaccuracies** [1] -  
 115:28  
**inaccurate** [1] -  
 117:12  
**incident** [13] - 19:6,  
 22:1, 37:18, 48:2,  
 55:21, 57:10, 83:8,  
 87:4, 87:9, 91:14,  
 92:13, 92:23, 99:1  
**incidents** [2] - 99:16,  
 99:17  
**including** [1] - 94:5  
**incorrect** [3] - 69:4,  
 116:24, 123:15  
**indeed** [3] - 111:29,  
 118:29, 120:7  
**INDEX** [1] - 3:1  
**indicated** [3] - 24:15,  
 49:18, 115:6  
**INDICATING** [1] -  
 108:13  
**individual** [1] - 67:27  
**indulged** [1] - 108:23  
**inference** [2] - 12:12,  
 17:21  
**inferred** [1] - 80:11  
**inform** [1] - 82:14  
**information** [32] -  
 12:9, 12:14, 12:19,  
 20:28, 23:14, 39:16,  
 57:20, 57:29, 58:5,  
 58:13, 58:18, 60:5,  
 61:14, 61:26, 61:27,  
 64:7, 65:7, 65:13,

65:16, 65:25, 65:27,  
 73:20, 73:24, 74:3,  
 74:4, 83:4, 86:12,  
 94:17, 94:19, 95:25,  
 96:1, 126:6  
**information"** [1] -  
 18:19  
**informed** [4] - 16:29,  
 19:3, 74:8, 91:3  
**informing** [1] -  
 120:26  
**Inishowen** [2] -  
 53:14, 67:28  
**initial** [2] - 73:18,  
 87:3  
**injured** [8] - 19:4,  
 72:23, 72:25, 72:29,  
 73:7, 73:12, 73:26  
**injury** [2] - 11:6, 11:8  
**input** [3] - 29:12,  
 68:11, 68:12  
**inquiries** [6] - 40:12,  
 77:13, 77:16, 86:11,  
 91:17, 119:29  
**inquiring** [1] - 23:1  
**INQUIRY** [2] - 1:3,  
 1:9  
**inquisitive** [1] -  
 93:19  
**inside** [4] - 39:29,  
 40:1, 41:11, 104:15  
**insisted** [1] - 114:3  
**insofar** [4] - 20:20,  
 113:26, 121:7, 121:23  
**inspector** [1] -  
 121:17  
**Inspector** [1] - 94:5,  
 99:21, 99:28, 100:14,  
 100:18, 101:11,  
 101:16, 101:17,  
 102:23, 103:17,  
 104:29  
**instance** [2] - 5:22,  
 108:20  
**instead** [1] - 79:9  
**instructed** [2] -  
 43:23, 88:6  
**INSTRUCTED** [5] -  
 2:11, 2:16, 2:19, 2:23,  
 2:31  
**instructions** [13] -  
 22:17, 23:4, 24:5,  
 42:5, 42:15, 43:8,  
 59:27, 113:24,  
 114:16, 119:12,  
 122:12, 123:7, 125:13  
**INSTRUMENT** [1] -  
 1:8  
**instrument** [1] -  
 120:3

**intelligent** [1] -  
 112:29  
**intend** [2] - 29:15,  
 123:9  
**intention** [1] - 5:18  
**intercom** [1] - 79:1  
**interested** [1] - 95:25  
**interference** [1] -  
 104:24  
**internal** [1] - 88:1  
**interrogate** [1] -  
 111:22  
**interrupt** [1] - 91:18  
**intervention** [2] -  
 55:28, 117:19  
**interview** [3] - 23:12,  
 23:13, 61:1  
**INTO** [1] - 1:3  
**intoxicated** [2] -  
 17:11, 71:19  
**introduced** [2] -  
 35:14, 35:16  
**intrusive** [1] - 115:26  
**investigate** [1] -  
 66:17  
**investigated** [3] -  
 103:2, 103:4, 103:5  
**investigating** [2] -  
 118:15, 124:15  
**investigation** [3] -  
 92:17, 103:21, 104:1  
**investigator** [1] -  
 60:6  
**investigators** [9] -  
 7:22, 44:3, 45:23,  
 55:10, 59:20, 60:13,  
 61:2, 61:15, 125:24  
**invited** [1] - 117:4  
**involve** [4] - 29:28,  
 66:10, 114:3  
**involved** [14] - 16:8,  
 18:8, 23:7, 35:10,  
 83:3, 83:8, 86:13,  
 86:23, 116:5, 116:15,  
 118:28, 118:29,  
 120:8, 120:22  
**involvement** [2] -  
 91:7, 118:8  
**involving** [4] - 57:10,  
 87:5, 115:23, 119:16  
**IPs** [2] - 72:23, 72:25  
**Ireland** [1] - 22:29  
**irrationally** [1] -  
 68:21  
**irritated** [1] - 44:17  
**is'** [1] - 52:10  
**issue** [1] - 49:11  
**issues** [3] - 66:24,  
 116:22, 117:27  
**it'** [1] - 64:3



31:26, 32:14, 32:19, 33:25, 34:24, 34:28, 35:2, 35:16, 35:18, 36:24, 37:24, 38:7, 39:2, 39:27, 40:1, 40:2, 40:25, 41:4, 41:10, 41:13, 41:17, 42:7, 42:13, 42:21, 42:25, 43:4, 43:10, 45:2, 45:14, 45:17, 45:21, 47:23, 47:26, 49:16, 52:13, 52:17, 53:16, 53:22, 53:24, 53:29, 54:1, 54:4, 55:1, 55:18, 55:23, 56:1, 57:5, 59:3, 59:17, 60:6, 61:6, 61:9, 61:11, 62:4, 62:11, 63:15, 63:16, 64:17, 65:29, 66:7, 67:15, 69:3, 72:26, 73:5, 73:8, 73:27, 74:8, 74:18, 74:23, 76:1, 76:10, 76:23, 85:8, 85:9, 85:15, 85:23, 86:15, 86:26, 86:29, 87:14, 87:16, 88:24, 89:2, 89:9, 89:23, 90:11, 90:16, 90:24, 91:5, 92:11, 93:8, 93:11, 93:21, 94:6, 94:27, 94:29, 95:6, 95:9, 95:21, 95:22, 95:29, 96:4, 96:6, 99:12, 99:22, 99:29, 100:1, 100:9, 100:16, 100:17, 105:26, 106:7, 106:11, 106:18, 107:19, 107:22, 107:29, 108:3, 108:28, 109:11, 110:29, 112:7, 112:8, 112:21, 118:5, 119:24

**MARISA**<sup>[1]</sup> - 2:27  
**Marisa's**<sup>[4]</sup> - 28:11, 28:17, 86:28, 96:28  
**marital**<sup>[1]</sup> - 97:19  
**Mark**<sup>[1]</sup> - 52:26  
**MARK**<sup>[1]</sup> - 2:19  
**marks**<sup>[2]</sup> - 54:8, 64:15  
**married**<sup>[2]</sup> - 6:19, 68:6  
**Marrinan**<sup>[8]</sup> - 9:17, 13:7, 26:6, 54:5, 54:12, 124:17, 124:20, 125:7  
**MARRINAN**<sup>[26]</sup> - 2:6, 3:5, 3:11, 3:15, 5:4, 5:9, 5:10, 9:20, 13:9, 13:13, 13:15, 18:22, 20:9, 26:17, 26:22, 26:26, 26:27, 34:5, 34:9, 34:13, 34:14, 46:27, 66:1, 113:18, 121:10, 124:3

**Martin**<sup>[2]</sup> - 35:8, 35:11  
**Marty**<sup>[1]</sup> - 93:18  
**materials**<sup>[3]</sup> - 81:6, 101:19, 102:4  
**matte**<sup>[1]</sup> - 81:22  
**matter**<sup>[24]</sup> - 17:15, 18:16, 18:17, 19:27, 33:16, 41:7, 52:15, 69:2, 70:6, 79:12, 80:14, 80:15, 83:7, 83:26, 91:16, 116:11, 116:13, 118:9, 121:11, 123:8, 123:19, 125:27, 126:8

**MATTERS**<sup>[1]</sup> - 1:5  
**matters**<sup>[8]</sup> - 5:19, 32:9, 55:24, 67:13, 69:3, 78:7, 120:4, 120:6  
**Mayo**<sup>[3]</sup> - 8:23, 29:24, 50:8  
**McDermott**<sup>[32]</sup> - 2:15, 5:29, 6:3, 8:22, 9:29, 10:13, 21:19, 27:1, 27:19, 32:13, 34:27, 34:29, 35:6, 35:8, 35:11, 53:17, 53:20, 74:8, 74:15, 74:17, 74:23, 74:25, 87:23, 88:4, 89:21, 89:24, 90:20, 94:24, 95:12, 96:4, 96:6  
**McDermott's**<sup>[2]</sup> - 93:18, 98:27  
**McDonagh**<sup>[2]</sup> - 122:21, 123:4  
**McGINN**<sup>[1]</sup> - 2:30  
**McGowan**<sup>[1]</sup> - 94:6  
**MCGUINNESS**<sup>[6]</sup> - 2:6, 3:21, 3:24, 3:28, 3:31, 4:2  
**McGuinness**<sup>[33]</sup> - 69:23, 70:12, 70:13, 71:13, 71:17, 75:6, 75:17, 76:12, 77:12, 80:28, 81:21, 81:22, 82:27, 84:1, 84:5, 84:9, 84:10, 88:24, 92:7, 92:24, 96:14, 96:16, 97:7, 98:8, 98:11, 98:15, 98:18, 98:20, 101:20, 101:22, 101:25, 102:1, 102:5

**MCKECHNIE**<sup>[1]</sup> - 2:15  
**mean**<sup>[39]</sup> - 10:11, 12:11, 17:20, 32:13, 37:10, 37:15, 38:18, 38:19, 38:24, 38:26, 39:23, 43:29, 44:17, 44:25, 45:12, 49:2, 49:4, 55:5, 62:22, 62:24, 66:19, 68:19, 68:22, 68:26, 81:14, 83:10, 89:7, 110:12, 110:20, 110:26, 111:26, 112:5, 112:18, 112:20, 115:12, 116:1, 118:6, 119:2, 119:14  
**meaning**<sup>[1]</sup> - 67:27  
**means**<sup>[2]</sup> - 100:29, 115:14  
**meant**<sup>[2]</sup> - 72:23, 95:21  
**medical**<sup>[2]</sup> - 5:15, 20:21  
**meet**<sup>[1]</sup> - 76:4  
**meeting**<sup>[2]</sup> - 14:8, 14:23  
**member**<sup>[7]</sup> - 26:10, 54:22, 82:14, 83:3, 83:8, 89:9, 117:20  
**MEMBER**<sup>[2]</sup> - 1:12, 2:2  
**members**<sup>[2]</sup> - 66:18, 118:16  
**memory**<sup>[8]</sup> - 5:14, 11:12, 12:21, 15:8, 105:28, 106:1, 107:2, 123:15  
**men**<sup>[7]</sup> - 78:23, 78:25, 78:26, 79:15, 79:16, 79:17  
**mentioned**<sup>[4]</sup> - 56:2, 79:5, 82:2, 85:9  
**merely**<sup>[1]</sup> - 114:15  
**message**<sup>[2]</sup> - 10:17, 81:7  
**messages**<sup>[4]</sup> - 21:18, 102:3, 103:9, 103:13  
**met**<sup>[8]</sup> - 6:22, 6:23, 7:1, 7:16, 19:27, 27:9, 39:25, 52:16  
**microphone**<sup>[2]</sup> - 28:13, 74:20  
**middle**<sup>[1]</sup> - 73:19  
**midnight**<sup>[1]</sup> - 60:2  
**might**<sup>[13]</sup> - 9:29, 17:25, 18:7, 30:24, 32:14, 37:11, 43:21, 44:27, 77:26, 81:10, 83:5, 91:10, 107:12

**mightn't**<sup>[1]</sup> - 43:16  
**mile**<sup>[3]</sup> - 91:21, 91:22, 91:29  
**miles**<sup>[2]</sup> - 91:28, 92:5  
**Milford**<sup>[4]</sup> - 91:16, 92:14, 92:16, 93:3  
**mind**<sup>[12]</sup> - 9:18, 20:1, 28:12, 28:14, 56:15, 63:12, 66:29, 67:10, 69:2, 69:19, 113:3, 124:16  
**mindset**<sup>[1]</sup> - 68:23  
**MINISTER**<sup>[1]</sup> - 1:8  
**minor**<sup>[1]</sup> - 118:27  
**minute**<sup>[5]</sup> - 47:15, 52:12, 56:18, 67:11, 112:17  
**minute's**<sup>[1]</sup> - 48:8  
**minutes**<sup>[9]</sup> - 38:5, 39:20, 45:13, 46:16, 47:1, 76:12, 89:19, 119:18  
**mirrors**<sup>[1]</sup> - 65:1  
**misbehaving**<sup>[1]</sup> - 97:28  
**misreading**<sup>[1]</sup> - 71:22  
**mistake**<sup>[2]</sup> - 95:11, 95:13  
**mistaken**<sup>[2]</sup> - 107:13, 107:14  
**mistreatment**<sup>[1]</sup> - 123:24  
**mobile**<sup>[6]</sup> - 51:18, 54:26, 90:3, 99:6, 99:15, 103:16  
**moderation**<sup>[1]</sup> - 109:24  
**module**<sup>[2]</sup> - 116:20, 118:20  
**moment**<sup>[1]</sup> - 63:11  
**moments**<sup>[2]</sup> - 66:24, 96:5  
**months**<sup>[1]</sup> - 20:5  
**morning**<sup>[26]</sup> - 5:4, 14:15, 15:3, 15:13, 24:15, 28:7, 30:2, 38:27, 47:13, 47:18, 49:28, 57:15, 60:2, 62:7, 71:5, 71:11, 71:14, 79:29, 80:4, 80:9, 84:19, 94:12, 109:1, 110:15, 111:7, 125:23  
**most**<sup>[5]</sup> - 25:7, 89:14, 109:3, 109:22, 124:25

**mostly**<sup>[2]</sup> - 97:14, 97:15  
**mother**<sup>[17]</sup> - 6:3, 12:11, 42:16, 42:27, 43:8, 43:15, 46:3, 46:4, 50:7, 51:16, 57:12, 68:8, 68:10, 86:27, 103:9, 113:1, 113:2  
**mother's**<sup>[14]</sup> - 24:16, 24:22, 39:2, 41:24, 42:4, 45:3, 49:17, 50:20, 59:27, 60:10, 61:11, 68:22, 107:1, 111:10  
**motivated**<sup>[1]</sup> - 59:17  
**mountain**<sup>[1]</sup> - 112:18  
**mouth**<sup>[1]</sup> - 9:17  
**move**<sup>[1]</sup> - 123:17  
**moved**<sup>[2]</sup> - 13:8, 36:18  
**movement**<sup>[1]</sup> - 89:15  
**moving**<sup>[1]</sup> - 28:12  
**MR**<sup>[217]</sup> - 1:12, 2:2, 2:4, 2:6, 2:6, 2:9, 2:10, 2:10, 2:15, 2:19, 2:22, 2:23, 2:23, 2:27, 2:28, 2:30, 2:30, 3:4, 3:5, 3:6, 3:7, 3:11, 3:12, 3:14, 3:15, 3:16, 3:17, 3:21, 3:22, 3:23, 3:24, 3:28, 3:29, 3:30, 3:31, 4:2, 4:3, 4:6, 4:7, 5:4, 5:8, 5:9, 5:10, 8:25, 9:12, 9:20, 13:9, 13:13, 13:15, 18:22, 20:9, 20:11, 20:12, 22:21, 22:26, 23:11, 23:22, 23:26, 24:4, 24:13, 24:24, 24:26, 24:28, 25:4, 25:17, 25:21, 25:24, 25:29, 26:3, 26:4, 26:16, 26:17, 26:22, 26:26, 26:27, 32:28, 32:29, 33:2, 33:3, 34:5, 34:9, 34:12, 34:13, 34:14, 46:27, 52:25, 52:26, 56:13, 56:21, 56:23, 56:24, 65:5, 66:1, 66:2, 66:8, 66:14, 66:16, 66:23, 66:28, 67:8, 68:2, 69:17, 69:23, 70:3, 70:12, 70:13, 71:13, 71:17, 75:6, 75:17, 76:12, 77:12, 77:28,



78:1, 78:6, 78:7, 79:2, 79:7, 79:10, 79:22, 80:13, 81:18, 81:21, 81:22, 84:1, 84:5, 84:9, 84:10, 88:24, 92:7, 92:24, 92:26, 92:28, 93:27, 94:1, 94:3, 95:26, 96:11, 96:12, 96:14, 96:16, 97:7, 98:8, 98:11, 98:15, 98:20, 101:20, 101:22, 101:25, 102:1, 102:5, 102:10, 102:12, 103:20, 104:7, 104:9, 105:6, 105:20, 105:23, 105:24, 105:26, 107:8, 107:12, 109:13, 113:18, 113:22, 113:26, 114:5, 114:8, 114:11, 114:17, 115:11, 115:22, 115:26, 116:1, 116:6, 116:10, 116:13, 116:15, 116:19, 116:22, 116:27, 117:1, 117:3, 117:9, 117:15, 117:22, 117:26, 118:3, 118:18, 118:25, 119:4, 119:8, 119:12, 119:19, 119:22, 119:26, 120:4, 120:15, 120:17, 120:20, 120:24, 120:29, 121:4, 121:7, 121:10, 123:11, 123:14, 123:19, 124:3, 124:4, 124:16, 124:19  
**MS** [7] - 2:7, 2:7, 2:11, 2:15, 3:9, 26:25, 33:2  
**Muff** [1] - 70:16  
**MULLAN** [1] - 2:7  
**mum** [7] - 28:11, 28:17, 29:23, 33:26, 36:20, 42:3, 43:12  
**mum'** [1] - 41:29  
**must** [2] - 13:2  
**MICHEÁL** [1] - 2:9  
**Micheál** [1] - 33:4

## N

**name** [30] - 6:27, 16:9, 16:29, 18:4, 26:4, 43:2, 46:6, 49:6, 52:26, 56:24, 72:21, 72:26, 73:7, 73:8,

73:13, 73:16, 73:18, 73:25, 73:26, 76:5, 81:28, 82:9, 85:7, 85:9, 85:10, 93:8, 93:11, 93:20, 93:21  
**named** [2] - 1:27, 85:5  
**narrative** [2] - 66:22  
**naturally** [1] - 56:8  
**nature** [3] - 24:2, 67:17, 93:20  
**near** [4] - 37:29, 39:23, 43:17, 45:29  
**nearly** [4] - 40:6, 45:27, 52:8, 116:26  
**necessary** [1] - 105:3  
**necessity** [1] - 122:29  
**need** [12] - 52:19, 52:21, 57:27, 67:6, 67:13, 67:16, 69:14, 105:18, 106:26, 111:29, 114:16, 126:3  
**needs** [2] - 83:27, 125:5  
**never** [20] - 7:1, 23:6, 23:12, 23:13, 23:14, 29:25, 32:4, 37:2, 37:8, 43:23, 47:6, 53:27, 54:27, 64:9, 81:28, 83:19, 83:22, 97:23  
**new** [1] - 117:2  
**news** [1] - 20:14  
**newspapers** [2] - 122:22, 123:5  
**next** [15] - 7:29, 14:7, 19:25, 20:3, 20:13, 22:10, 22:11, 31:27, 47:7, 47:9, 49:20, 69:23, 74:12, 74:13, 84:5  
**niece** [4] - 6:7, 12:26, 15:15, 84:23  
**niece's** [1] - 16:8  
**night** [48] - 20:22, 22:1, 22:8, 23:9, 23:25, 25:9, 25:14, 28:26, 32:1, 32:15, 32:19, 42:14, 44:10, 47:14, 47:16, 50:5, 50:29, 51:14, 53:12, 53:15, 54:2, 54:22, 54:24, 54:25, 55:3, 55:9, 56:29, 57:1, 57:6, 57:9, 58:1, 59:13, 59:26, 60:24, 62:21, 66:7, 70:21, 70:26, 77:13, 78:18,

78:29, 82:18, 82:19, 84:10, 91:9, 96:21  
**nightclub** [1] - 36:3  
**nine** [1] - 99:18  
**no'** [1] - 45:9  
**nobody** [14] - 21:9, 24:1, 25:4, 46:17, 55:5, 55:7, 55:10, 55:19, 55:21, 64:15, 67:3, 75:27, 89:16  
**NOEL** [1] - 2:10  
**non** [1] - 53:10  
**non-drinker** [1] - 53:10  
**none** [2] - 11:16, 11:18  
**nonetheless** [1] - 118:4  
**normal** [4] - 25:6, 40:9, 40:10, 43:10  
**note** [6] - 74:6, 74:26, 81:22, 99:10, 101:7, 103:19  
**noted** [2] - 73:7, 74:8  
**notes** [13] - 1:27, 74:16, 74:22, 79:23, 80:28, 81:23, 103:6, 103:14, 103:22, 104:2, 104:3, 104:4, 104:5  
**nothing** [22] - 6:18, 7:25, 21:5, 26:17, 34:5, 36:29, 43:24, 47:19, 51:10, 51:13, 64:19, 65:26, 68:25, 69:8, 93:5, 93:6, 106:16, 108:6, 111:23, 112:26, 114:14, 117:11  
**notice** [1] - 115:3  
**number** [39] - 13:19, 30:5, 30:8, 66:5, 67:19, 70:1, 72:14, 72:17, 72:20, 74:19, 74:24, 75:13, 75:14, 76:8, 77:6, 77:7, 77:8, 77:9, 77:10, 77:19, 77:23, 86:10, 86:18, 86:28, 86:29, 87:22, 91:11, 94:4, 94:20, 96:18, 96:22, 96:23, 96:26, 96:28, 115:24, 125:27

## O

**o'clock** [1] - 30:2  
**O'HIGGINS** [15] - 2:9, 3:12, 3:23, 32:29,

33:2, 33:3, 78:6, 78:7, 79:2, 79:7, 79:10, 79:22, 80:13, 81:18, 104:9  
**O'Higgins** [2] - 33:4, 81:13  
**Oates** [48] - 11:25, 12:6, 12:23, 13:19, 16:4, 17:21, 17:25, 29:14, 30:14, 45:25, 46:5, 46:7, 52:5, 57:3, 69:24, 69:27, 70:13, 79:10, 83:11, 84:15, 84:18, 84:27, 84:28, 85:4, 85:8, 85:12, 85:13, 85:18, 85:21, 85:23, 85:29, 86:12, 86:18, 86:20, 88:6, 88:7, 89:5, 89:6, 89:20, 90:10, 91:3, 93:8, 94:17, 94:20, 95:18, 96:17, 96:24, 97:5  
**OATES** [6] - 3:20, 70:11, 77:28, 78:6, 81:21, 82:24  
**oath** [4] - 9:6, 50:24, 64:14, 111:24  
**obligation** [1] - 121:15  
**obliged** [1] - 66:17  
**observe** [1] - 65:19  
**observed** [1] - 94:16  
**obviously** [5] - 9:4, 13:20, 36:13, 61:25, 121:12  
**occasion** [3] - 76:17, 78:9, 119:1  
**occasions** [3] - 6:22, 6:23, 25:26  
**occupied** [1] - 78:29  
**occurred** [9] - 5:12, 18:24, 35:26, 55:3, 77:14, 77:16, 91:14, 94:10, 99:1  
**October** [12] - 47:28, 55:1, 55:19, 69:4, 94:7, 94:9, 99:12, 99:19, 120:27, 124:25, 125:9  
**odd** [1] - 44:27  
**OF** [6] - 1:3, 1:9, 1:12, 2:3, 5:1, 12:1  
**offer** [1] - 20:28  
**OFFICE** [1] - 2:11  
**office** [3] - 15:12, 80:21, 88:2  
**officer** [1] - 82:27  
**old** [2] - 104:14, 104:16

**old-style** [1] - 104:16  
**ON** [4] - 1:6, 1:10, 1:18, 5:1  
**once** [5] - 7:2, 7:3, 88:4, 88:5, 88:6  
**one** [48] - 8:20, 8:21, 15:13, 16:26, 21:8, 25:5, 26:5, 30:2, 32:29, 35:15, 36:16, 50:2, 51:1, 64:9, 67:11, 68:3, 69:19, 75:12, 75:25, 78:1, 79:6, 79:20, 81:22, 86:7, 90:15, 93:7, 96:16, 97:23, 97:24, 102:12, 104:14, 107:17, 108:6, 109:3, 111:2, 112:21, 113:8, 113:9, 116:8, 118:15, 118:25, 120:27, 120:28, 123:19, 124:13, 124:16, 124:19, 125:13  
**ones** [3] - 102:6, 104:15, 125:26  
**onward** [2] - 92:20, 93:2  
**open** [2] - 46:16, 89:13  
**operate** [2] - 38:21, 78:14  
**operational** [1] - 83:1  
**operator** [1] - 99:25  
**opinion** [9] - 36:4, 44:2, 47:14, 49:3, 50:28, 60:21, 64:14, 93:10, 111:20  
**opportunity** [4] - 24:13, 122:16, 122:18, 126:1  
**order** [1] - 25:19  
**orders** [1] - 124:10  
**ordinarily** [3] - 103:23, 104:3  
**ordinary** [1] - 40:11  
**organised** [1] - 80:25  
**original** [2] - 73:9, 100:21  
**OSMOND** [1] - 2:12  
**OTHER** [1] - 1:4  
**otherwise** [1] - 102:2  
**ought** [2] - 103:22, 104:2  
**ourselves** [1] - 102:1  
**outlying** [1] - 79:2  
**outset** [1] - 5:14  
**outside** [10] - 39:12, 46:15, 46:29, 48:9, 50:19, 66:9, 71:15,

86:4, 91:15, 106:23  
**own** [12] - 9:13,  
11:24, 13:20, 21:24,  
64:14, 68:7, 86:4,  
87:18, 87:23, 90:2,  
92:19, 95:19  
**owned** [2] - 86:25,  
87:15

---

## P

---

**PADRAIG** [1] - 2:22  
**Padre** [3] - 34:22,  
111:21, 111:24  
**page** [33] - 5:6,  
14:29, 15:9, 26:22,  
34:10, 44:4, 47:25,  
60:28, 60:29, 61:5,  
61:19, 62:10, 62:14,  
62:19, 63:8, 69:24,  
71:17, 71:20, 72:22,  
73:19, 74:12, 74:13,  
74:28, 81:4, 81:8,  
92:19, 94:15, 94:16,  
94:18, 124:2, 124:3,  
124:4  
**PAGE** [1] - 3:2  
**pain** [1] - 119:21  
**painting** [1] - 51:1  
**pajamas** [8] - 28:26,  
40:2, 43:7, 43:19,  
44:8, 50:1, 51:6,  
67:25  
**papers** [2] - 118:21,  
121:15  
**paragraph** [2] -  
81:11, 81:12  
**pardon** [10] - 6:10,  
25:22, 46:18, 72:16,  
77:11, 82:1, 82:12,  
107:25, 109:17,  
116:18  
**PARLIAMENT** [1] -  
2:25  
**part** [8] - 6:5, 18:21,  
22:2, 60:25, 80:29,  
83:1, 101:26, 119:23  
**particular** [11] -  
22:19, 23:5, 52:21,  
78:9, 79:22, 116:19,  
118:20, 119:5, 123:4,  
123:25, 125:24  
**particularly** [2] -  
27:6, 58:23  
**particulars** [1] -  
115:23  
**parties** [3] - 8:28,  
54:9, 114:23  
**partner** [18] - 12:12,

16:1, 16:9, 16:25,  
25:21, 35:16, 39:2,  
56:9, 73:23, 83:17,  
84:24, 85:3, 85:4,  
85:14, 95:1, 95:18,  
97:26, 119:24  
**partner's** [5] - 16:28,  
85:7, 85:8, 85:10,  
93:11  
**party** [7] - 19:4, 21:1,  
25:10, 72:24, 72:25,  
72:29  
**party's** [3] - 73:7,  
73:12, 73:26  
**PASSED** [1] - 1:5  
**passenger** [1] - 48:6  
**passing** [1] - 21:20  
**past** [3] - 67:10,  
69:19, 91:27  
**PATRICK** [1] - 2:6  
**patriotic** [1] - 23:3  
**patrol** [4] - 18:15,  
70:1, 75:19, 80:25  
**patrolled** [1] - 90:6  
**PAUL** [1] - 2:15  
**peculiar** [1] - 114:15  
**people** [25] - 6:6,  
8:17, 9:9, 22:5, 22:29,  
25:5, 37:13, 54:10,  
60:18, 64:9, 64:10,  
67:16, 67:20, 67:28,  
68:14, 109:22,  
110:21, 114:20,  
115:18, 117:4, 122:6,  
123:3, 123:7, 126:5,  
126:6  
**percent** [11] - 28:10,  
28:27, 32:17, 40:6,  
45:24, 50:15, 50:29,  
52:8, 56:5, 106:9  
**perfectly** [2] - 70:2,  
125:19  
**perhaps** [12] - 24:4,  
32:15, 33:9, 36:29,  
43:18, 43:21, 47:7,  
47:12, 118:13,  
119:27, 125:4, 125:12  
**permanently** [1] -  
70:17  
**person** [10] - 11:25,  
19:4, 25:5, 25:7,  
59:15, 68:6, 96:20,  
103:24, 110:19,  
122:19  
**personal** [4] - 78:23,  
106:16, 106:25,  
115:23  
**personally** [1] - 98:1  
**PETER** [3] - 1:12,  
2:2, 2:4

**philosophical** [1] -  
122:10  
**phone** [94] - 8:3,  
8:14, 10:14, 11:14,  
11:17, 13:19, 15:22,  
16:3, 28:9, 28:10,  
28:11, 28:15, 28:16,  
28:20, 29:6, 30:5,  
30:27, 30:28, 33:11,  
33:25, 34:1, 36:6,  
37:28, 39:16, 40:28,  
41:26, 41:29, 45:22,  
46:5, 47:7, 47:9,  
47:11, 50:6, 52:12,  
54:26, 61:4, 61:5,  
72:8, 72:17, 72:18,  
73:9, 73:12, 74:18,  
74:24, 75:9, 75:10,  
76:5, 76:20, 76:27,  
77:3, 77:6, 77:7, 77:9,  
77:23, 78:13, 81:27,  
82:10, 82:13, 84:28,  
85:24, 86:10, 87:1,  
87:23, 87:25, 87:26,  
90:3, 94:28, 96:25,  
96:28, 97:3, 99:12,  
99:15, 99:21, 99:29,  
100:5, 100:6, 100:8,  
100:13, 100:16,  
100:17, 100:25,  
101:13, 102:15,  
102:17, 102:19,  
102:22, 103:16,  
103:28  
**phoned** [28] - 8:22,  
17:21, 29:23, 36:6,  
37:6, 45:25, 45:27,  
46:1, 46:3, 46:4,  
54:27, 57:3, 57:13,  
65:10, 76:15, 86:10,  
87:25, 88:3, 88:16,  
96:20, 106:4, 106:10,  
106:18, 106:20,  
106:22, 106:28,  
106:29, 107:3  
**phones** [9] - 9:29,  
39:9, 51:18, 78:20,  
78:21, 99:16, 99:20,  
103:16, 103:18  
**phoning** [4] - 8:7,  
10:28, 37:11, 94:24  
**physical** [6] - 62:28,  
64:28, 104:20,  
104:21, 104:22,  
104:26  
**physically** [4] -  
67:23, 67:24, 80:18,  
82:16  
**pick** [1] - 107:21  
**picked** [2] - 36:21,

73:8  
**picking** [1] - 90:2  
**picture** [1] - 51:1  
**pints** [2] - 109:24,  
109:25  
**Pio** [2] - 34:22,  
111:21  
**Pio's** [1] - 111:24  
**pioneer** [4] - 44:15,  
53:8, 53:10, 109:19  
**place** [11] - 20:26,  
23:27, 25:11, 25:19,  
32:2, 32:5, 43:13,  
55:16, 65:1, 75:26,  
87:9  
**plain** [2] - 119:14,  
122:7  
**plaintiff** [1] - 22:28  
**play** [2] - 11:22,  
11:29  
**PLAYED** [1] - 12:1  
**played** [7] - 12:3,  
16:4, 33:5, 57:16,  
71:6, 71:15, 101:3  
**pleading** [1] - 49:29  
**pleasant** [2] - 56:17,  
115:16  
**plenty** [1] - 68:27  
**point** [18] - 5:13,  
8:29, 13:7, 20:25,  
35:6, 35:15, 48:13,  
48:15, 50:2, 65:5,  
66:6, 98:20, 116:16,  
119:13, 120:9,  
123:29, 124:16,  
124:19  
**points** [4] - 9:2, 18:3,  
23:5, 98:19  
**policeman** [1] -  
81:25  
**poor** [1] - 51:18  
**portion** [1] - 47:29  
**portions** [1] - 103:28  
**position** [9] - 7:26,  
7:27, 14:26, 16:12,  
18:11, 67:16, 124:22,  
125:9, 125:18  
**possession** [2] -  
99:22, 126:7  
**possibility** [1] -  
95:16  
**possible** [8] - 11:4,  
18:12, 18:13, 49:2,  
50:26, 103:27,  
122:22, 123:2  
**possibly** [5] - 67:8,  
89:19, 95:10, 95:13,  
95:19  
**POWER** [1] - 2:30  
**practically** [1] -

67:22  
**practice** [1] - 125:25  
**prefer** [2] - 24:4,  
66:27  
**pregnant** [1] - 52:18  
**prepare** [1] - 101:7  
**prepared** [1] - 94:14  
**preparing** [1] -  
101:26  
**present** [5] - 6:13,  
25:9, 64:10, 71:5,  
120:8  
**press** [1] - 78:28  
**pressure** [1] - 124:27  
**presumably** [1] -  
105:12  
**presume** [4] - 13:11,  
20:2, 95:25, 104:13  
**prevention** [1] -  
34:18  
**previous** [2] - 98:24,  
115:1  
**PREVIOUSLY** [1] -  
105:23  
**primary** [1] - 89:7  
**problem** [4] - 37:7,  
87:11, 112:12, 112:13  
**problems** [2] -  
109:21, 109:22  
**proceeded** [3] -  
36:11, 41:23, 43:9  
**proceedings** [2] -  
124:23, 125:4  
**process** [2] - 18:17,  
88:15  
**professional** [4] -  
68:6, 106:14, 111:9,  
113:1  
**programme** [1] -  
7:14  
**properly** [2] - 104:1,  
121:21  
**propose** [1] - 70:4  
**prospect** [1] - 110:11  
**PROTECTED** [2] -  
1:3, 1:4  
**provide** [2] - 16:7,  
98:26  
**provided** [2] - 94:21,  
121:14  
**providing** [1] - 65:13  
**pub** [1] - 49:23  
**public** [1] - 15:11  
**pulled** [12] - 39:25,  
48:9, 49:23, 49:24,  
64:23, 67:23, 114:25,  
114:26, 114:27,  
115:12, 115:13  
**pulling** [3] - 28:13,  
115:14, 116:24

**Pulse** [1] - 78:22  
**purported** [1] - 124:24  
**purports** [1] - 125:10  
**purpose** [1] - 100:21  
**purse** [1] - 50:17  
**pursue** [1] - 81:13  
**pursued** [2] - 16:1, 86:7  
**pursuing** [3] - 85:15, 86:1, 95:2  
**pursuit** [3] - 86:21, 87:5, 88:29  
**pushed** [3] - 50:17, 67:24, 114:27  
**put** [26] - 47:24, 50:17, 51:2, 51:6, 54:5, 57:2, 57:23, 71:29, 74:12, 76:20, 102:19, 110:6, 111:21, 114:17, 116:20, 121:15, 121:18, 121:20, 121:23, 122:14, 122:20, 123:12, 125:1, 125:2, 125:6, 125:28  
**puts** [3] - 9:17, 49:4, 119:29  
**putting** [1] - 125:12  
**puzzles** [1] - 90:15  
**pyjamas** [2] - 114:28, 114:29

## Q

**quality** [3] - 80:4, 80:7, 80:8  
**quarrel** [2] - 17:12, 31:19  
**QUAY** [1] - 2:20  
**QUESTIONED** [10] - 3:18, 3:25, 3:32, 4:4, 4:8, 68:2, 82:24, 97:9, 104:11, 110:9  
**questions** [26] - 20:9, 26:1, 32:26, 32:28, 47:21, 52:23, 56:16, 56:20, 56:21, 56:26, 56:27, 67:6, 69:15, 77:25, 78:4, 87:22, 92:29, 96:12, 102:8, 102:12, 104:8, 104:9, 105:19, 105:20, 113:24, 114:15  
**quietening** [1] - 43:27  
**quilt** [1] - 49:24

**Quinn** [78] - 21:25, 22:7, 22:22, 24:17, 24:20, 25:8, 25:9, 25:15, 34:9, 34:14, 39:10, 44:27, 48:2, 48:15, 50:8, 52:26, 56:16, 56:24, 56:27, 58:4, 58:25, 60:26, 60:29, 61:24, 62:1, 63:17, 64:16, 65:24, 66:29, 67:6, 67:26, 68:3, 69:18, 72:27, 74:27, 75:17, 75:28, 76:10, 76:11, 76:13, 76:15, 76:18, 76:22, 87:17, 88:12, 88:16, 88:17, 88:18, 90:11, 90:21, 91:1, 91:4, 94:12, 96:9, 98:11, 105:19, 105:26, 107:7, 108:18, 109:2, 110:11, 110:19, 110:24, 111:17, 113:10, 115:1, 121:12, 121:13, 121:19, 121:20, 121:28, 123:1, 123:12, 125:6, 125:7, 125:14  
**QUINN** [7] - 3:14, 4:6, 34:12, 52:25, 56:23, 68:2, 105:23  
**quite** [10] - 11:4, 29:28, 37:5, 42:13, 44:1, 57:1, 63:7, 84:29, 105:28, 121:21  
**quote** [2] - 74:28, 114:13  
**quotes** [1] - 75:9  
**quoting** [1] - 119:2

## R

**racing** [2] - 12:13, 57:24  
**radio** [2] - 81:1, 83:11  
**rage** [1] - 48:14  
**raised** [1] - 114:23  
**rang** [24] - 10:15, 24:16, 24:20, 50:6, 50:8, 50:11, 51:16, 72:18, 74:2, 74:23, 74:25, 75:15, 75:16, 75:28, 76:18, 76:22, 80:14, 80:15, 80:22, 86:18, 86:29, 87:1, 96:22, 96:24  
**Raphoe** [33] - 5:27, 30:15, 30:16, 37:24,

38:7, 39:3, 41:24, 41:28, 43:3, 43:9, 46:29, 60:11, 61:12, 72:28, 74:9, 79:6, 79:8, 79:13, 79:14, 79:20, 87:18, 88:15, 89:25, 89:26, 90:1, 90:4, 90:22, 91:2, 98:23, 98:28, 111:11, 113:2  
**Raphoe** [1] - 39:27  
**rather** [5] - 9:13, 20:16, 43:2, 53:25, 100:29  
**rattle** [1] - 98:18  
**RC** [1] - 80:29  
**RC1** [1] - 80:29  
**RE** [4] - 3:24, 3:31, 81:21, 96:14  
**RE-EXAMINED** [4] - 3:24, 3:31, 81:21, 96:14  
**reach** [1] - 51:19  
**reaction** [3] - 15:7, 44:16, 115:5  
**read** [9] - 15:6, 15:7, 26:6, 31:17, 47:29, 75:1, 81:10, 119:6, 123:3  
**reading** [1] - 74:16  
**reaffirmed** [2] - 86:19, 122:21  
**real** [3] - 29:22, 73:7, 125:12  
**realistic** [1] - 42:7  
**reality** [2] - 119:14, 122:8  
**really** [8] - 27:7, 29:28, 48:18, 60:16, 78:12, 108:15, 118:12, 126:2  
**reason** [19] - 22:23, 24:23, 25:1, 25:2, 25:25, 33:28, 44:21, 45:8, 47:21, 49:26, 58:8, 60:22, 92:12, 105:12, 107:11, 108:21, 111:13, 118:28, 119:25  
**reasons** [1] - 93:16  
**RECALLED** [1] - 105:24  
**receive** [2] - 58:17, 74:15  
**received** [14] - 8:4, 8:14, 58:6, 60:1, 65:12, 65:16, 71:2, 80:14, 84:18, 84:21, 94:17, 94:19, 94:28, 95:9

**receiving** [1] - 80:6  
**recently** [1] - 122:21  
**reception** [2] - 39:8, 80:3  
**recollection** [9] - 8:7, 10:23, 10:29, 11:1, 11:15, 14:3, 17:8, 20:20, 89:15  
**recommend** [1] - 112:15  
**record** [9] - 59:19, 61:17, 62:9, 62:14, 70:25, 99:7, 102:15, 102:28, 103:27  
**recorded** [10] - 71:20, 72:11, 72:20, 74:19, 75:14, 76:3, 76:8, 79:26, 79:27, 102:22  
**recording** [5] - 11:19, 57:15, 87:28, 100:23, 102:14  
**RECORDING** [1] - 12:1  
**recounting** [1] - 95:5  
**red** [1] - 40:7  
**refer** [1] - 81:23  
**reference** [13] - 33:16, 48:22, 49:5, 62:19, 66:9, 66:11, 118:15, 120:7, 120:11, 123:22, 123:25, 123:27, 125:22  
**referenced** [2] - 55:28, 123:20  
**references** [1] - 28:24  
**referred** [2] - 85:19, 91:16  
**referring** [1] - 95:18  
**regard** [1] - 9:5  
**REGISTRAR** [1] - 2:4  
**registration** [1] - 78:22  
**regrettably** [1] - 7:28  
**related** [1] - 86:1  
**relating** [2] - 21:1, 70:28  
**relation** [56] - 5:11, 8:8, 9:14, 15:26, 19:6, 20:25, 21:5, 21:16, 21:17, 21:29, 22:6, 22:17, 23:7, 23:13, 32:13, 39:5, 47:25, 54:23, 55:24, 56:6, 66:18, 70:6, 73:2, 86:13, 86:21, 87:3, 87:12, 88:17, 92:22, 93:5, 93:22, 99:12,

102:13, 102:17, 102:18, 103:2, 103:6, 103:7, 103:14, 113:24, 115:2, 116:6, 116:10, 116:13, 116:19, 117:27, 118:9, 118:17, 118:22, 121:11, 121:27, 121:28, 122:13, 122:27, 123:8  
**relationship** [11] - 7:23, 7:26, 27:5, 27:13, 28:2, 52:22, 53:20, 69:11, 88:18, 120:19, 124:28  
**relationships** [1] - 25:7  
**relatives** [1] - 97:25  
**relayed** [4] - 21:16, 33:5, 99:5, 99:9  
**relevant** [5] - 82:25, 102:6, 125:21, 125:27, 126:7  
**relied** [1] - 125:15  
**rely** [1] - 125:3  
**remain** [1] - 122:9  
**remains** [1] - 114:10  
**remember** [16] - 11:5, 16:17, 17:9, 28:9, 31:14, 48:10, 49:20, 52:4, 60:15, 72:13, 74:16, 89:10, 90:2, 91:12, 113:7  
**removed** [3] - 84:23, 95:1, 96:1  
**renege** [1] - 125:10  
**repeat** [2] - 57:8, 105:29  
**repeating** [1] - 28:14  
**reply** [5] - 10:16, 10:18, 10:20, 58:20, 87:1  
**report** [6] - 9:10, 75:23, 92:15, 92:18, 92:29, 118:23  
**reported** [3] - 8:27, 9:9, 93:1  
**reporting** [2] - 83:7, 88:11  
**reports** [1] - 26:7  
**represent** [1] - 94:4  
**represented** [1] - 65:29  
**request** [3] - 70:20, 99:23, 126:5  
**requested** [4] - 23:13, 23:14, 99:2, 99:21  
**required** [1] - 70:2  
**reside** [1] - 34:14

**residing** [1] - 5:23  
**resile** [1] - 124:24  
**RESOLUTIONS** [1] - 1:5  
**resolve** [1] - 42:8  
**resolved** [1] - 43:4  
**respect** [4] - 69:5, 110:20, 111:19, 115:21  
**respectful** [1] - 122:2  
**respects** [3] - 94:11, 117:13, 124:26  
**respond** [8] - 30:10, 35:11, 51:8, 58:6, 58:20, 65:15, 65:25, 126:5  
**responded** [4] - 12:23, 39:3, 42:19, 65:23  
**response** [8] - 17:26, 19:20, 30:12, 56:28, 63:6, 82:7, 89:29, 90:2  
**responsibly** [1] - 65:22  
**rest** [1] - 100:23  
**result** [9] - 5:15, 10:12, 12:21, 16:3, 19:19, 20:17, 99:28, 101:27, 123:24  
**resulted** [1] - 119:17  
**RESUMED** [3] - 5:1, 24:10, 105:17  
**retrieved** [1] - 99:26  
**return** [2] - 100:8, 101:13  
**returned** [3] - 99:29, 100:5, 101:13  
**returning** [2] - 14:9, 14:10  
**review** [1] - 124:23  
**revolved** [1] - 35:7  
**right'** [1] - 41:17  
**ring** [4] - 29:24, 39:6, 89:21, 112:14  
**ringing** [5] - 37:1, 54:3, 83:17, 90:3, 97:26  
**rings** [2] - 51:7, 72:15  
**rise** [1] - 24:8  
**Rita** [55] - 5:29, 6:3, 8:7, 8:22, 9:29, 10:12, 12:15, 12:16, 12:20, 21:19, 27:1, 27:19, 32:12, 34:27, 34:28, 34:29, 35:6, 53:17, 53:20, 71:25, 73:25, 73:26, 74:8, 74:15, 74:17, 74:22, 74:24,

85:5, 85:20, 86:27, 87:2, 87:7, 87:23, 88:3, 88:11, 88:25, 89:1, 89:21, 89:24, 90:20, 93:11, 93:12, 94:24, 95:11, 95:14, 95:19, 95:20, 95:28, 96:4, 96:6, 96:27, 98:27  
**Rita's** [4] - 9:20, 9:22, 86:29, 96:28  
**road** [10] - 30:18, 42:15, 42:28, 45:20, 46:15, 62:26, 86:3, 88:29, 89:18  
**roads** [3] - 9:24, 10:4, 30:29  
**roaring** [4] - 48:8, 49:21, 50:3, 50:18  
**room** [6] - 18:14, 22:3, 33:5, 64:10, 78:8, 78:12  
**rooms** [1] - 89:14  
**route** [2] - 90:28, 91:1  
**row** [18] - 23:9, 23:24, 24:2, 25:16, 25:17, 46:14, 46:19, 46:21, 66:20, 67:17, 67:18, 109:6, 111:4, 111:5, 114:18, 114:19  
**rows** [4] - 25:5, 37:3, 97:19, 118:6  
**rule** [3] - 9:3, 9:16, 122:20  
**run** [1] - 61:11  
**rung** [2] - 15:14, 50:13

## S

**safe** [4] - 72:26, 89:10, 90:12, 91:6  
**safe'** [1] - 47:3  
**safety** [2] - 15:15, 89:7  
**SARAH** [1] - 2:15  
**sat** [6] - 40:8, 41:14, 46:15, 46:29, 63:2, 90:9  
**satisfied** [3] - 54:17, 54:18, 90:11  
**saved** [1] - 110:21  
**saw** [6] - 7:17, 7:18, 14:7, 50:29, 59:14, 64:7  
**SC** [9] - 2:6, 2:6, 2:9, 2:10, 2:15, 2:19, 2:22, 2:27, 2:30

**scene** [5] - 36:5, 36:14, 67:27, 80:5, 80:7  
**scheduled** [1] - 113:18  
**screen** [7] - 15:1, 15:6, 18:21, 44:5, 72:14, 72:17, 74:12  
**scroll** [4] - 18:20, 18:22, 73:10, 73:13  
**SEANAD** [1] - 1:6  
**seat** [1] - 41:14  
**second** [2] - 37:26, 73:10  
**secondly** [2] - 9:7, 64:17  
**section** [1] - 118:14  
**see** [53] - 8:29, 15:7, 27:7, 28:19, 28:23, 29:2, 30:10, 30:11, 30:26, 30:29, 33:25, 40:16, 40:25, 41:4, 43:29, 44:5, 44:21, 45:8, 45:18, 47:21, 51:1, 51:13, 54:8, 54:14, 59:6, 59:8, 64:18, 64:20, 64:21, 64:29, 73:13, 73:19, 73:20, 77:11, 80:28, 89:20, 89:27, 90:5, 90:16, 92:2, 105:27, 106:17, 106:21, 107:19, 107:29, 110:6, 112:14, 119:13, 120:15, 122:18, 124:21  
**seeing** [1] - 69:19  
**seem** [10] - 44:27, 56:7, 68:7, 68:14, 76:28, 89:15, 90:8, 107:29, 111:13, 120:25  
**self** [2] - 53:7, 53:8  
**self-employed** [2] - 53:7, 53:8  
**senior** [1] - 119:15  
**sense** [2] - 110:14, 114:19  
**sent** [4] - 10:17, 75:19, 92:16, 92:19  
**SEPTEMBER** [3] - 1:18, 5:2, 126:12  
**SERGEANT** [2] - 3:27, 84:8  
**sergeant** [12] - 80:15, 80:22, 80:25, 82:26, 82:29, 83:8, 83:27, 84:5, 84:12, 93:28, 94:3, 97:11  
**Sergeant** [12] - 72:5,

72:6, 74:5, 82:11, 82:13, 84:10, 92:28, 93:27, 94:5, 98:24, 99:1, 99:5  
**sergeant's** [2] - 80:21, 88:2  
**served** [1] - 97:11  
**service** [4] - 38:22, 38:23, 42:2, 47:15  
**SERVICES** [1] - 1:30  
**Services** [1] - 1:25  
**set** [1] - 43:7  
**sets** [1] - 55:2  
**settling** [1] - 120:19  
**seven** [1] - 35:4  
**sexist** [1] - 68:24  
**shake** [2] - 43:6, 44:22  
**shape** [1] - 81:17  
**sheet** [1] - 75:15  
**Sheridan** [12] - 94:5, 99:21, 99:28, 100:14, 100:18, 101:11, 101:16, 101:17, 102:23, 103:17, 104:29, 121:17  
**SHIP** [1] - 2:12  
**shock** [1] - 122:6  
**shook** [1] - 39:26  
**short** [2] - 98:7, 98:8  
**shouting** [4] - 48:8, 49:22, 50:3, 50:18  
**show** [1] - 27:24  
**side** [5] - 36:19, 48:7, 108:9, 116:8, 123:3  
**sides** [2] - 33:9, 33:10  
**sign** [1] - 31:3  
**signed** [1] - 117:26  
**significant** [1] - 45:2  
**silent** [2] - 114:10, 122:9  
**similar** [1] - 86:19  
**similarities** [1] - 124:8  
**similarly** [1] - 27:16  
**Simm** [1] - 93:11  
**SIMMS** [1] - 2:27  
**Simms** [88] - 6:3, 7:24, 10:7, 15:16, 21:23, 22:7, 23:24, 24:15, 24:17, 24:21, 24:29, 25:12, 27:3, 29:20, 30:24, 32:14, 34:24, 41:4, 45:3, 47:23, 47:26, 49:16, 52:17, 53:16, 53:24, 54:4, 54:13, 55:1, 55:18, 55:23, 57:5, 57:11, 57:12, 57:22,

59:12, 59:23, 62:14, 62:20, 63:1, 63:2, 63:22, 65:29, 66:7, 67:15, 69:3, 72:26, 73:5, 73:8, 73:27, 74:9, 85:6, 85:8, 85:9, 85:15, 85:23, 86:15, 87:14, 89:2, 89:8, 89:9, 90:16, 91:5, 92:11, 93:11, 93:21, 94:6, 94:9, 94:28, 95:9, 99:22, 99:29, 100:1, 101:14, 101:15, 105:27, 106:8, 106:11, 106:18, 110:29, 112:7, 112:8, 112:21, 117:11, 118:5, 119:24, 124:20, 125:8, 125:10  
**Simms'** [7] - 30:6, 89:13, 93:8, 99:12, 100:16, 100:17, 108:28  
**Simms's** [1] - 52:13  
**simple** [3] - 23:20, 23:23, 100:27  
**simply** [6] - 23:27, 50:27, 58:19, 67:27, 69:10, 122:25  
**single** [1] - 111:13  
**sister** [7] - 7:7, 71:25, 73:22, 85:4, 85:20, 93:18, 103:10  
**sisters** [2] - 109:29, 110:2  
**sitting** [6] - 24:3, 76:19, 76:24, 108:8, 108:9, 108:13  
**situation** [28] - 21:8, 21:16, 21:29, 23:8, 23:11, 24:14, 26:13, 36:17, 40:24, 41:7, 51:7, 54:6, 60:14, 60:17, 61:11, 64:6, 65:6, 66:4, 66:6, 70:2, 83:16, 89:8, 103:20, 111:6, 111:8, 115:16, 118:12, 119:17  
**situations** [4] - 53:12, 69:8, 115:9, 115:17  
**six** [1] - 53:15  
**slapping** [2] - 33:17, 57:26  
**sleep** [1] - 49:21  
**slightly** [2] - 62:1, 68:13  
**slippage** [1] - 122:24  
**smashed** [3] - 67:22,

116:25, 121:1  
**social** [2] - 23:6, 119:18  
**sofa** [2] - 52:9, 52:10  
**SOLE** [2] - 1:12, 2:2  
**SOLICITOR** [1] - 2:7  
**SOLICITOR'S** [1] - 2:11  
**SOLICITORS** [2] - 2:19, 2:24  
**someone** [1] - 115:14  
**sometimes** [1] - 38:24  
**somewhat** [5] - 5:14, 66:9, 120:10, 120:11  
**somewhere** [3] - 30:18, 91:21, 124:13  
**son** [7] - 6:11, 12:28, 13:24, 13:25, 16:21, 19:16, 35:7  
**soon** [1] - 115:6  
**Sorry** [1] - 70:4  
**sorry** [33] - 5:24, 6:10, 8:25, 14:20, 18:22, 21:13, 22:24, 23:11, 24:4, 25:29, 28:13, 40:24, 46:18, 47:10, 52:26, 60:27, 66:14, 74:20, 76:10, 76:21, 77:15, 85:14, 87:6, 91:18, 103:7, 105:6, 107:4, 109:10, 110:1, 116:17, 121:10, 123:19, 124:18  
**sort** [5] - 9:14, 36:9, 36:13, 42:2, 78:13  
**sorted** [4] - 36:10, 37:20, 47:17, 125:28  
**sought** [4] - 23:12, 24:1, 85:19, 102:23  
**sound** [1] - 115:15  
**sounded** [1] - 71:19  
**speaking** [6] - 11:26, 28:16, 29:14, 52:2, 52:4, 95:29  
**specifically** [1] - 120:5  
**specifics** [1] - 91:13  
**speech** [2] - 63:7, 63:20  
**spelling** [1] - 12:5  
**spend** [1] - 83:11  
**spoken** [7] - 30:14, 87:16, 90:10, 91:5, 93:25, 93:26, 96:5  
**SPRING** [1] - 2:31  
**spur** [1] - 63:11  
**squad** [2] - 26:13,

103:17  
**SQUARE** [1] - 2:31  
**stage** [16] - 14:14, 19:21, 20:13, 26:11, 32:10, 74:2, 87:16, 88:8, 89:22, 90:1, 90:23, 90:25, 94:24, 101:24, 105:11, 113:27  
**stairs** [3] - 41:25, 41:26, 41:27  
**stand** [1] - 63:23  
**standing** [2] - 43:24, 50:19  
**start** [1] - 44:24  
**started** [1] - 40:21  
**startled** [1] - 83:23  
**state** [1] - 96:7  
**STATE** [1] - 2:11  
**statement** [69] - 15:1, 15:5, 15:6, 19:5, 22:21, 23:15, 25:9, 25:10, 26:6, 47:23, 47:26, 47:27, 54:29, 55:1, 55:11, 55:15, 59:19, 59:29, 61:1, 62:27, 66:21, 69:7, 69:9, 69:12, 69:24, 70:20, 70:24, 71:18, 72:9, 73:2, 74:7, 74:27, 85:23, 94:6, 94:8, 94:14, 95:14, 102:20, 111:1, 111:3, 115:3, 115:4, 115:6, 115:7, 115:19, 115:22, 115:28, 116:23, 117:7, 117:14, 117:19, 117:23, 117:26, 118:5, 118:7, 119:7, 120:27, 121:13, 121:17, 121:23, 123:22, 124:1, 124:13, 124:24, 125:8, 125:10, 125:22, 126:4  
**statements** [4] - 115:18, 125:20, 125:26, 125:27  
**stating** [1] - 123:2  
**Station** [10] - 47:29, 57:16, 70:14, 70:18, 78:18, 84:13, 93:24, 98:23, 100:1, 102:21  
**station** [31] - 10:24, 10:27, 11:27, 14:9, 14:11, 14:13, 14:19, 14:21, 15:12, 17:6, 17:24, 31:7, 31:22, 31:25, 78:29, 79:2,

80:19, 82:16, 87:25, 87:26, 88:9, 93:19, 93:21, 93:26, 94:7, 99:20, 100:2, 100:7, 100:10, 100:11  
**stationed** [5] - 17:5, 18:4, 18:5, 70:14, 84:25  
**stations** [1] - 79:18  
**stay** [6] - 24:16, 24:22, 42:13, 42:14, 49:27, 67:10  
**staying** [1] - 66:29  
**stenographic** [1] - 1:27  
**STENOGRAPHY** [1] - 1:30  
**stenography** [1] - 1:25  
**step** [4] - 29:28, 30:4, 30:5, 112:16  
**stepped** [1] - 41:11  
**still** [4] - 6:29, 59:4, 70:2, 89:22  
**stood** [2] - 31:14, 63:2  
**stop** [3] - 23:17, 110:3, 117:11  
**storms** [1] - 120:22  
**stormy** [1] - 120:19  
**story** [11] - 6:5, 48:28, 50:25, 56:12, 86:20, 93:22, 107:2, 107:11, 112:2, 112:4, 116:8  
**straight** [4] - 64:18, 64:20, 83:9, 83:27  
**strange** [3] - 63:10, 63:17, 114:15  
**streak** [3] - 7:8, 7:9, 27:19  
**STREET** [3] - 2:12, 2:20, 2:25  
**street** [3] - 32:23, 39:25, 114:28  
**streets** [5] - 28:22, 28:24, 30:1, 32:19, 32:20  
**strike** [2] - 63:10, 63:17  
**strong** [1] - 122:18  
**Stuart** [1] - 36:16  
**stuff** [1] - 49:10  
**style** [1] - 104:16  
**sub** [1] - 91:22  
**sub-district** [1] - 91:22  
**subject** [1] - 31:29  
**submission** [4] - 23:18, 117:10,

117:28, 122:3  
**submitted** [3] - 123:14, 124:17, 124:20  
**subsequent** [2] - 118:22, 120:26  
**subsequently** [3] - 19:26, 82:16, 106:28  
**substations** [2] - 78:19, 79:18  
**succeed** [1] - 63:23  
**suffered** [3] - 5:15, 11:7, 123:23  
**suggest** [7] - 17:25, 18:7, 106:7, 106:17, 108:15, 108:19, 123:27  
**suggested** [7] - 17:14, 26:8, 54:12, 63:3, 93:12, 108:3, 112:24  
**suggesting** [6] - 18:7, 60:25, 103:26, 106:21, 107:29, 109:10  
**suggestion** [3] - 105:7, 108:21, 123:26  
**suicidal** [2] - 56:4, 56:11  
**suicide** [5] - 34:17, 35:21, 37:15, 47:15, 52:29  
**summary** [1] - 84:26  
**Sunday** [3] - 84:11, 122:22, 123:4  
**SUNLIGHT** [1] - 2:24  
**superintendent** [3] - 13:11, 92:20, 93:2  
**supervisory** [1] - 84:12  
**support** [1] - 7:13  
**suppose** [8] - 67:25, 69:5, 83:23, 93:14, 93:19, 95:10, 97:18, 98:18  
**Supreme** [1] - 122:21  
**SUPREME** [2] - 1:13, 2:3  
**SUPT** [1] - 2:22  
**surely** [1] - 103:21  
**surmise** [1] - 21:9  
**surmising** [1] - 21:11  
**surprise** [1] - 37:16  
**surprised** [5] - 16:27, 18:2, 36:26, 36:28  
**surprising** [1] - 122:7  
**swear** [2] - 111:24,

112:1  
**swore** [3] - 50:24, 110:15, 124:22  
**sworn** [1] - 64:14  
**SWORN** [7] - 5:8, 26:25, 34:12, 70:11, 84:8, 98:14, 105:23  
**system** [2] - 79:1, 104:14  
**Sióchána** [14] - 26:5, 26:10, 33:4, 54:23, 56:25, 56:29, 57:20, 58:1, 58:5, 58:17, 66:18, 99:17, 117:20, 118:16

---

## T

---

**tape** [12] - 33:4, 33:14, 33:22, 80:8, 99:26, 100:26, 100:28, 101:11, 102:19, 104:15, 104:17, 105:12  
**target** [1] - 120:2  
**task** [1] - 100:23  
**tasked** [1] - 23:19  
**tasks** [1] - 78:13  
**taxi** [8] - 38:21, 38:23, 39:6, 42:2, 43:11, 47:14, 49:27, 51:5  
**taxis** [1] - 39:8  
**tea** [16] - 41:12, 41:18, 41:20, 63:2, 63:4, 63:15, 63:16, 63:24, 64:4, 64:5, 108:4, 112:22, 112:24, 112:25  
**tea'** [2] - 41:16, 63:29  
**telephone** [2] - 28:8, 88:2  
**TELEPHONE** [1] - 12:1  
**telephoned** [1] - 94:20  
**television** [2] - 7:13, 27:24  
**temper** [3] - 44:10, 45:11, 62:21  
**ten** [2] - 34:29, 89:19  
**TEN** [1] - 2:16  
**tense** [1] - 20:16  
**term** [3] - 114:22, 118:15, 120:11  
**terms** [10] - 6:16, 24:2, 25:23, 32:12, 66:9, 71:21, 103:29, 122:22, 123:2, 125:22

**TERRACE** [1] - 2:16  
**terrified** [1] - 50:3  
**test** [1] - 12:6  
**tested** [1] - 9:5  
**text** [3] - 10:17,  
29:25, 102:3  
**texted** [1] - 30:10  
**texts** [1] - 100:19  
**thanked** [1] - 61:20  
**THE** [36] - 1:4, 1:8,  
1:9, 1:12, 2:3, 2:6,  
2:9, 2:20, 3:18, 3:25,  
3:32, 4:4, 4:8, 5:1,  
24:10, 26:20, 34:7,  
68:2, 69:21, 82:24,  
84:3, 92:26, 94:1,  
96:14, 97:9, 98:4,  
102:10, 104:11,  
105:15, 105:17,  
110:9, 113:16, 126:11  
**themselves** [1] -  
110:22  
**THEN** [8] - 24:10,  
26:20, 34:7, 69:21,  
84:3, 98:4, 113:16,  
126:11  
**therefore** [4] - 85:11,  
91:8, 103:28, 114:14  
**therewas** [1] -  
109:13  
**thinking** [1] - 83:27  
**third** [4] - 8:27,  
13:23, 20:29, 25:10  
**thirty** [2] - 53:3, 53:4  
**thirty-five** [2] - 53:3,  
53:4  
**three** [3] - 20:5,  
26:12, 64:21  
**throwing** [1] - 116:27  
**thrown** [4] - 85:3,  
85:14, 87:10, 121:2  
**tiff** [32] - 36:25,  
37:10, 37:14, 38:29,  
40:29, 41:8, 41:9,  
41:21, 42:8, 42:12,  
42:25, 44:29, 46:25,  
54:18, 54:20, 58:26,  
58:28, 59:1, 59:4,  
59:5, 59:16, 59:18,  
59:21, 59:22, 60:7,  
60:16, 61:7, 61:19,  
61:22, 61:23, 62:2,  
62:9  
**tiff** [2] - 36:7, 36:24  
**tiffs** [1] - 37:3  
**Tina** [3] - 15:2,  
31:13, 82:17  
**today** [14] - 5:11,  
60:9, 67:2, 67:3,  
98:10, 107:16,  
112:20, 113:19,  
116:23, 118:20,  
120:5, 120:6, 126:9  
**together** [2] - 25:12,  
32:6  
**togethers** [1] - 27:9  
**toilet** [1] - 57:18  
**tomorrow** [4] - 76:5,  
77:5, 77:23, 91:11  
**tomorrow'** [3] -  
43:28, 45:18, 45:19  
**tonight** [3] - 57:23,  
76:4, 77:2  
**took** [16] - 20:26,  
23:27, 25:10, 30:4,  
39:20, 43:22, 43:23,  
55:11, 75:2, 76:13,  
79:23, 87:9, 91:11,  
94:6, 104:5  
**top** [7] - 41:27,  
71:20, 72:13, 73:16,  
74:13, 81:7, 112:17  
**torture** [1] - 47:17  
**total** [1] - 48:3  
**totally** [1] - 114:1  
**towards** [13] - 15:9,  
28:13, 82:5, 85:16,  
86:2, 86:8, 86:17,  
86:21, 87:5, 88:29,  
89:1, 90:21, 94:18  
**Town** [2] - 93:15,  
93:23  
**town** [4] - 17:6,  
17:10, 53:13, 84:25  
**tracks** [1] - 126:8  
**traffic** [2] - 38:6,  
38:12  
**trained** [4] - 40:19,  
99:15, 99:18, 99:24  
**training** [1] - 41:6  
**transcribe** [1] -  
101:28  
**transcribed** [2] -  
101:28, 102:2  
**transcript** [5] - 1:26,  
100:22, 101:7,  
101:19, 102:1  
**transfer** [2] - 70:16,  
93:22  
**transferred** [3] -  
93:15, 93:16, 93:17  
**transmission** [1] -  
92:20  
**transpired** [1] -  
42:29  
**treatment** [2] -  
124:7, 124:10  
**trial** [1] - 22:16  
**Tribunal** [36] - 5:19,  
7:22, 9:15, 22:21,  
23:12, 23:18, 23:19,  
25:8, 42:18, 52:28,  
55:26, 59:20, 60:6,  
60:13, 61:1, 61:15,  
70:3, 70:21, 78:11,  
80:3, 94:11, 94:15,  
99:14, 113:28, 117:4,  
117:5, 117:12, 118:4,  
121:14, 121:19,  
122:1, 122:3, 125:1,  
125:15, 125:21,  
125:23  
**TRIBUNAL** [2] - 1:3,  
2:6  
**tribunal** [2] - 22:27,  
31:16  
**Tribunal's** [1] - 126:5  
**TRIBUNALS** [1] - 1:9  
**tried** [4] - 29:24,  
29:25, 49:26, 86:26  
**trip** [4] - 107:10,  
111:2, 113:8, 113:9  
**trips** [3] - 107:6,  
110:27, 113:5  
**trouble** [2] - 36:13,  
83:18  
**true** [7] - 34:25,  
57:28, 58:19, 69:13,  
97:28, 116:4, 119:3  
**truth** [11] - 23:20,  
45:24, 46:25, 111:23,  
111:26, 111:27,  
111:28, 113:9,  
115:20, 115:21  
**truthful** [2] - 56:5,  
117:24  
**try** [1] - 42:7  
**trying** [3] - 36:17,  
89:8, 122:5  
**TUESDAY** [2] - 1:18,  
5:1  
**tumbled** [2] - 40:17,  
40:20  
**turn** [1] - 71:17  
**TUSLA** [1] - 2:15  
**Tusla** [17] - 55:8,  
55:28, 66:11, 66:18,  
116:4, 116:15,  
118:10, 118:16,  
118:18, 118:19,  
118:23, 118:28,  
119:16, 120:2, 120:7,  
123:22, 123:25  
**twenty** [1] - 105:13  
**twig** [1] - 82:4  
**twiggd** [1] - 81:28  
**two** [36] - 8:17, 8:20,  
9:2, 15:11, 40:17,  
42:24, 43:6, 55:10,  
64:9, 64:10, 64:21,  
68:4, 69:3, 70:17,  
78:7, 78:15, 78:21,  
78:22, 78:24, 83:12,  
83:13, 83:20, 89:11,  
91:21, 91:28, 91:29,  
102:12, 105:13,  
107:6, 110:27, 111:9,  
113:1, 113:5, 114:20,  
119:17  
**type** [2] - 62:15,  
87:13  
**types** [1] - 86:23

---

**U**

---

**unable** [2] - 16:7,  
88:24  
**uncertain** [1] - 13:10  
**uncle** [1] - 31:27  
**uncle's** [1] - 32:8  
**unclear** [1] - 124:29  
**under** [8] - 9:6,  
42:14, 59:27, 69:12,  
72:21, 121:14, 124:27  
**UNDER** [2] - 1:3, 1:9  
**understood** [1] -  
118:21  
**unfair** [1] - 23:18  
**unhappy** [3] - 12:23,  
17:25, 118:12  
**unit** [1] - 84:15  
**unjustified** [1] -  
55:28  
**unknown** [1] - 72:27  
**unless** [2] - 98:6,  
98:17  
**unmanned** [1] - 79:3  
**unnecessary** [2] -  
60:20, 115:27  
**unsure** [1] - 87:13  
**UNTIL** [1] - 126:11  
**untrue** [1] - 58:19  
**untruthfully** [1] -  
69:9  
**unusual** [3] - 53:11,  
53:14, 62:7  
**unwarranted** [1] -  
55:27  
**up** [55] - 6:27, 7:7,  
7:10, 7:12, 15:1, 15:5,  
18:20, 27:23, 29:28,  
31:29, 32:22, 36:19,  
36:21, 40:21, 40:22,  
41:13, 41:17, 41:25,  
41:27, 42:15, 43:6,  
44:4, 44:5, 44:22,  
47:19, 48:1, 48:9,  
53:12, 60:29, 63:2,  
63:12, 63:23, 63:28,  
65:10, 72:7, 72:14,  
72:17, 73:8, 73:16,  
83:13, 89:11, 90:2,  
91:17, 92:15, 108:4,  
108:11, 108:27,  
109:12, 111:21,  
112:22, 112:25,  
113:13, 116:7, 122:28  
**update** [2] - 89:20,  
89:22  
**upset** [6] - 22:11,  
25:1, 25:2, 25:5,  
25:13, 48:18  
**upstairs** [1] - 80:20  
**useful** [2] - 126:3,  
126:5  
**usual** [1] - 41:12

---

**V**

---

**valuable** [1] - 47:16  
**variance** [1] - 48:3  
**various** [4] - 113:23,  
113:28, 118:6, 122:4  
**vases** [1] - 65:1  
**vehicle** [1] - 95:3  
**vehicles** [3] - 16:8,  
86:23, 88:29  
**verbatim** [1] - 1:26  
**verifiability** [1] -  
105:13  
**verifiable** [1] -  
104:18  
**version** [16] - 50:27,  
50:29, 55:20, 94:9,  
121:18, 121:24,  
122:15, 124:21,  
124:29, 125:2, 125:3,  
125:7, 125:11,  
125:13, 125:14,  
125:29  
**vicinity** [2] - 86:16,  
98:27  
**view** [9] - 24:28,  
33:8, 66:6, 66:8,  
66:11, 66:12, 66:15,  
119:13, 122:10  
**violence** [7] - 22:1,  
51:2, 58:23, 64:24,  
69:8, 115:10, 115:17  
**vis** [2] - 97:25  
**vis-a-vis** [1] - 97:25  
**vis-à-vis** [1] - 117:7  
**visit** [1] - 119:17  
**visits** [1] - 119:29  
**viva** [1] - 117:29  
**voce** [1] - 117:29  
**voice** [8] - 11:24,  
11:27, 13:20, 13:22,

13:23, 29:12, 44:17,  
76:21  
**voiced** [1] - 47:14  
**voicemail** [8] -  
99:23, 99:27, 100:22,  
100:25, 101:3, 101:4,  
101:6, 102:24  
**voicemails** [8] -  
100:24, 101:20,  
101:21, 102:16,  
102:18, 102:22,  
102:25, 102:29  
**voices** [2] - 13:19,  
114:23  
**volume** [7] - 5:6,  
26:22, 34:9, 69:24,  
123:29, 124:1, 124:3

---

## W

---

**wait** [1] - 56:18  
**waited** [1] - 89:17  
**waiting** [4] - 89:28,  
89:29, 100:5, 100:6  
**walked** [1] - 41:9  
**walking** [8] - 9:24,  
10:4, 28:22, 28:24,  
30:1, 30:25, 32:12,  
32:15  
**wants** [2] - 45:3,  
113:20  
**WAS** [24] - 5:8,  
20:11, 26:3, 26:25,  
33:2, 34:12, 52:25,  
56:23, 68:2, 70:11,  
77:28, 78:6, 81:21,  
82:24, 84:8, 92:26,  
94:1, 96:14, 97:9,  
98:14, 102:10,  
104:11, 105:23, 110:9  
**waste** [4] - 60:21,  
75:3, 75:6, 75:8  
**wasting** [1] - 45:28  
**WATERS** [2] - 4:1,  
98:14  
**Waters** [6] - 75:21,  
75:22, 90:3, 90:4,  
98:9, 102:13  
**waved** [1] - 47:4  
**web** [1] - 123:3  
**WEDNESDAY** [1] -  
126:11  
**wee** [9] - 18:20, 36:7,  
37:16, 38:28, 41:21,  
46:14, 61:21, 62:11,  
90:9  
**week** [2] - 27:27,  
27:28  
**well-known** [1] -

67:28  
**were** [1] - 46:12  
**whatsoever** [1] -  
11:16  
**WHELAN** [1] - 2:10  
**whereby** [2] - 23:29,  
103:20  
**whilst** [2] - 36:22,  
49:16  
**whistleblowers** [1] -  
124:7  
**whole** [3] - 46:15,  
78:16, 79:16  
**wife** [1] - 25:19  
**wild** [4] - 75:3, 75:5,  
75:6, 75:8  
**William** [13] - 5:5,  
15:14, 16:9, 16:21,  
16:25, 16:26, 17:4,  
17:11, 33:6, 71:3,  
73:22, 85:1, 94:21  
**WILLIAM** [2] - 3:4,  
5:8  
**willing** [2] - 42:14,  
77:4  
**wind** [1] - 122:17  
**windscreen** [1] -  
121:2  
**wine** [1] - 40:7  
**winning** [3] - 7:8,  
7:9, 27:19  
**wish** [4] - 25:8, 91:7,  
110:6, 113:22  
**wished** [2] - 24:15,  
115:7  
**wishes** [1] - 121:21  
**withdraw** [3] - 115:5,  
115:7, 115:18  
**withdrawal** [1] -  
115:2  
**withdrawing** [2] -  
69:6, 117:18  
**withdrawn** [1] -  
69:10  
**WITHDREW** [6] -  
26:20, 34:7, 69:21,  
84:3, 98:4, 113:16  
**withdrew** [1] - 69:12  
**witness** [21] - 5:4,  
8:26, 9:12, 26:28,  
58:29, 65:9, 69:23,  
84:5, 98:9, 98:10,  
98:24, 101:25, 110:6,  
115:1, 119:8, 119:9,  
121:23, 122:13,  
122:16, 126:1  
**WITNESS** [14] - 3:2,  
26:20, 34:7, 69:21,  
84:3, 92:26, 94:1,  
96:14, 97:9, 98:4,

102:10, 104:11,  
110:9, 113:16  
**witnesses** [6] - 70:5,  
113:19, 113:29,  
119:10, 121:29, 122:4  
**woken** [1] - 49:21  
**woman** [13] - 44:8,  
48:22, 54:8, 54:19,  
68:6, 68:15, 68:16,  
79:11, 109:8, 111:7,  
111:9, 113:1  
**woman's** [1] - 73:25  
**women** [6] - 48:24,  
49:6, 49:14, 68:25,  
109:25  
**won** [1] - 7:7  
**wonder** [2] - 13:7,  
119:4  
**wondering** [8] -  
33:13, 66:6, 68:4,  
105:10, 107:12,  
111:16, 111:18, 113:4  
**word** [4] - 108:25,  
108:27, 108:28,  
120:10  
**words** [16] - 9:7, 9:9,  
9:17, 33:20, 40:21,  
41:21, 43:16, 43:17,  
43:28, 46:14, 52:10,  
62:16, 64:3, 84:27,  
111:4, 118:14  
**workers** [1] - 119:18  
**worried** [3] - 31:5,  
56:9, 83:26  
**would've** [1] - 59:4  
**write** [1] - 117:5  
**writing** [1] - 117:11  
**wrote** [1] - 92:18  
**www.courts.ie** [1] -  
123:4

---

## X

---

**XRY** [6] - 99:15,  
99:24, 101:1, 101:2,  
103:15, 103:25

---

## Y

---

**years** [15] - 35:1,  
35:4, 36:3, 44:2, 53:3,  
53:4, 53:20, 54:17,  
70:17, 83:12, 83:13,  
83:21, 97:13, 99:18,  
115:24  
**young** [10] - 36:3,  
36:9, 36:10, 36:12,  
36:18, 38:16, 39:11,  
48:22, 49:5, 112:13

**yourself** [7] - 8:4,  
12:7, 20:17, 53:11,  
73:29, 86:11, 101:7

---

## É

---

**ÉIREANN** [2] - 1:5,  
1:6

---

## Ó

---

**Ó** [1] - 2:30